

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

Volume II  
TESTIMONY

BOOK 4

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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 4

ORELL  
PARNELL  
PARSON  
POWELL  
QUALLS

RITCHIE  
ROBERTS, D.  
ROGERS, J.  
SAFERSTEIN  
SAIMONS

SAINT  
SMITH, R.  
SWAIN  
TIXIER  
TREADWELL

14 MARCH 1970

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SUMMARY OF TESTIMONY

WITNESS: ORELL, Seth R. CPT

DATE OF TESTIMONY: 27 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

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

The witness, who was the night shift TOC officer, had the responsibility of writing the INTSUM (pg. 2), and of briefing General KOSTER at the morning briefing (pg. 3). He explained the schedule in the TOC during the average evening (pg. 4). On 16 March 1968, he worked the day shift (pg. 5) and was present during the evening briefing (pg. 6). He did not recall the specific briefing, nor any mention of 128 VC KIA (pg. 7). He did not recall General YOUNG questioning the low weapon count (pg. 8). He heard nothing of an aviator's confrontation, the evacuation of a wounded child, or a chaplain's complaint (pg. 9). He stated that comments from the generals during the briefings were not unusual (pg. 10). He recalled briefing an aviation unit which was not the 123d Aviation Battalion (pg. 10), but which he called the "Black Ace" company (pgs. 10, 11), which did not work out of Duc Pho (pg. 11). He knew of no VC propaganda released during this period (pgs. 12, 13), or of any reports from the village chief or the province chief (pgs. 13, 14). The witness stated that the 48th VC Battalion was operating on the Batangan Peninsula at that time (pg. 15), but he did not recall the strength of the unit (pg. 16). He recalled the count of 69 VC killed by the artillery prep (pg. 17).

(ORELL)

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(The hearing reconvened at 0925 hours, 27 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Captain Seth R. ORELL.

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

Q. Captain ORELL, for the record will you please state your full name, grade, Social Security number, organization and station?

A. Seth Rell ORELL, Captain, I'm with the 27th Company of the school brigade, Fort Benning, Georgia.

Q. Thank you.

IO: Captain ORELL, have you had an opportunity to read the instructions (Exhibit M-57)?

A. Yes, sir, I have.

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

A. I understand them, sir.

Q. On my left, Captain ORELL, is Mr. Robert MACCRATE. He is a civilian attorney. Mr. MACCRATE has volunteered his services to Secretary RESOR to assist us in the conduct of this inquiry and also to provide counsel to me and other members of the team. On my right is Colonel ARMSTRONG, an Army colonel who has been assigned to the inquiry team as an assistant by the Office of the Chief of Staff. Mr. MACCRATE and Colonel ARMSTRONG, as well as myself, may address questions to you this morning. You should know that we have other teams such as this that are likewise taking testimony from other individuals. I will have the task, of course, of assembling the reports, weighing the evidence and determining the findings and recommendations.

As a military officer, you are ordered not to discuss your testimony in this investigation with others, including

other witnesses in this investigation, except as required in the performance of official duty or as you may be directed to before a competent judicial, administrative or legislative body. With respect to the legislative, there is a possibility that you may be requested or required to appear before one of the congressional committees. More specifically, it is conceivable that you may be called as a witness before the investigative subcommittee of the House Armed Services Committee, in which event your testimony and your appearance here would in no way preclude you from testifying or appearing before that body or other such legislative bodies. I do not believe that you've been cited by the military judge in the case of the United States v. Calley, is that correct?

A. That's correct.

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

A. No, sir.

Q. Captain ORELL, would you indicate your duty assignment within the Americal Division, indicating when you joined, any reassignments you may have had and when you terminated your assignment to the division?

A. I arrived approximately 17 or 18 December 1967. I was on orders to be assigned to the 196th Light Infantry Brigade. However, with the Americal Division forming, since I had some experience in working in division in the past, they picked me up to work in the G2 office. I was assigned to G2 as a TOC officer working the night shift, with the responsibilities of writing the INTSUM. I remained there as an assistant G2 for 6 months. The latter part of June, I went to the 196th, 3rd Battalion, 21st Infantry and took over the rifle company there. I was rifle company commander until the time I left, which was in December 1968.

Q. Fine. Captain ORELL, the so called My Lai (4) incident of 16 March 1968 became a matter of public knowledge in view of the press, radio, television, and so on, about 4 to 5 months ago, the latter part of September early October

1969. Since that time, have you had any conversation with anybody from the Americal Division who may have been connected with any such incident, either the incident itself, the reporting of such an incident, or the investigation of such an incident?

A. The only person I have talked to, sir, is Captain MEDINA. He is a friend of mine. We were in the same career course. He had taken Major LOGAN's place when he went to the 1st Squadron, 1st Cav. I knew him at the TOC, and when the investigation started, I did talk to him, just asking how things were. All he said was they were as best they could be and that is the extent of it, sir.

Q. You haven't talked to anybody else?

A. Just maybe comment, common talk to people that I knew in the school or something, just talking about it, but nothing to the effect that somebody was actually involved or alleged to be involved.

Q. Did you get down to talking about what you remember?

A. Yes, sir. At first I thought I might have remembered, but what is the vaguest in my mind at that time and still is right now is where I was working. If I worked the night shift, my main responsibility was the accumulation of all the reports that had come in and writing the INTSUM to III MAF headquarters, sir. Then I would have the responsibility, the next morning, of briefing General KOSTER on the next day's operations. If I was working during the daytime, then I would have received actual reports as the contact took place and be responsible for briefing that afternoon. Unless I can see an INTSUM that came in that day, I cannot tell you if I was working night or day, sir.

Q. An INTSUM or SITREP?

A. INTSUM, I worked for G2. I wrote the intelligence summary that went out.

Q. Did you also keep abreast of the TOC log?

A. Yes, sir.

Q. So that you would have been familiar with the events that developed and also any subsequent reports that were sent to higher headquarters?

A. Yes, sir.

Q. Now then, I want to say that we are going to try to take you back, if we can, a period of 22 months. We know that it is very difficult to remember what took place about 2 years ago on a specific day, and for this reason we may provide you certain information to try to refresh your memory. One thing that would be helpful to us before we get on to the questioning is for you to describe what your duties were within the G2 organization and specifically within the TOC?

A. Okay, sir. I'll explain both duties, sir. First of all, when I was on the night shift, I'd come on duty at 1900 hours and would work from 1900 hours to approximately 0700 to 0800 hours the next morning. Then, during the day, I would sleep. At night, my main responsibility was to help operate the TOC with the S2 and 3. We sat on the same long bench like this. Since I'd never done any S2 work--in the past I had been an S3 in battalion, in Germany--I was more interested in S3 work. I had a little bit of a grasp for this, it helped quite a bit with the S3 work, but my main responsibility was approximately at 2200 at night. At 2200, we would start compiling the information to go into the intelligence summary. My responsibility was to write the intelligence summary, the portion of it that had to deal with contacts made during the day. I then had to assemble all the other separate branches of G2 and put it together and make sure it got to III MAF and that it was published in the morning to go out to the units within the division. I did this for a 3-month period, I think. One other thing I did in the morning, after the first month I was there, I would alternate with the G3 officers, Major KUECHENMEISTER and Major LOGAN. We would alternately brief General KOSTER in the morning as to the plans in the division which would take place in his office, and I did this also as a part of my duty. When I went on the day shift, I was responsible for the intelligence portion and controlling the G2 operation within the TOC during the day. Then I became the permanent briefing officer for the evening briefing. This was after I became the day worker. These were my duties then.

Q. I have here the log of the Americal Division for 16 March 1968 which has been entered into the record as Exhibit M-6. I'll call that to your attention and ask you if you are familiar with this particular day's operation. I think you would be interested if you would make a note of these. I think it would be helpful to you in items 5 through 10, 13, 15, 19, 20 and 28, 31, 32, 46. Then I think it skips over to item number 94, closing item.

(Witness reviews Exhibit M-6.)

Do you recall that?

A. Yes, sir.

If you had the INTSUM, sir, it would help me in telling you because I know if I signed it, I was working at night.

Q. Well, we just happen to have the INSUM's for the 16th--which in fact covers the 15th--the 17th and 18th. These have been entered into the record as R-21, -22 and -23.

A. Yes, sir, this must have been the time that I had just started working the day shift with Lieutenant VANSITTERT. I had trained him to write the INTSUM previously and he had just started writing it, when I was working the day shift at this time.

Q. He was on the night shift then?

A. Yes, sir.

Q. Well, even though VANSITTERT had prepared them and you came on the day shift, you would have been familiar with these documents, is that correct?

A. I would read over the INTSUM when I'd come in in the morning, sir. Of course I just had been working on the 16th in the TOC on the day shift during the time that these reports were made.

Q. If you were on the day shift then, you would have been there during the evening briefing, is that correct?

A. Yes, sir.

Q. I have here also, just as a matter of identification, Exhibit R-7, R-8, 9 and 10 which are the 6-hourly SITREPS on Operation Muscatine going from the Americal Division to III MAF. I will call these to your attention and ask if you are familiar with these? This is for the first day of the operation, the 16th.

A. I'm familiar with them, sir, and I know that they went in. The requirement for writing them was the responsibility of the G3 and normally Colonel BENN would be the one who would write these and send them in.

Q. (Interposing) You didn't have a direct hand in them?

A. I was just aware that they did have to go in every 6 hours.

Q. Now let's come back to these INTSUM's again, if we may. Where did you get the information to put in one of those INTSUM's?

A. The brigade, sir, was required to have information into us at a cutoff time of 1900 hours in the evening, and the INTSUM ran from 1900 hours the previous day to 1900 hours the day we were writing about. They were responsible for having in to us by 2200 hours a TWX of their INTSUM following the same format. I would go through their INTSUM's and pull out information that we felt was pertinent about the enemy, in other words, something that resulted in the capture or destruction of equipment, capture or killing of enemy soldiers and a finding of base camps, things of this type, something that I felt in my own personal opinion was pertinent to the overall intelligence situation. I would then pull that out of theirs and put it into mine. Sometimes, the 11th Brigade and the 198th might both have units operating in Operation Muscatine. Then, I would take their Operation Muscatine reports from their INTSUM's, put them together and then write my own on Operation Muscatine.

Q. Now would you take a look at those again, 16th, 17th, and 18th, and you will notice practically all the

information that's reported is operational information. It could have well been submitted by the 3. There is a little bit of terrain and weather but that's --

A. (Interposing) This was the one portion of the INTSUM that I really never had much experience in in G2, that I was involved with to begin with. The major portions of intelligence to do with OB work and weather and this kind of stuff would come from weather personnel or OB and some it we would get from our S2 people. These contacts were required by III MAF and the G2. The thing about body count, sir, and number of weapons, the G2 was responsible for insuring that this information was as accurate as possible in keeping the exact figures. This cumulative data that you see at the bottom was the main reason that the contact had to be shown up above. Granted, a lot of it was operational, but we would try to include in ours all the equipment and documents and any read-out from documents that were found during the contact in here, where the G3 would just report the number of people that had been killed and maybe the CA had been conducted. We wouldn't worry about that.

Q. Now coming down to the staff briefing on the night of the 16th, which, if you will look at these documents, in your judgment you probably were on the day shift which would indicate you probably gave the night briefing. Do you remember briefing figures 128 VC KIA?

A. No, sir, not recalling the specific briefing of it. I know that where I would get my briefing information would be from the notes that we would get here from our logs or try to compile the major contact activities that took place during the day. Then if there was some question, I would call back and verify it with the brigade. My briefing would come from this log right here.

Q. Well, if we think back, however, this was the biggest operation that the 11th Brigade had been into since they had been in country. A body count of 128 is about double anything they have had before. At least in their life, this was quite an event. This is why I can't quite understand at least this portion of it you might not remember. Now let me go on just a little bit. The total results were 128 VC KIA, 2 U.S. KIA, 11 U.S. WIA and 3 weapons captured. Now do you remember those figures being presented?

A. I can remember a contact, sir, that took place in Muscatine and I remember it was in the Batangan Peninsula area. I can remember a large number of enemy killed. The 128 figure does not come up in my mind. I do remember the 2 U.S. killed and the 10 or 11 wounded.

Q. Do you remember the 3 weapons?

A. Not when I initially heard of it, sir. From reading this I could see. Recalling, no.

Q. To recall that briefing. Do you remember any statement by General KOSTER or General YOUNG to the effect, "Where are all the weapons?"

A. No, sir. I did not.

Q. Do you recall any queries afterwards, concerning this disparity of 3 weapons to 128 VC reported KIA?

A. No, sir. I don't.

Q. You didn't know of any discussion that went on concerning anything pertaining to the operation of Task Force Barker on that day or around the middle of March?

A. No, sir.

Q. Did you ever hear of one of the aviators flying that day reporting that he'd seen what he considered unnecessary killing of civilians and possible confrontation between aviation personnel and personnel on the ground to the point where they had machineguns trained on one another?

A. No, sir.

Q. Did you ever hear of a pilot picking up a wounded child and flying it to the civilian hospital in Quang Ngai?

A. I read about it in the newspaper. I don't recall any of this while in Vietnam, in the TOC.

Q. Have you ever heard of any of the chaplains complaining or indicating that maybe some civilians were killed unnecessarily on the 16th or thereabouts?

A. No, sir.

MR MACCRATE: Captain ORELL, would you describe for me where in the TOC your position was in relation to Major LOGAN's when you were on the day shift?

A. Yes, sir. The TOC was designed with one large table in the middle with the chairs around it where the personnel were actually taking the spot reports and keeping up with the action. I had my desk back over to the right. If I'm facing the major map board, my desk was back over to the right where I normally would sit, unless I was actually taking spot reports. Major LOGAN normally would sit right there in taking the spot reports because it was his responsibility of writing the 6-hour SITREP's. He would be there and he would normally have more of a feel of the contact going on in that type of operation than I would.

Q. In other words, during the course of the day, you would be up at that table from time to time?

A. Yes, sir.

Q. If there was something that was general knowledge in the TOC at that time, you'd know about it, wouldn't you?

A. Yes, sir.

Q. I have nothing further.

COL ARMSTRONG: Was it usual or unusual when you were briefing at night for one of the generals or the chief to make remarks about the item being briefed to the staff or among each other?

A. I would say it was usual, sir. If I was briefing a certain contact or something that had taken place--of course I lived in that vacuum of the four walls of the TOC--if General RYDER or General YOUNG had been in the area or knew something that was different than what the briefing officer was briefing, he would mention it. If General KOSTER knew of something that was really wrong he would mention it. But normally General KOSTER didn't say as much as the two ADC's. If they felt that something was being given to the general that really wasn't exactly so, they would be sure and tell him.

You know, they'd say, "Excuse me, General KOSTER, I believe it's now up to" -- If I had said three VC killed, and they knew it was five, or if certain information they had gotten out of a prisoner or something I didn't know about, if they were there, they would bring it up.

Q. It wouldn't have been unusual under the circumstances, if you stood up and said "128 VC KIA, 3 weapons captured," for General KOSTER to turn to the G3 or the G2 and say, "Check into that, that doesn't sound right"?

A. No, sir, it wouldn't be strange for that to happen.

Q. In other words, it wouldn't have made an impression on you if he had.

A. No, sir. He wouldn't have.

Q. Okay. Let's go back to 4 or 5 months ago when the information hit the newspapers. What was your reaction?

A. I could recall some contact going on in the Batangan Peninsula. At first, I got it confused with an action that took place either earlier or later involving ARVN forces along with our element. My immediate impression was if it took place, I didn't think it could have gone on without a lot of people knowing about it. My impression was, I had never heard anything about a massacre.

Q. Shock, disbelief, or maybe it did happen?

A. I was more shocked. Disbelief, because I didn't feel that it could have. Then if it did happen, I didn't think it could go on without us knowing about it at division.

IO: Did you ever participate in briefing some of the personnel from the 123d Aviation Battalion, going over with them and giving them a run down on the enemy situation and also on friendly operations and things of this category?

A. No, sir, I don't believe it was the 123d, I may have the unit mixed up. I used to go over and brief the personnel from the "Black Ace" company that flew the bird dog and flew our four observers from the artillery and would just

fly recon missions. I used to go over to them. I would take the lieutenant that worked in OB and I would give them a briefing approximately once every 4 weeks. They had called and asked me to do this and I said fine, just so they would have an idea of the enemy situation throughout our AO and part of the Marine's AO up near Danang. But the actual aviation battalion, with the helicopters, no, sir.

Q. Now speaking of these VR aircraft, the O-2's, the ones that were working down in Quang Ngai, where were they based?

A. They were based at Chu Lai. It's a part of the "Black Ace" aviation company.

Q. How many aircraft did they have, do you remember?

A. No, sir. I don't recall. I knew they had the mission of flying VR's and providing the transportation for the artillery FO's throughout our area, Quang Ngai, the Chu Lai area up to Tam Ky and north into the 196th. Also, they flew some in the Marine area up north in Danang.

Q. TAOR is a long haul for them, isn't it?

A. Yes, sir.

Q. Did they have any aircraft restationed at Duc Pho or Quang Ngai City anywhere?

A. They had some in Danang, sir. These pilots would fly down for this monthly meeting with their company commander and this is the reason I would come over, to brief them.

Q. To your knowledge, they didn't have any down in Duc Pho?

A. In the back of my mind, sir, something sticks out that one night during a mortar attack one of their planes got hit down in Duc Pho. From that I would say maybe they did, but I do not know for sure.

Q. Well, in this area of Quang Ngai City, for example, and this immediate area north of the Song Tra Khuc, those aircraft, according to what you've indicated, would probably be stationed at Chu Lai?

A. Yes, sir.

Q. Chu Lai is roughly 35 kilometers to the north, maybe 40.

A. Most of the aircraft support that went to Task Force Barker and the 11th Brigade in that area did come out of Chu Lai. I know they had some at LZ Bronco in Duc Pho.

Q. What was the number of that outfit?

A. "Black Ace" company. I just remember "Black Ace."

Q. Was it an Army unit or Air Force?

A. Army, sir. It flew the bird dogs.

Q. Do you know who commanded it at that time?

A. No, sir, I'm sorry, I don't. It was one of these deals where every once and a while they would come up and listen to our briefings. They heard me give a briefing one night and asked if I would come down and give the same type of briefing to them when they had all their people together. I said I would be glad to and I used to go down there as I said and try to give them an idea of what was happening on the ground.

Q. Did you ever see or hear of any VC propaganda which was more or less focused on this area?

A. Not that I can recall, sir.

Q. I have here an inclosure to Exhibit R-1. This is a two-page piece of Viet Cong propaganda which may have come out in printed form. We believe, however, that it was broadcast and taken down and then subsequently translated. I would ask if you would read these two pages and see if you've ever seen this document or heard of anything comparable to it?

(The witness reviews Exhibit R-1.)

A. I have never seen this, sir.

Q. Did you hear anything like that?

A. No, sir, the only propaganda I ever saw when I was the company commander, the small little leaflets. You know, if you turn this leaflet in you can get free service back in North Vietnam or something. But that's the only propaganda I have ever seen.

Q. When you were the G2 now, just think back, through this area and throughout the Batangan Peninsula, did you hear of any slogans the VC were using for any revenge of what had taken place down in the Son My or the My Lai area or Pinkville area or using armbands, tags on uniforms or posters, or anything of this category?

A. No, sir.

Q. If this piece of propaganda had come into the G2 section of the division, would you have expected to have seen it?

A. Oh, yes, sir. Unless it was classified by the G2. If it had come into the TOC, I would have seen it I would think, because that was my responsibility to run it.

Q. If it did not come into the TOC, if it came into the G2 office, you wouldn't have necessarily seen it, is that correct?

A. Not necessarily, sir, unless I would have received it, briefed it or put it in the intelligence summary.

Q. Now go back one page and you will find a one-page statement dated 14 April. I would ask if you have seen or heard of anything such as this? That's all there is to it, one page. You don't recall ever having seen this piece of paper or anything relating to it?

A. No, sir.

Q. Did you ever hear of a report about this time from the village chief to the district chief?

A. It's sort of strange, sir. We had artillery liaison officers that were assigned out to Quang Ngai and we had one in Tam Ky. Besides being artillery liaison officers, they

also worked as liaison officers for the G2 and G3. If something like this had come to their knowledge they would have called us and told us, I feel. Our chain for this type of report, I would have never received anything like this.

Q. You never heard of a report by the district chief to the province chief?

A. No, sir.

Q. Aside from any civilians that might have been killed in this area, did you ever hear anything about some hootches being burned or some hamlets being burned and somebody is going to check into this?

A. I don't believe so, sir.

Q. During the course of this day, in your G2 business in the TOC, did you hear of any hootches being destroyed or any hamlets or subhamlets being burned down or any animals being killed?

A. No, sir. I feel if I'd received any of this word, it would be under the facilities destroyed portion of the INTSUM just using this to bring it to mind.

Q. Were you ever aware that an investigation of some kind was going on concerning something which may have transpired in the Son My or Son Tinh area in about the middle of March?

A. No, sir. I never heard of any investigation going on.

Q. Did you hear about any ARVN investigation? Did you ever hear a comment to the effect that the ARVN in Quang Ngai, meaning the province officials and perhaps even the 2nd ARVN Division commander were quite upset about this situation?

A. No, sir.

Q. Did you ever hear any discussions by the commanding general or ADC's or chief of staff or by the G1, G2, G3,

G4, G5, or any of the staff officers, which might have led you to believe that something unusual took place down here?

A. No, sir. The only time I ever heard of something involving civilians was when the assistant information officer or somebody that worked in the information office field asked me if I knew about an investigation taking place in the 198th. I said no, and he wouldn't tell me any more. I made an assumption that it had to do with civilians. I believe it turned out where it had to do with a lieutenant and a VC nurse or something. It was the only investigation I have ever heard of that took place within Vietnam that dealt with the Americal Division.

Q. That was probably subsequent to this time, not too long before you left division headquarters?

A. I think that is correct, sir, in April or May. But that was the only investigation that I heard anything about.

MR MACCRATE: Do you recall what the intelligence situation was with respect to enemy forces or identification of units in the Batangan Peninsula area at or about this time?

A. Yes, sir. To my knowledge I would get that from OB. There was a main force battalion that had been operating. You know, just put the square when you didn't know exactly where they were located on the Batangan Peninsula. Operations I know had been running there with little or no success. As far as what we would brief to a commander or somebody that wanted to know the main threat to the Muscatine AO, the threat of mines and booby traps and the harassing by the small forces was the most of it. We thought that there was a battalion in the area. I cannot remember the number of them. They thought there was a battalion in there that was widely dispersed but could mass if it needed to conduct some kind of operation.

Q. This was in the period a month and a half after Tet. Do you recall where you were carrying that local force battalion at that time?

A. I'd say generally in this area and it was felt that this was the battalion that took part in coming into the

Quang Ngai area during the Tet offensive. Then it pulled back. This is what I mentioned to you earlier, General, about the ARVN's conducting that operation where they had come out of Quang Ngai and fought them. Going this way, I believe this is the old citadel area they call it and there had been a big fight in the citadel area, pushing back in this direction. To answer your question, sir, I believe that battalion was carried in this general area and it was felt it moved from this peninsula down in to here like that.

Q. Well, this was how it had moved in the past. Do you recall anything about your evaluation of the strength of the battalion at this time in March 1968?

A. No, sir. And the reason I think I don't is because my actual detail knowledge was not that good. I had the general overall knowledge of where units were posted. The lieutenant that ran the order of battle section would have all of this knowledge in his card file and would come down and give me any major movement of unit or buildup of forces if he felt somebody would ask me.

Q. I have nothing further.

IO: Did you ever at any time, have any suspicion at all, of comments that people made or statements that you may have heard or rumors or hearsay or anything else which would cause you to suspect something unusual may have transpired down here in Son Tinh area along about the middle of March 1968?

A. No, sir.

Q. Nothing comes back?

A. No, sir. As I say, I can remember the combat assaults going in. I believe there were two companies and there were different LZ's and I remember one of the LZ's being described as hot. For some reason that sticks in my mind. I think one of the reasons, as CA's go in, we try to get information to the morning briefing officer so he can inform General KOSTER of such. I remember the operation taking place. I presume at the time, in the back of my mind, that it might have been mentioned, a lot of bodies with only three weapons. But we had seen this in the past. Even in Tet they would take weapons, the other people who had gotten away, and carry them off.

Q. There was one other very unusual entry in your log which would indicated that 69 VC were killed by artillery. This happened very early in the morning.

A. That brings up something. I do remember that now that you mention it. I had never had a company and hadn't been out there on the ground yet and to me with the school knowledge and the background I said to myself, "This is the first time I have really heard of a preparation going in on a landing zone where the enemy was and did some good." I do remember that, now that you mention it. That thought went through my mind. It was the first time that I recall that we had a large landing zone preparation that was effective.

Q. Did you ever put that together with the 128 and 3 weapons, mentally?

A. I don't think so, sir.

Q. Did you recall ever having any identification of who these people had been in contact with?

A. No, sir. I do notice and I'm not recalling but just thinking back of what our policy was, documents were mentioned here by the--"C/1/20 at 0830 captured short wave frequency radio, documents are included and complete med bag." Whenever documents were found, it was my responsibility to immediately get on the phone and get hold of that brigade and tell them to get their MI people and interrogators out, to get hold of those documents so that we could get a readout as to units or further information. I do not recall what information I got back, but I know that Colonel TREXLER, the G2, was very hard on this and this was one of his priorities. Once documents were found, get a readout immediately. I guess that it did not identify any units because I would have mentioned it in the report of the INTSUM.

Q. Do you remember going back on this one and asking for a readout?

A. No, sir. I don't recall, but I would say that I would have done it because this was the policy.

Q. Were you aware on this day that they did have an MI lieutenant and an interpreter with C/1/20?

A. No, sir, I was not.

MR MACCRATE: What time of morning did you have the morning briefing?

A. The morning briefing took place, sir, generally 0800.

IO: That's what time you started?

A. If I briefed in the morning, sir, it was plans for the day and contact since the evening briefing. Then the radio research personnel would come in and brief General KOSTER. They would leave and then I would come in and that would be 0745 or 0800.

COL ARMSTRONG: Was it normal, typical in the division, to hit the LZ's with preparatory fire of any duration?

A. Yes, sir. I believe that I attended one day a conference that took place with the G3 and the personnel from the aviation battalion. The aviation battalion discussed the use of LZ preps to include air strikes and LZ artillery. To my knowledge it was common practice and almost an SOP that artillery would be used as a minimum. If need be, they would use the gunships and TAC air if they felt it was required, if preparation were used.

Q. Any kind of restriction on this in the built-up area?

A. I don't know, sir. I know that they were planned by the aviation personnel and the artillery and the battalion.

Q. Okay, thank you.

IO: Well, we appreciate your coming in, Captain ORELL. Based upon our discussion here this morning, you may have other thoughts which will come to mind sometime in the future. You may conceivably recollect things that didn't immediately come to life. If you do, I wish you would get in touch with this office so we can take advantage of such information. Additionally, if you can think of any documents of any kind, directives, reports, photos, maps, and so on we'd like to know about those. You can see we have more than a few documents

already and this is only a small percentage of what we have. But there are always things we could use to fill in some of these pieces.

At this time, I will give you an opportunity to ask any questions which you may desire to ask or if you would like, to enter a statement into the record.

A. I don't have anything further, sir, to add to what we have discussed.

Q. Thank you very much.

(The hearing recessed at 1030 hours, 27 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: PARNELL, Ray L. MAJ

DATE OF TESTIMONY: 26 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant IG, Americal Division.

1. KNOWLEDGE OF THE 16 MARCH OPERATION.

PARNELL was not aware that Task Force Barker had reported 128 VC KIA on the 16 March operation, that only three weapons had been recovered, or that only two U.S. soldiers had been killed (pg. 4). He did not recall reading about it in the newspaper (pg. 4). He did not recollect any discussion around headquarters about the disparity between the body count to weapons ratio (pg.4).

2. REPORTS CONCERNING THE KILLING OF CIVILIANS.

The witness heard of no report from an aviator that he had witnessed the unnecessary killing of civilians on the 16 March operation (pg. 5). Chaplain LEWIS said nothing about hearing reports of unnecessary killing of civilians on the 16th (pg. 5). The witness knew of no investigation of the operation (pg. 5). He saw no order appointing anyone as investigating officer of alleged incidents occurring on the 16th (pg. 6). No one from the 11th Brigade spoke to him about procedures for conducting a formal investigation (pg. 6). He never saw HENDERSON's report (Exhibit R-1) (pg. 7), nor did he see any of the report's inclosures (pg. 7). He never heard anything like the VC propaganda inclosed in the report (pg. 7). He did not hear General KOSTER, General YOUNG or anyone else talk about an

(PARNELL)

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investigation of anything that may have happened in mid-March (pg. 9). The witness did not speak to HOLLADAY about an investigation that was being conducted involving members of the 123d Aviation Battalion (pg. 11). He heard nothing at all that made him suspicious that something wrong had occurred in the Son My area in mid-March (pg. 12).

3. OTHER INFORMATION.

a. He knew of no policy of squelching rumors about an incident until it had been investigated properly (pg. 6).

b. PARNELL investigated the 123d Aviation Battalion in the spring of 1968 and found it to have a morale problem caused by the fact that it had just been transformed into a new unit (pgs. 9, 10). He spoke with approximately 20 people in this investigation (pg. 11).

c. The witness felt that if someone witnessed something wrong that person should take the matter to his own commander first and then to the IG if he received no satisfaction from his commander (pg. 14).

d. PARNELL did not normally attend the staff briefings (pg. 4). His boss, Lieutenant Colonel HEATHERLY, went to the daily briefings himself (pg. 4). Thus, PARNELL went for days without being appraised of the tactical situation (pg. 4).



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(The hearing reconvened at 1632 hours, 26 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Major Roy L. PARNELL.

(MAJ PARNELL was called as a witness, was sworn, and testified as follows:)

RCDR: Major PARNELL, for the record would you please state your full name, grade, Social Security number, organization, and station.

A. Roy L. PARNELL, Major, United States Armor Center, Fort Knox, Kentucky.

IO: Major PARNELL, have you had an opportunity to read the instructions?

A. Yes, sir. I have.

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

A. I think I understand them, sir.

Q. On my left, Major PARNELL, is Mr. Robert MACCRATE, a civilian lawyer. He has volunteered his services to Secretary RESOR to assist us in this inquiry and also to serve as legal counsel for myself and to other members of the investigation team. On my right is Colonel ARMSTRONG, who has been designated by the Office of the Chief of Staff as an assistant in this investigation. Either Mr. MACCRATE or Colonel ARMSTRONG may also address questions to you this afternoon in addition to myself. We have other groups such as this that are taking additional testimony from other individuals. It will be my job to pull together a report, to weigh the evidence, and to make the findings and recommendations.

(PARNELL)

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As a military officer you are directed not to discuss your testimony in this investigation with others, including other witnesses in this investigation, except in the performance of official duty or as you may be required to do before a competent administrative, judicial, or legislative body. In using the term legislative, I say this because there is a possibility that you may be requested and/or required to appear before one of these congressional committees. The one most likely would be the investigative subcommittee of the House Armed Services Committee. In the event you are so requested, your appearance and your testimony here would in no way preclude your appearing before such a body and providing testimony to them.

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. That's correct.

Q. At the moment I see no reason why you should be, but in the event that you are, your appearance and your testimony here would in no way change either the effect or applicability of such instruction from that military judge or any other judge which may develop from some of the other court-martial cases which may possibly eventuate from the My Lai incident of 16 March 1968. Do you have any questions at this time?

A. Yes, sir. As I understand it, if I am to appear before either a court-martial or one of the investigating committees of the Senate, I should still not divulge anything that I gave him?

Q. Quite the contrary. I said except in their cases. Those quite logically, you not only can but should testify if requested. I don't expect that you will be discussing this with your friends or with other people that who appear here and so on. I think that the implications become quite clear.

A. Yes, sir.

IO: Major PARNELL would you indicate your duty assignment with the Americal Division, when you assumed this task, how long you remained in the assignment, and other details such as this.

A. Sir, I joined the Americal Division, about 8 January 1968, and was immediately assigned duty as assistant inspector general. I stayed in that office until approximately 1 September 1968. Then I went down to 198th, to the 14th Artillery Battalion, a part of the 198th, and became the XO of that battalion. I remained there until January 1969. Then I went to the 101st.

Q. You moved again to the 101st Airborne Division?

A. Yes, sir.

Q. Well, we are interested in the period generally of March 1968. You were with the inspector general of the division before this incident and you also remained with it for 4 to 5 months after that time?

A. Yes, sir.

Q. All right, fine. Were you aware of the organization and operations of Task Force Barker?

A. Yes, sir, I was. I knew Colonel BARKER just slightly. I met him once.

Q. Well, what about the task force that was organized under Colonel BARKER?

A. I knew of it, sir.

Q. You knew of it?

A. Yes, sir.

Q. Were you familiar with the operation which they conducted into the eastern portion of Son Tinh District, that is, generally east northeast of Quang Ngai, starting on about 16 March 1968?

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A. Sir, I was aware that Task Force Barker had been formed and I did not know specifically what operation or what their mission was at that time. And to explain something, if I may, sir, at that time my boss was a Lieutenant Colonel HETHERLY. About the only way is we get briefed every day at the daily briefing. He was the type of individual that liked to make the briefings himself so therefore I did not make the daily briefings. We'd go several days without really being appraised of what the tactical situation was in detail at that time.

Q. That was one of the questions that I was going to ask you, if you were familiar with the fact that on 16 March, the day the operation was initiated, that Task Force Barker had reported that they had killed 128 VC, had 2 U.S. killed, 11 wounded, captured 3 weapons.

A. No, sir. If I knew it, sir, it would have been from the little daily paper we put out and would have read it there probably 2 days later.

Q. Yes. Well I just happen to have this daily paper to see if this refreshes your memory. This has been entered into the record as Exhibit M-23. I think you'll find it right on the front page. Do you recall that now.

A. Sir, I don't say I recall it, no, sir. I don't vividly recall it.

Q. I say this because we have heard that there was more than a little discussion about this operation for several reasons. One, this is the first real big operation, at least reportedly big operation, of the 11th Infantry Brigade, which caused people to sit up and take notice. Another thing is the fact that in this operation you'll notice it says 128 were killed, but at the same time that there also only 3 weapons captured. Did you hear any discussion around the headquarters concerning this disparity between 128 VC and only 3 weapons?

A. No, sir, not that I ever recall.

Q. You don't recall hearing this. Did you ever, in your inspector general capacity, hear of a report by one of the aviators to the effect that on this day he had seen what he considered unnecessary killing of civilians?

A. No, sir, I did not.

Q. Did you ever hear from Chaplain LEWIS, your division chaplain that he had heard, had reported to him, that there had been some, what might be termed unnecessary and indiscriminate killing of civilians here on the 16th?

A. No, sir. Not that I recall.

Q. Did you hear anything about an investigation being conducted?

A. That I could indentify with this incident. No, sir. Any incidents that were investigated, this is to my knowledge, would have been investigated and were investigated by the SJA, who was a friend of mine. I don't recall his last name, but he was a major and he made a point not to discuss any of the things that his office was investigating because he was constantly relying on the staff for court members and so forth. So he would not discuss it. But, yes, sir, I did hear rumors that there were investigations under way, but that's as far as I recall.

Q. Did this feeling of not discussing these things so that he could serve on courts and so forth, was this rather extensive with division so that people just didn't talk about anything?

A. I don't think so, sir. I think it was just that, "I'll tell you this incident is going on, but I will not tell you the unit and I will not tell you the names of the individuals involved. We suspect this happened," but that would be the extent of it. Now if the individual wanted to pursue it, and wanted to look into it, he could probably get a little bit of information from a friend in G3, a little bit of information from a friend in G2, and piece it together.

Q. Was there also any kind policy either written or unwritten, of the fact that on these things, "Let's not have any rumors passed around until we get these things all investigated properly?"

A. It was never given to me as a policy as such, sir.

Q. I'm not saying it was a policy, but just one of those unwritten things that people just didn't do. They didn't go around talking about what happened down in this outfit and what happened out in that outfit. They just sort of kept quiet about it?

A. No, sir, I got the impression that, as a staff, if they were critical of the subordinate units, they did talk about it. I listened to several conversations where particular former members of the unit who had come on the staff were quite critical. So I don't subscribe to that. No, sir. I think there was some talk.

Q. You didn't know of an investigation that was being conducted at that time? Did you ever see an order appointing an investigating officer to investigate what might have happened in My Lai or Son My village on about 16 March?

A. No, sir. I did not.

Q. Did anybody from 11th Brigade ever come up and talk to you about procedures for conducting a formal investigation? Do you remember Colonel HENDERSON or Colonel BARKER coming up to you and talking about this?

A. I don't think he did, sir. He didn't talk to me. I think if he'd come up either one would have probably talked with Colonel HETHERLY. But I can't say if they did or did not. I just don't recall that, sir.

Q. I have here an exhibit which is listed as R-1, and I would like to show you a statement which appears as an inclosure to this exhibit and ask if you've seen that particular statement or anything comparable to it? It's a one-page statement.

A. No, sir.

Q. No statement like that ever came in to your IG shop?

A. No, sir.

Q. You never have seen or heard of any statement such as that?

A. No, sir.

Q. All right, now turn that page, please, and look at the next inclosure which consists of two pages. This is a piece of VC propaganda which was taken down as having been broadcast by the VC and was subsequently translated into English. I would ask you to take a quick look at that one and see if you've ever seen that piece of paper, whether it ever came in to you in the IG or whether you ever saw it in the headquarters in the G2 shop, the G5 shop or anyplace in headquarters?

A. No, sir.

Q. You have never seen this before?

A. No, sir.

Q. Never seen or heard anything like that?

A. No, sir.

Q. Now turn back to the basic report itself. I'd ask you to review that quickly and just tell me whether you've seen that in the inspector general's office or not?

A. Sir, there's something about it that rings a bell, but I can't put my finger on it except that I recognize the name. I recognize BARKER and CALHOUN. MEDINA, I don't recognize that name or MICHLES. But I dealt with Colonel BARKER and I dealt with Major CALHOUN. He was the adjutant before he became the S3 of the task force and as such he was an acting IG in the brigade, so I dealt with him. I'm not saying I've never seen this document. There is something about it that rings a bell, but I can't tell you right now that I have seen it or recall the day that I saw it.

Q. Was this ever called to your attention, let's say over in the chief of staff's office or by Major BEASLEY or any of the people that were in the chief of staff office?

A. No, sir. If I saw it, sir, it would be only a moment with my boss. I'm not saying that I didn't see it because there's something familiar about it, and I don't know whether it's just reading the names again or actually that I've seen this report before. I can't put my finger on it and say, yes, or, no, whether I've seen it.

Q. Well, I wish you'd think real hard and you might take another look at it to see if you have seen it. If you saw that document, did you see the report? You've indicated that you haven't seen the inclosures.

A. No, sir, I'm sure I've never seen these. I don't recall these at all.

Q. So if you did see anything, you've only seen this page and a piece?

A. Yes, sir. If I've seen it at all, I could say that I've never seen it, but seeing the names again it just brings back a familiar ring to me and I can't say that I've seen it or not. I can't vividly recall now ever seeing the document, sir.

Q. Having seen the inclosures, do you think this paper is responsive to the allegation made in inclosure 1?

A. Would you rephrase the question again please, sir?

Q. I said, having read inclosure 1, and for that matter inclosure 2 as well, do you consider that this report is sufficiently responsive to allay the allegations which it made? The allegation is, as you can see. It says, "received a letter containing the complaint of killing 450 civilians, including children and women by American troops. The village chief alleged that an American unit operating in the area on 16 March gathered and killed these civilians with their own personal weapons." It goes on to say, "According to the village chief the American unit gathered 400 civilians in Tu Cung hamlet and killed them, then moved to Co Ly hamlet. At this location they gathered 90 more civilians and killed them." Do you think that this paper is sufficiently explanatory or expository to completely satisfy that allegation?

A. No, sir. Had I had anything to do with the investigation I would have wanted more information.

Q. Did you at any time hear General KOSTER, General YOUNG, the chief of staff, the 1, 2, 3, or the 5 ever talk about an investigation or anything that may have transpired down here in the middle of March?

A. No, sir.

MR MACCRATE: You indicated that you met Colonel BARKER once. Was it an event that stood out in your mind?

A. No, sir. As I recall, he was the deputy brigade commander or the XO whichever term you want to use at that time. When they formed the task force, then he took that over. I knew the adjutant slightly better as I dealt with him more.

Q. Did you know any members of the 123d Aviation Battalion at Chu Lai?

A. Yes, sir.

Q. Do you remember the two majors that were with the detachment?

A. I can't recall their names. I knew a couple of majors there. I performed one investigation of an aviation company. I may not be good for names, but I knew just about everybody in there at one time because I talked with just about everyone.

Q. You did the investigation of the 123d aero-scouts?

A. The entire aviation battalion, sir. It was just a morale type of thing. Basically, the men didn't want to serve officers and just strictly a morale type of investigation. I went down and investigated.

Q. What was the morale problem of the 123d?

A. Sir, in my investigation I found that the nucleus of the aviation battalion was taken from an old aviation company which had been in the command several months. It had a history. It had accomplished something and when it was separated from its home headquarters it apparently had been operated in a rather loose manner.

They took away its colors and traditions and its background and accomplishments and made it the 123d Aviation Battalion. In so doing they didn't have anything. They didn't have any background and then they took and planted on top of this company personnel who were not accustomed to handling a battalion, a battalion commander, battalion XO and so forth. Then they moved them from one place where they had been billeted for quite some length of time into another area which didn't have anything. They had to start building all over again. From one transition to another, they had some morale problems. The commander wanted his officers served in the mess hall and several men came and complained. We investigated it and determined that the background I just gave was basically the reason they had poor morale.

Q. Do you remember when you conducted this investigation during what time frame?

A. No, sir. I'm sorry.

Q. Can you fix it within a few months? Would it have been in the spring of 1968?

A. I'm sure it would have been, sir, because the battalion was just forming up then, so it should have been right around that time.

Q. Well, you came to know a number of the members of the battalion at that time as I would understand?

A. Just to know of them, sir, not to recall names. Nor did I deal with them on a day-to-day basis.

Q. Did you from time to time in the course of this investigation talk with Lieutenant Colonel HOLLADAY, the aviation officer of the division?

A. HOLLADAY? No, sir. I think this was the one after him. It was after Colonel HOLLADAY. Colonel HOLLADAY had already left as I recall.

Q. Was Major WATKE there at the time?

A. No, sir. This was later.

Q. Major WILSON?

A. WILSON I think sounds familiar. I'm trying to think of the aviation officer when I left, but I can't even think of him now.

Q. Do you ever remember Colonel HOLLADAY talking to you about an investigation involving the 123d or some members in it and reports that they had received?

A. No, sir.

Q. Do you remember during this period, the spring of 1968, any reference to the report brought in by one of the pilots of the 123d relating to something that he had seen in the course of an operation that had upset him, that he had talked about to his superiors in the 123d Aviation Battalion, also talked to the chaplain?

A. No, sir.

Q. No recollection of anything of that sort?

A. No, sir.

IO: When you conducted your investigation within the 123d, did you talk to any of the enlisted men?

A. Yes, sir.

Q. Talk to any of the crew chiefs and the doorgunners and so on?

A. As I recall, sir, I talked with about 20 people, and I tried to pick them from all parts of the unit and not just any specifically so I don't recall whether I eliminated any of these people. I wanted a cross section of the unit, by both rank and position. I'm sure I did, sir.

Q. What was the nature of their complaint?

A. The complaints of the senior people, that is the sergeants and so forth, were general, that they didn't feel any attachment to the unit. They had come from another unit with a background. They felt an accomplishment, a sense of accomplishment for the unit and so forth, very general. Whereas the lower ranking men were more specific. Long hours, hard work, having to perform their duties and at the same time clean up the area, trying to build a decent place to live plus performing KP and the added addition of serving officers. Just about that way--

Q. (Interposing) Did any of them tell you that some of the people had requested transfer out the organization? For example a lot of these people had come to the unit from the artillery battalion aviation section. Was this brought to light?

A. No, sir, I don't think so. I knew some of them had come from the 160th. That would form the base, I don't recall now.

Q. There were two companies there as you recall in the 123d. Alpha Company was just the ordinary slick company, and Bravo Company was the aero-scout company, with the H-23's, later some LOH's and also some guns and a couple of slicks for command and control. They had some more slicks for lift, too. As I recall, they also had a ground platoon, did they not?

A. Right, sir.

Q. Right. But you never received any complaints about flying and the way they were controlled operationally? It's all just a matter of this administrative overload?

A. Right, sir.

Q. Well, did you hear any statement at all, Major PARNELL, statements or comments, or did you overhear anything which at any time caused you to be suspicious that something may have happened down in this area in about the middle of March?

A. Sir, the only thing that I recall hearing, this was again talking with the SJA at that time, there was no mention of atrocities, except rape was concerned, and I did not tie that in with this. I didn't connect the two and that was the only thing that I recall hearing, sir.

Q. There was, subsequent to this a case down in this area involving rape and so forth, but in the month of June which you may recall involved several people charged with rape, in which there was an order published by division and it was properly investigated and reported. Is that conceivably the incident you're talking about?

A. It could have been. Yes, sir.

Q. How long have you been in the IG business?

A. When this incident--

Q. No, no, your total service to this date. How long have you been in the IG?

A. Approximately 8 months, sir.

Q. Eight months. And that was during the time you were there?

A. Yes, sir.

Q. But you knew the division procedures and so forth quite well so I'd like to get your professional opinion on something. Let's say one of the chaplains received word of unnecessary killing of civilians. This is not the division chaplain, this is another chaplain, one of the subordinate units of the division. What's his proper course of action?

A. Sir, he has two channels, three actually. He can come up through the chaplain channels and go to see his next chaplain. He can come up through command channels, or he could come directly to the IG's office. Actually three avenues of approach.

Q. He's a chaplain now. He's assigned to a unit, to a headquarters. Of all those you mentioned, what is the most desirable channel? Now, we're talking about an atrocity, indiscriminate unnecessary killing of women and children. What's the solution?

A. The solution from my point of view, sir, would be to take it directly to the commander involved or at least the commander above him and give him an opportunity to correct it. Then if you don't feel that he has taken corrective action or has actually tried to cover it up you still have all the other avenues open to you. As a professional soldier if I heard it took place in one of the battalions, I would take it to the brigade commander and say this is what I heard. Then if I didn't feel that the brigade commander took the appropriate action--

Q. (Interposing) Let's say this came to the support command chaplain or the DIVARTY chaplain, who should he see? This has to do with something down in one of the tactical units.

A. It's not under his command at all, or it's not a part?

Q. That's right, but it's still a report that has come to him officially.

A. Sir, I'd say again take it to command channels and then if you don't feel that you got any action there, then direct it to the inspector general and he can initiate an investigation.

Q. You say to the command, which command are you talking about?

A. To his own command.

Q. His own command?

A. Yes, sir.

Q. You wouldn't take it to the commander of the unit involved?

A. No, sir.

Q. Of course, there's another solution which you haven't mentioned and that's to take it to all three, isn't it?

A. Yes, sir.

Q. I think you've answered my question all right, Major PARNELL, and I didn't mean to put words in your mouth at all in this respect. You are familiar with USARV regulations and the overall theme and emphasis which General WESTMORELAND and everybody else placed upon this in the command. Particularly being in the IG or the JAG business, I would be sure that you're well familiar with the handling and treatment of noncombatants, PWs and so on.

A. Yes, sir, I've read the regulation. I think if anything had come to light in our office we'd have made an initial investigation and turned it over to the commander and he would have given it to the JAG.

Q. We appreciate you coming in. If subsequently you think of anything else as a result of this discussion this afternoon or if you can recall any documents of any form, reports, directives map, aerial photos, and the like, we'd appreciate hearing about those. If such does come to mind, we'd appreciate you getting in touch with this office so we can take advantage of that information. At this time I'd like to give you an opportunity to ask any questions which you may like to address to us or if you would like to enter a statement into the record.

A. I have no statement.

IO: The hearing will recess at this time.

(The hearing recessed at 1715 hours, 26 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: PARSON, Nels T., COL

DATE OF TESTIMONY: 12 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Chief of Staff, Americal Division

1. PREOPERATIONAL PLANS AND BRIEFINGS.

Colonel PARSON stated that his first knowledge of the incident was a recollection that a helicopter pilot reported the killing of civilians and that an ADC was to look into it (pgs. 6,9).

2. ASSAULT ON MY LAI.

On 16 March 1968, the division log (Exhibit M-6) had a mention of the body count but he did not recall that it raised any discussion or that it was presented at the evening briefing (pg. 7). He recalled no discussion on the ratio of enemy KIA to weapons captured or to friendly KIA (pg. 8).

3. INQUIRIES CONCERNING THE ASSAULT.

He did not recall any discussion between Colonel HENDERSON and General KOSTER on 16 March 1968 concerning noncombatants being killed (pg. 9) nor did he recall WATKE and HOLLADAY asking for an audience with either General KOSTER or YOUNG. However, he conceded that this could be where he first heard of the incident.

4. REPORTS OF INVESTIGATIONS.

a. He knew that HENDERSON was preparing a report (pg. 14). He did not recall seeing this report but stated it could have been delivered directly to General KOSTER (pg. 15). He recalled no subsequent action being taken with the report (pg. 16), although he stated that it would appear proper that the division commander would have appointed someone for further investigation (pg. 17). The only investigation that was being made was HENDERSON's (pg. 18) and no formal investigation was received by him to his recollection (pgs. 18, 28).

b. He recalled a document from either the province chief of Quang Ngai Province or the 2d ARVN Division Commander on the same subject but did not recall the contents (pgs. 10, 13).

5. OTHER INFORMATION.

a. He did not recall Co Lay or any incidents in that area (pg. 25).

b. He did not think marijuana was a problem in the division nor did he recall its use during this operation (pgs. 28, 29).

c. There was an SOP in the division that required the artillery commander to investigate any artillery incidents. This was not handled as an artillery incident, nor was it handled as was a later incident which occurred in May (pgs. 17, 18, 23).

d. He did not recall any overt or covert act which attempted to cover up the incident of My Lai (4) (pg. 24).



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SUMMARY OF RECALL TESTIMONY

WITNESS: PARSON, Nels A. COL

DATES OF TESTIMONY: 13, 17 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Failure to obey the general regulations concerning war crimes; dereliction of duty; false swearing; suppression of and conspiracy to suppress information and reports; an accessory after the fact to acts committed by American troops in the Son My area; misprision of a felony, and violation of the laws of war.

COUNSEL: Joe P. CASEY, LTC, JAGC, Office of the Judge Advocate General, Department of the Army, Washington, D.C.

DUTY ASSIGNMENT ON 16 MARCH 1968: Chief of Staff, Americal Division.

1. HIS KNOWLEDGE OF REPORTS.

a. His knowledge of the District Chief's letter.

The witness was shown Exhibit M-28, a letter written from the district chief to the province chief in March of 1968 (pg. 45). He was also shown Exhibit M-34, a later letter from the district chief to the province chief written on 11 April 1968 (pg. 45). The witness could not positively say which of the two letters he had seen, but he had seen one of them. He felt that he saw it in General KOSTER's office, but did not remember a conversation about it (pg. 46). The witness was reminded that he stated he had seen a letter written by a Vietnamese official either before or after Colonel HENDERSON turned his report in, and that he said he had given this letter to the division commanding general (pg. 48). The witness said that his prior statement might have been an inadvertent overstatement, although he felt that he "must have given it to him" (pg.48).

b. Colonel HENDERSON's investigation.

The witness recalled that General KOSTER directed

HENDERSON to make an investigation, but he could not recall whether it was an investigation based upon the complaint of the helicopter pilot which was received in the headquarters, or if it was based upon the letter from Lieutenant Colonel KHIEH which arrived at the headquarters in mid-April (pg. 50). He was shown Exhibit R-1, which was HENDERSON's Report dated 24 April 1968 (pg. 56), but he was not sure when he had received it or that he passed it on to General KOSTER (pg. 56). He did not recall HENDERSON handing him the report but felt that it was "probably the case." He did know that HENDERSON wrote a report and that it got to the general (pg. 56). He remembered only one report and recalled it to be a refutation or explanation of the events (pg. 57). Even though KOSTER departed for R&R on 28 April, to return on 7 May, the witness felt that KOSTER, and not YOUNG, had received the report (pgs. 57, 58). The witness was again shown Exhibit R-1 and, after examining it, he stated that it appeared to be a refutation of the allegation (pg. 60). He did not recall who prepared the statement, and was not sure if he had seen it previously (pg. 60). He did not recall the general ordering a formal investigation to be conducted because he found HENDERSON's Report unsatisfactory (pgs. 60, 61). The witness was unable to state the last place he saw the report of investigation and did not recall that he saw it anywhere after he had seen it in the general's office. He did not recall showing it to anyone (pgs. 66, 67).

## 2. THE WITNESS' ASSOCIATION WITH THE QUANG NGAI PROVINCE ADVISORY STAFF.

In response to questions asking why he had made several trips to Quang Ngai City and had received several telephone calls from the Quang Ngai Advisory Staff around this time, the witness stated he did not recall what the reason was for these contacts (pg. 51). He stated that he had visited Quang Ngai Province from time to time, and that Colonel HUTTER, the 2d ARVN Division advisor, was an old friend (pgs. 51, 52). He did not recall visiting Lieutenant Colonel GUINN or Mr. MAY but felt that he must have, and recalled only a few contacts with either of them (pg. 53). He recalled once, when in the 2d ARVN area GUINN introduced himself. The witness thought that KOSTER was present at the time (pg. 54). He did not recall the purpose of that particular visit and stated he probably had seen Colonel TOAN that day. He did not remember KOSTER sending him down to check with Colonel TOAN on the substance of a paper which

KOSTER had received (pgs. 54, 55). He did not recall any discussion with the Vietnamese or US personnel concerning an incident which had happened at Son My during March of 1968 (pg. 56). His only explanation for his conversations or visits from Quang Ngai was the development of a new rapport with Colonel HUTTER (pg. 65).

### 3. DISCUSSION OF THE OFFICE FILING SYSTEM.

The witness, in response to a question asking why no copies of any report could be found in the Americal Division Headquarters, stated he did not know (pg. 66). He stated he did not recall an act of suppression nor did he feel he was a party to it (pg. 66). He stated he did not destroy any reports (pg. 93). He recalled an IG inspection by USARV, but did not recall screening any papers in the headquarters to eliminate any unnecessary files (pg. 93). He did not recall a period where a drawer became stuck in the secretary of the general staff's safe (pg. 100). He stated that he kept a file in his lower right-hand drawer which was a series of envelopes marked by staff section, in which he would put papers pertaining to each one (pg. 100). He would not keep anything classified in his desk (pg. 100).

### 4. HIS DISCUSSIONS WITH OTHERS.

#### a. Discussion with Colonel HOLLADAY.

The witness stated that the activities at My Lai (4) during the operation were first brought to his attention by Colonel HOLLADAY who reported unnecessary killing of civilians (pg. 68). When read portions of HOLLADAY's testimony, the witness stated he did not recall having a discussion with HOLLADAY (pgs. 69, 70). He also did not recall showing Colonel HOLLADAY a copy of Exhibit R-1, and a reading of HOLLADAY's testimony on this point did not refresh his memory (pgs. 89, 90).

#### b. Discussions with Colonel ANISTRANSKI.

The witness did not recall talking to Colonel ANISTRANSKI about this matter (pg. 80). He did not recollect Colonel ANISTRANSKI conferring with General KOSTER on the point (pg. 81).

c. Discussions with Chaplain LEWIS.

The witness stated that the CID agent who interviewed him told him that Colonel LEWIS had brought the fact of the unnecessary killings to his attention but he did not recall this happening (pg. 68). When read a portion of Colonel LEWIS' testimony, the witness still did not recall the incident (pg. 76).

## 5. ROLE IN THE INVESTIGATION OF THE ASSISTANT DIVISION COMMANDERS.

The witness stated that he had a vague recollection that one of the ADC's was dispatched to look into the incident (pg. 68). He stated he did not recall Major WATKE and Colonel HOLLADAY coming to him to ask to talk to either the ADC or the commanding general, but the information came to his attention somehow and he felt that possibly General YOUNG told him about it (pg. 69). The witness stated, again, that the generals "took this part over," and that he felt the generals were doing what needed to be done (pg. 71). Although as chief of staff he was running the general's staff he stated he was not "running those two generals" (pg. 71). He felt that he should wait for further instructions from them before doing anything further on the incident (pg. 72). He did not feel that he should override the generals or do things without their instructions (pg. 73). He felt that if no report went forward then the general officers concerned felt that there was not enough to bother reporting it (pg. 79). He stated it was possible that a back channel message was sent, but otherwise he knew of no formal written report (pgs. 78, 79). Upon further questioning, the witness stated he did not recall a statement on the part of the generals that they had taken over the investigation, but that it was just a feeling that he had (pgs. 81, 82). He did not want to leave the impression that they would take care of the matter, but he stated that he thought the ADC, General YOUNG, was to look into this (pg. 82). The witness felt that after HOLLADAY's report, the generals went after the project to "see what it was all about" (pgs. 84, 85). He did not recall any direction to Colonel HENDERSON in the form of writing nor was he privy to an order to HENDERSON to investigate the matter. He did not bring the SJA, IG, or the G5 into this because he felt that he was awaiting the results of the investigation either from the ADC or HENDERSON (pg. 86). He did learn somehow that HENDERSON was to make an

investigation but did not recall seeing a written report of it (pg. 75). He did not recollect a paper signed by HENDERSON discussing the allegation of the warrant officer (pg. 75). Nor did he recall a longer report coming into the office in early April (pg. 76).

6. OTHER INFORMATION.

a. The witness discussed another war crimes incident which occurred in May in another unit in which they attempted to keep the investigation as quiet as possible to avoid the propaganda use that would be made of it (pg. 76). He stated frequent reports were made to MACV on that action by the JA who sent progress reports (pgs. 76, 77).

b. He discussed his relationship with General KOSTER and described him as a man who was difficult to become acquainted with (pgs. 58-59). He felt that their relationship was not a close one initially, but that by the time that KOSTER left he had established a rapport with him (pg. 59). He felt there were a number of things that went on in the division that KOSTER did not inform PARSON about (pg. 59). He would not act on his own without getting instructions from General KOSTER on any serious matter (pg. 87). He could approach the general and felt that he probably did on this subject (pg. 87). He described the briefings and stated that frequently the general would excuse everyone but the two ADC's with whom he would have, an addition conference (pg. 97). He stated another opportunity to discuss the day's events would occur before the evening meal (pg. 98). He also pointed out that the G3 and G2 worked directly with the commanding general, and it was therefore difficult for the chief of staff to be informed because they used this direct route (pg. 98).

c. The witness discussed the position of the ADC's describing General GALLOWAY as less aggressive than General RYDER who was strong about what should be done and who had been in the division longer than General KOSTER (pg. 99).



(The hearing reconvened at 0901 hours, 12 December 1969.)

IO: The hearing will come to order.

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

COLONEL WHALEN and Lieutenant Colonel PATTERSON will be sworn. Please stand and raise your right hand.

(COL Thomas F. WHALEN and LTC James H. PATTERSON were duly sworn.)

RCDR: Sir, the next witness is Colonel Nels PARSON.

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

RCDR: Colonel PARSON, sir, would you state your full name, grade, Social Security number, branch of service, organization, and station?

A. Nels August PARSON, Jr., Colonel, assigned to Headquarters, Combat Development Command, Fort Belvoir, Virginia.

RCDR: Thank you, sir.

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

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

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

(2) possible suppression or withholding of information by any person who had a duty to report and to furnish information regarding this incident.

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

Do you have any questions on those?

A. No, sir.

Q. I have had made available to me and have reviewed prior official statements obtained in other official investigations of the My Lai incident.

Your testimony this morning 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 at least parts of it, may later become a matter of public knowledge.

There are several people in this room who may ask you questions. Mr. WEST on my right; Colonel MILLER on his right, and Colonel FRANKLIN have been designated from Department of the Army as assistants, and they are authorized to ask questions in my behalf. In addition, on my left is Mr. MACCRATE, and to your left is Mr. WALSH, who have volunteered to serve as legal counsel to assist me and they, too, are authorized to ask questions. However, I have the responsibility of weighing the evidence and making the findings and recommendations.

You are ordered not to discuss your testimony in this investigation, except in the performance of official duties, or as you might be required to do before a competent judicial or administrative body.

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

Do you have any questions of me on what I have indicated thus far?

A. No, sir.

Q. Colonel MILLER, do you have any information you want to pass on?

COL MILLER: No, sir.

IO: Colonel PARSON, what was your duty assignment on 16 March 1968?

A. I was chief of staff of the Americal Division, sir.

Q. At this time, was the Americal Division also known as the 23d Division?

A. Yes, sir.

Q. How long had you been in that capacity?

A. Since 2 February, sir, of that same year.

Q. Is that when the division was officially organized?

A. No, sir. The division was established a short time before I became the chief of staff of the unit known as the Americal Division, and later the designation of the 23d. I would have to do some research to recall the exact date it was called or declared a division rather than a task force.

Q. The term and the number are synonymous?

A. Yes, sir.

Q. The term Americal and 23d being one and the same?

A. Yes, sir.

Q. How long did you remain in that capacity?

A. Until late August, sir, 24 August of the same year.

Q. Colonel PARSON, after the story of the My Lai incident hit the press sometime in August or September of this year, have you talked to anybody from within the division or associated with this operation concerning this incident?

A. Only one, sir. I met, quite by accident, Brigadier General GALLOWAY, who was one of the assistant division commanders, at Fort Benning, while I was on leave. I was passing through there visiting friends and I happened to meet him at a demonstration we mutually went to. He spoke to me and I spoke to him, and he asked me if I had been approached in connection with this, and I said, "No." And he said he had not, either. That was the beginning and the end of our conversation.

Q. At the time, General KOSTER was the division commander?

A. Yes, sir.

Q. One of the ADC's was General YOUNG?

A. Yes, sir.

Q. The other--was he a colonel or was he already a brigadier general?

A. I think he was still a colonel at the time.

Q. I know he was promoted in that time period.

A. Yes, sir.

Q. What were his responsibilities?

A. It wasn't very specific. The division commander had not given them precise responsibilities of one versus the other. He, I believe, had the division artillery as a commander to report upon, and some of the other supporting units. There was no clear designation, ADC maneuver versus ADC support, that I recall. I don't recall exactly what units he was reporting on.

Q. Then there is a possibility that Colonel or General GALLOWAY, as the case may be, had some personal knowledge of what might have transpired at My Lai (4) on 16 March?

A. Yes, sir. It's possible.

Q. If he, for example, was overseeing the activities of artillery and possibly some other support or combat support units?

A. Yes, sir. General KOSTER used the two ADC's as the occasion demanded. One would go to the 11th Brigade as much as the other, as far as I recall, depending on what the nature of the activities were.

Q. Did some of the maneuver commands think that they were reporting to General YOUNG? I ask this question because I have had indications that, "I reported it to my commanding officer." When you get down to it you find that the next immediate commander is General YOUNG, so I ask the question concerning how, exactly, the ADC's and the commanding general function with respect to the issuance of orders and instructions, and who is responsible to whom?

A. The ADC's were raters and General KOSTER was the indorser of the brigade commanders', Division Artillery commander's, and Support Command commander's efficiency reports. Certainly there was no doubt but that General KOSTER was the commanding general and he was ultimately responsible for the ultimate authority. I would be surprised if any officer with any seniority at all would believe otherwise. Of course, General YOUNG is a very strong, competent officer and would certainly be issuing orders to officers in General KOSTER's name or his own right, feeling that he had sufficient authority to do so. I could understand how someone could think that his boss was General YOUNG. That is understandable, but certainly any senior officers that had any time in the Army would be aware that General KOSTER was the commander.

Q. Would this feeling have been so strong that the brigade commanders felt that they did not have free and immediate access to the commanding general?

A. I can't imagine so, sir. No, sir. If there was any such atmosphere, I was not aware of it.

Q. Did you talk to anybody else other than General GALLOWAY from the time that you first heard of this incident until your appearance here this morning?

A. No, sir.

Q. Was any of your discussion with General GALLOWAY of a substantive nature?

A. No, sir. I gave you substantively what it amounted to. It was a query as to whether or not I had been called by anyone or not and whether he had been, and as I recall he had not. That was the end of the conversation. It was interrupted by a demonstration that was about to begin, and we never went back on the subject.

Q. What was your knowledge of this operation in the Son My area on the 16th of March before the operation was actually initiated?

A. I had no knowledge of it before it was initiated, sir. No appreciable knowledge.

Q. What was your first knowledge of it?

A. I recall, and that is the only way I am able to associate this incident, from what I recall--I recall that a helicopter pilot had reported the killing of civilians, probably unnecessary killing of civilians. I don't recall the cause, whether it was artillery or small arms fire or what. I have a recollection that one of the ADC's was to look into it, and that was my first awareness of it.

IO: May I have the log of the Americal Division?

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

Q. Colonel PARSON, I have here a reproduction of the log of the Americal Division with the date of 16 March 1968. There are several items which have been checked and indicated there which are of special interest. I would refer this document to you and ask you if you had seen it, and if these matters were called to your attention, either officially by somebody from the G2 or the G3 shop coming to you or other people, or whether this was called to your attention during the staff briefing?

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

A. I don't recall the manner in which it came to my attention because it didn't appear to amount to anything. The initial allegation or rumor didn't appear to amount to anything or come up with any appreciable substance. This was a horrible event as I read about it in the papers, but at that time it didn't attract a great deal of my attention. It had nothing of this magnitude.

To answer your first question, sir, I do not--

Q. (Interposing) I'll ask you first to look over this document you have and those entries and to read them throughout the document. You can see that they are pretty well indicated there. See if this refreshes your memory as to what might, or what type information might have been given to you in the evening staff briefing, which I assume that the division held, either an evening staff briefing or a morning staff briefing, to acquaint the entire staff with what was going on in the division?

A. Yes, sir. There was both a morning and evening briefing. The morning briefing was declaring intentions for the day in actions that were going to take place, and the evening briefing indicated how they came out. Sir, are you speaking of this particular block?

(The witness points to a specific entry appearing on Exhibit M-6.)

Q. I'm not pointing to any particular block. Just take a couple of minutes, Colonel PARSON, and look at it and see if these events will refresh your memory of having been briefed at the staff briefing of either the morning of the 17th or the evening of the 16th or sometime in this time frame.

(The witness reads over Exhibit M-6.)

When that item was presented in the staff briefing, did it raise any discussion?

A. I don't recall that it did, sir. No, sir.

Q. This is perhaps the biggest operation or perhaps

certainly the largest body count that Task Force Barker, not only Task Force Barker but the 11th Brigade, reported during the time since they had been in country. If I recall the figures, there were 128 KIA's for that day. Do you recall whether this was broken down by companies or was it presented as Task Force Barker, or do you recall it being presented?

A. I don't recall it being presented, sir.

Q. Was there any discussion concerning this ratio of enemy KIA, 128 enemy KIA, and 3 weapons captured?

A. Not that I recall, sir.

Q. Was your division in the habit of scrutinizing such results to pick up any situations such as this?

A. Yes, sir. We were particularly concerned with exaggerations, and we wanted to make sure that our reports were accurate. This was something that the division commander had emphasized, to make sure that there was no exaggeration.

Q. But a ratio of 128 enemy killed and 3 weapons, would this be a normal situation within the Americal Division?

A. Normal? No, sir. There were other times when the ratio of the overall enemy dead to American was quite high. I don't recall the number. This is certainly unusual.

Q. Well, we're speaking weapons right now. This is the reason that I am raising the question whether or not someone in the division wouldn't start to question figures like this coming in. After all, you have a major confrontation, a major engagement, and kill 128 enemy and capture 3 weapons. Under any circumstances this would seem inordinately small, unless there was some logical explanation, or they had to leave the battle area or something like that, and they didn't have time to collect the weapons, and by the time they got back the weapons were gone. But nobody raised the question. Doesn't that seem unusual?

A. I am not sure that nobody raised a question, sir. I don't recall that anybody did.

Q. Now, look at another ratio. Look at the ratio of enemy killed to friendly killed: 128 to 2. We always like to see things like this, but unless there is something very unusual, where you get maximum fire power that you can place on someone in the open, or something like this, this is quite unusual. Do you remember anyone raising any questions on this?

A. No, sir. I don't. I don't recall grasping or catching this information at the time.

Q. As this operation was underway, there were indications that various people had knowledge of civilians or noncombatants being killed. For example, Colonel HENDERSON was reported to have informed General KOSTER that six or eight were killed that he saw as he flew over the battle area early in the morning of the 16th. It was later reported that this figure was raised to 20, and might go to 24 or to 30. Was this question ever raised in the headquarters?

A. It might have been, sir. I don't recall it, sir. This event was not highlighted to me at all at the time.

Q. When was the first time that you heard of any report or any indication that something unusual might have taken place at My Lai (4) on the 16th of March?

A. I don't recall when, sir, but I do remember a report of a helicopter pilot saying there were civilians on the ground killed. I don't remember the manner in which I received the information. I have a recollection that an ADC was going to look into it. That's the first thing that makes me associate what I recall with this incident.

Q. We will get around to regulations later on, but I will ask you at this time if you are familiar with the directives concerning the action which should be taken when an allegation is made that civilians were killed or that a war crime has been committed?

A. I'm not familiar in detail, but I know that you are supposed to report it.

Q. The allegation or the incident?

A. The incident.

Q. Not the allegation?

A. I'm not certain, sir.

Q. Do you have any knowledge of what else happened in this period of time that we are talking about concerning this My Lai (4) incident? The helicopter pilot reporting that he saw people being killed unnecessarily, and that an ADC was going to look into it? Do you remember anything other than that?

A. Yes, sir, a little more. I recall that I dropped the incident in my mind because I don't recall hearing any more about it. Sometime later there was a document which I believe was on the same subject written by either the province chief of Quang Ngai Province or the 2d ARVN Division commander. I don't recall at the moment which one it was, but it was an official out of Quang Ngai, a South Vietnamese official out of Quang Ngai, about this incident, apparently this same incident. I don't recall the content of the document. I remember the subject matter had to do with unnecessary killing of civilians, possibly by artillery, possibly what source I don't recall. I don't recall the content of the paper. There was an English translation of it which was in the headquarters. I recall that paper. I also recall that Colonel HENDERSON was making an investigation of such an event. I believe he wrote a report on it. I can't recall having seen the report, but I must have. I don't recall the content of it. I do recall those two facts, though.

Q. About what time was that?

A. This was later, in terms of days or even weeks, sir.

Q. The incident took place on the 16th of March. Would this have been toward the end of March or sometime in April?

A. Yes, sir. It was sometime toward the end of March or sometime in April.

Q. Do you recall Colonel HENDERSON coming to the division headquarters a few days after the operation to report to either the ADC, General YOUNG, or to the division commander?

A. I can't sort out a particular visit. He came up from time to time. I can't recall a specific visit, no, sir.

Q. Do you recall any incident at all of him talking with either of these gentlemen, or with you, or with anybody else in the headquarters of the Americal Division, based on information that he had upon a 3-by-5 card which he presented to the individual?

A. No, sir. I don't recall that.

Q. Did you ever see a 3-by-5 card that had a breakout of civilian casualties in terms of sex, age, how they may have been killed?

A. I don't recall it, no, sir.

Q. I'd like first the 26 March report, combat action report. I'd like also that 525-3 directive.

(The recorder hands Exhibit R-2 and MACV Directive 525-3, later Exhibit D-6, to IO.)

Colonel PARSON, I have here a document which has been entered into the record as Exhibit R-2, dated 28 March, Headquarters, Task Force Barker, subject: "Combat Action Report," addressed to the commanding officer of the 11th Infantry Brigade. I show you this document and ask you, would you review it?

(The IO hands Exhibit R-2, to the witness.)

A. Right, sir.

Q. Do you know who directed that such a report be prepared?

A. No, sir. I don't.

Q. Did you ever see a copy of that report?

A. I don't recall that I did, sir. No, sir.

Q. If the Americal Division desired that such a report be submitted, what would be the normal channel for laying on such a requirement?

A. I recall that there was a standard requirement for after action reports, combat action reports. I recollect this as being one of many such reports which were a normal requirement.

Q. Did you have a normal requirement to report every day's activity? You will notice that that covers from morning to midnight only on the 16th of March. Is that a normal requirement?

A. It was a normal requirement as I recall, sir, to write up a report on any major action, whatever the period of time.

Q. Would it not be quite normal to include the entire operation? This operation went on for 3 days with one company, and 4 or 5 days with the remainder of the task force. Would it not be quite normal to include the entire operation, instead of just isolating one particular period?

A. Yes, sir.

Q. The headquarters of the 11th Brigade has no knowledge of this report. The individuals that we have talked to so far--nobody recollects seeing it. And I am therefore trying to find out what was the cause for this report being submitted. You have no knowledge of either the directive to prepare such a report or having seen the report?

A. No, sir.

Q. Was it ever brought up in one of your evening staff meetings, in about this period of time, that the commanding general had countermanded an order to a unit, which had been issued by the brigade commander?

A. No, sir. I don't recall it.

Q. Do you recall an incident where C/1/20 had been directed to return to the village of My Lai (4) to make a body count?

A. No, sir.

Q. And the commanding general countermanded the order?

A. Only from reading it in the newspapers. I don't recall it from personal knowledge at all.

Q. Do you recall a time, within about this period, when Colonel HOLLADAY, of your 123d Aviation Battalion, and Major WATKE asked for an audience with either General YOUNG or General KOSTER?

A. I don't at the moment, but it is entirely possible that that's where I learned of the helicopter pilot's report. I don't recall it specifically, no, sir.

Q. Colonel PARSON, I have here Exhibit R-1. I refer this to you and ask you to review the first inclosure to this document.

(The IO hands Exhibit R-1 to the witness.)

Only that one page in front of you.

A. Yes, sir.

Q. A short while ago, in your testimony, you indicated that you had received some information from a village chief or province chief or somebody that related to this incident.

A. Yes, sir.

Q. Was this the piece of paper which you saw at that time?

A. I'm not certain, sir. It may have been. I don't recall that paper very well.

Q. If you would have seen 450 and 90, it would seem to me that you would have recalled it?

A. It would have attracted more attention than I had given it at the time. This is a startling number.

Q. I have here Exhibit M-5, which is a report from Lieutenant TAN, the district chief of Son Tinh District to the province chief of Quang Ngai dated 28 March. I would ask if you had seen that piece of paper? This is the English translation. The original Vietnamese version is appended to it.

(The IO hands Exhibit M-5 to the witness.)

Have you seen that piece of paper before?

A. I don't recall, sir. This may have been the one that I saw. I only recall seeing a paper that didn't alert me or concern me, or cause me to think that something very terrible had happened. It just didn't penetrate.

Q. Who would normally analyze a paper of that sort?

A. Certainly the G5. If we ever got it in the headquarters, the division commander, myself, one of the ADC's.

Q. Possibly the G2 and the G3 and maybe the SJA?

A. Yes, sir.

Q. Did any of these things happen, to the best of your knowledge, when this information came in to which you are alluding?

A. I don't recall, sir. I don't recall the chain of events that were associated with that.

Q. I now refer to this document (indicating an inclosure to Exhibit R-1) which you had previously looked at. I refer to the second inclosure, which is an English translation of a VC propaganda leaflet which is supposed to have been used in this area. I ask if you had ever seen this particular paper or the Vietnamese version?

A. No, sir. I don't recall seeing this, sir.

Q. If the 11th Brigade had sent those documents into your headquarters, would your G2, or your G3, or your G5 section normally have referred such information to you?

A. Yes, sir.

Q. But you have no recollection of ever having seen it before?

A. No, sir. I can't specifically recall it.

Q. Did anyone ever inform you or advise you that the VC were using this incident at My Lai (4) of 16 March

for propaganda purposes, either by leaflet form or slogans and signs, and in other various forms?

A. This may have occurred, sir. I don't recall, sir.

Q. I now refer you to the document proper, which is Exhibit R-1, and ask that you review this document. It is merely a letter of transmittal there (pointing). It is the attached report of investigation that I am concerned with.

(The IO hands Exhibit R-1 to the witness.)

Have you ever seen that report?

A. I must have seen it, sir. I can't recall it specifically, but I do know that Colonel HENDERSON was preparing a report and he must, in fact, have given it to the commanding general. I know there was such a report, but I don't recall any specifics. I might very well have seen it.

Q. Could you have been the medium of transmittal? There are some indications that the report was delivered to you.

A. That's possible, sir. Yes, sir.

Q. Would you have normally opened and reviewed such a report prior to taking any action on it?

A. I might have given this one directly to the division commander, if it was addressed to him, before opening it.

Q. Is that a normal procedure?

A. Something that was addressed to him, if it was a sealed envelope, sir, I would have probably given it to him. I don't recall how it was delivered, sir.

Q. If it were delivered to you in a sealed envelope marked for the division commander, with the procedure that you operated on in your headquarters, you would not have opened it, and you would have taken it directly to the commander?

A. I believe I would have, sir. Yes.

Q. Would this be based upon the fact that it had come from a brigade commander?

A. No, sir. Just because it was something addressed to the division commander and sealed. If it were sealed, sir, which I don't know that it was, sir.

Q. If the brigade commander delivered it to you, would you recall it?

A. Not necessarily, sir. He could well have brought this to me.

Q. I think it's logical to follow that when this arrived at the headquarters, either the division commander or someone of authority must have seen the report?

A. Yes, sir.

Q. Do you know of any action that was taken on this report?

A. No, sir. I don't recall any.

Q. Was the division required to report civilian casualties?

A. They were required to report all casualties as a normal operational report.

Q. Suppose there was an abnormal operational report or something that had not been transmitted before, such as we see here, where they are talking in terms of 20 to 30 civilians having been killed by or within the combat action or the crossfires. If this had not been reported, would a report have been rendered?

A. Not that I recall, sir. Not necessarily. This would have been the division commander's decision. I don't recall that any special report was rendered on this.

Q. Did you hear of anything being done on this or do you know when the division commander saw this document?

A. No, sir. It would have been within this time frame of March or April. If it was prepared and signed by

Colonel HENDERSON, this would have gone to him quite promptly. There's no reason why it would not have.

Q. There is some indication that at about this period General KOSTER was absent from the division, either on R&R in Hawaii or he may have been on TDY. Are you familiar with those dates?

A. I don't recall the dates that he was away, sir. I only remember that he went to Hawaii.

Q. On R&R?

A. Yes, sir.

Q. Do you recall any subsequent action that was taken with respect to this particular report, or any other action that was taken regarding the My Lai (4) incident of 16 March?

A. No, sir.

Q. If the division, and this would include the division commander or any of the ADC's, or the division headquarters itself, desired that a formal report be made or a formal investigation, what would be the normal procedure for establishing such a requirement?

A. The division commander would have appointed someone or designated someone to make an investigation.

Q. How would this be so indicated?

A. I am trying to remember an example. You word the question, sir, in such a way--if it had been done a hundred times or a dozen times, how would we normally do it, but we have not had enough investigations of this nature for me to establish any pattern as such.

Q. Who investigated your artillery incidents?

A. The division artillery commander. That was standard procedure for that.

Q. When he wanted an investigation conducted, did he appoint on orders an investigating officer?

A. Not on artillery incidents. The division artillery commander knew automatically that he was to conduct an investigation at once, which he went to work on right away.

Q. With a situation such as this, would it have appeared proper that an investigating officer be designated and he be given appropriate guidance as to what he was to investigate? I'm not referring to this particular document. I'm referring to something that might have come out. Let us assume that we are investigating an atrocity, a suspected atrocity or atrocities, and we have indications even here that 20 or 30 people have been killed at the minimum. How would such instructions have been issued?

A. The division commander would have appointed someone. There was an incident in May in which this did happen. The subordinate commander was directed to conduct an investigation.

Q. Was it in writing?

A. I don't recall, sir, if it was or not. I could probably research this and find out.

Q. Who reviewed these reports when they were submitted?

A. The division commander, sir.

Q. What did the staff judge advocate do?

A. He followed this particular report that I am speaking of in May in great detail. He reported about every third day in a message to Saigon, to MACV, the status of this investigation because it was a serious thing although the numbers are pale in significance in comparison to this. This was a rape and murder case involving two VC women. This was followed in considerable detail through all stages of the investigation.

Q. Was the investigating officer designated on orders? Did the orders indicate what he was to do, what the incident was, and his guidance?

A. I think he must have been, sir. I don't recall

at the moment, but I believe if we have to research that May incident, we would find that the support command commander, Colonel ROSE, was designated, probably in writing.

Q. Do you have any knowledge of any formal investigation being made other than this?

A. No, sir. None other than this investigation by Colonel HENDERSON.

Q. Do you have any knowledge that the division commander indicated that he wanted a formal investigation made?

A. No, sir.

Q. Or that he was not satisfied with this report of investigation?

A. I don't recall it, sir. No, sir.

Q. If he had ordered such a formal investigation, would it have been normal to expect that he would have informed you?

A. Yes, sir.

Q. You do not recall ever having been so informed?

A. No, sir.

Q. Do you recall any additional investigation report ever having been submitted to the headquarters of the Americal Division?

A. No, sir. I don't.

Q. This should have been sometime in about mid-May?

A. No, sir. I don't, sir.

MR WEST: One detail here. Do you recall the name of your assistant chief of staff at this time?

A. It should have been Major BEASLEY at that time.

Q. Do you recall his initials?

A. No, sir. I don't, but I could probably get it for you.

MR WEST: Thank you. We would appreciate it.

IO: Mr. WALSH? Colonel FRANKLIN?

COL FRANKLIN: No questions, sir.

IO: Colonel PARSON, I'd like you to tell me about the organization of the Americal headquarters at that time. How it functioned--a general analysis on your part as to its effectiveness at that time.

A. Sir, the Americal Division had just gone through a transition or was really just beginning a transition from being a task force to being a division. It was still a task force in many respects. The brigades were independent brigades. They had their own administration and logistics, their own direct support artillery. They were self-contained.

Q. Are you talking about before that time or at that time?

A. At that time, sir. There was one exception. We had just pulled, the division commander had just pulled the administrative elements, AG types in from all the brigades, and had them put together to constitute the AG. This was the admin company and the headquarters company of the division.

Q. Was this also true of some of your other special staff sections, such as your SJA and your IG and the like?

A. This was generally true, sir. I would be reluctant to go down section by section and say how recently they had been assembled, but this was a combination of the remnants of the old task force plus augmentation of these three independent brigades. It was an administrative nightmare at the time. I was very much absorbed in many problems related to it. The handling of personnel actions was severe. Getting a logistical system going at division level was a problem. The tactical operations center was inadequate. The physical arrangement was inadequate. I caused to have one redesigned and rebuilt while I was there because it wasn't adequate to control. It just wasn't a good physical setup.

Q. Would it be somewhat fair to say that you were rather caught, at that time, midstream in the conversion from a task force organization to a standard, division-type organization?

A. Yes, sir. We were quite non-standard because the division had its own slice of aviation and artillery and some logistic elements. There was no corps or backup as such. There was a little personnel company attached to the AG to provide additional personnel services to these units. It was an unusual division, a very large division.

Q. I would like to have the 16 March Americal Division directive.

(The recorder hands Exhibit D-5 to the IO.)

Colonel PARSON, I have here Exhibit D-5, Regulation 525-4, dated 16 March, subject: Combat Operations, and in lower case, "Rules of Engagement." I show you this document.

(The IO hands Exhibit D-5 to the witness.)

Are you familiar with this document?

A. Yes, sir. Not in great detail, but I remember that the G3, assisted by others, was very anxious to get out a rules of engagement paper.

Q. Colonel PARSON, you will notice the date on this document?

A. Yes, sir.

Q. Is there any particular reason that document happened to be dated that date?

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

Q. Coincidentally?

A. I sincerely believe so.

Q. Do you remember about this time General KOSTER, either in a commander's meeting or a staff meeting, gave

quite a dissertation on the subject of the treatment and handling of noncombatants, civilians, PW's and the like?

A. I can't recall any particular one. The subject came out and there was certainly emphasis on it. I don't recall any specific dissertation. I can recall more than once the division commander dwelling on this.

Q. Did he really make this an issue so that there was no question in anybody's mind that he, and the division, didn't want any of this going on, but if it did go on he wanted it reported immediately?

A. It was certainly clear to me.

IO: I'd like to have MACV Regulation 20-4 (Exhibit D-1). I'd like to have MACV Directive 525-3. I'd like to have the III MAF Paper (Exhibit M-8), and I'd like to have all the papers on rules of engagement.

RCDR: Yes, sir.

(The recorder hands the requested documents to the IO.)

IO: I have here Directive 525-3, Headquarters, United States Military Assistance Command, Vietnam, dated 14 October 1966, subject: Combat Operations, Minimizing Noncombatant Battle Casualties. I'd like to have this entered into the investigation as an exhibit.

RCDR: MACV Directive 525-3, dated 14 October 1966, is entered into the record and marked as Exhibit D-6.

IO: Colonel PARSON, I have here Exhibits D-6, M-8, and D-1. I will refer these documents to you and ask that you study them. Meanwhile, we will take an administrative break while you study them.

(The hearing recessed at 1010 hours, 12 December 1969.)

(The hearing reconvened at 1024 hours, 12 December 1969.)

IO: The hearing will come to order.

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

IO: Referring to the documents I provided you, Colonel PARSON, had you seen the first document, which is Directive 525-3, Headquarters, MACV?

A. Had I seen it as of the 16th of March?

Q. Yes?

A. I don't recall if I had seen it specifically by then or not, sir.

Q. Are you familiar with this document or the general contents of this document?

A. I was certainly familiar with the general policy and I must have reviewed these against our own rules of engagement, but it has been so long ago that I can't recall whether I saw these specifically or not. These are the basis for our actions and certainly the policy is spelled out here. I know I was aware of the requirement for submitting reports on war crimes because one occurred in May, and we went about it right away or as soon as we became aware of it. As soon as we became aware of it, we implemented these policies.

Q. Would the shooting of, the indiscriminate shooting of civilians have been considered a war crime?

A. Yes, sir.

Q. Was such an allegation made, to your knowledge?

A. I don't know whether I could put it in the classification of an allegation or not. Certainly I heard that a helicopter pilot made a report of unnecessary killing of civilians. I am sure that would constitute an allegation, sir.

Q. I now refer to MACV Regulation 20-4, Colonel PARSON, which I quote under paragraph 5, subparagraph a:

"It is the responsibility of all military personnel having knowledge or receiving a report of an incident

or an act thought to be a war crime to make such incident known to his commanding officer as soon as practicable. Personnel performing investigative, intelligence, police, photographic, graves registration, or medical functions, as well as those in contact with the enemy, will, in the normal course of their duties, make every effort to detect the commission of war crimes and will report essential facts to their commanding officer. Persons discovering war crimes will take all reasonable action under the circumstances to preserve physical evidence, to note the identity of witnesses present, and to record by photograph, sketch, or descriptive notes the circumstances and surroundings.

b. Commanders and MACV staff sections receiving reports of probable war crimes will, in addition to any other required reports, report the facts as soon as practicable to the Staff Judge Advocate, USMACV, and will make pertinent collateral information available to the appointing authority and investigating officers."

Could it be interpreted that this was an allegation that a war crime had been committed?

A. It could be interpreted that way, sir. Yes, sir.

Q. If the division commander or other persons with authority within the division ordered an investigation and report, would it be normal, within the Americal Division, to report such a directive to Headquarters, MACV, or to other higher authorities?

A. I should think so, sir. Yes, sir.

IO: I have here another document, Headquarters, Americal Division, subject: "Safeguarding of Noncombatants," dated 24 March 1968. I would like this entered into the investigation as an exhibit.

RCDR: Americal letter, dated 24 March 1968, subject: "Safeguarding of Noncombatants," is entered into the record as Exhibit M-9.

IO: I refer this document to you, Colonel PARSON.

(The IO hands Exhibit M-9 to the witness.)

Are you familiar with this document?

A. I don't recall seeing it before, but I'm sure that I must have.

Q. Is it normal that the division commander sign a document of this nature?

A. He put out documents from time to time over his own signature to highlight and emphasize problem areas, sir. Yes, sir.

Q. This would indicate that he, as of 24 March, definitely wanted to have this matter emphasized, would that be correct, above and beyond the emphasis which would have been implied in the document, Exhibit D-5, which you signed on 16 March and distributed?

A. Yes, sir.

Q. Do you know any reason why this document was prepared and published at this particular time, roughly one week after the My Lai (4) incident?

A. No, sir. I don't recall specifically. It must have been, and I am just assuming now, to preclude any possibility of what may have happened on the 16th.

Q. Do you recall anybody directing or saying anything which would indicate to keep quiet about this such as: "The matter is being investigated and we will wait until the facts and recommendations are submitted concerning the My Lai incident of 16 March 1968"?

A. No, sir.

Q. As you now look back upon the scene, do you know of any incident which may have been an attempt to cover up the action which took place in My Lai (4) on the 16th of March 1968?

A. No, sir. I don't recall any overt act as such, sir.

Q. Do you recall any covert act?

A. No, sir.

Q. Do you recall anything?

A. No, sir.

Q. Aside from the village of My Lai (4), did you ever hear of any unnecessary shootings, burnings or otherwise being reported in the village of Co Lay, C-O L-A-Y?

A. No, sir. I don't recall.

Q. Did you ever hear of any such thing happening in the village of Co Luy, C-O L-U-Y?

A. The only incident that I recall, which could even be comparable to this, occurred, as I remember, in May. It was in the 198th Brigade, and it was a rape and murder case of two VC women. I don't recall the location, but it was not in the 11th Brigade's area of operations, sir. If you are referring to some hamlet in the 11th Brigade, I don't recall it, sir.

Q. You will recall in the one document that I showed you, prepared on 14 April, which cites the one village with the VC name for My Lai (4). It also cites the village of Co Luy, where an additional 90 people were supposed to have been massacred or killed unnecessarily.

A. I didn't catch that when I was reading the report concerning Co Luy, sir.

IO: Mr. MACCRATE, do you have any questions?

MR MACCRATE: Colonel PARSON, we have examined a combat after action report of 17 September 1968 with respect to Operation Muscatine. Now, I believe you left this command in August of 1968, so this is a report that would have been prepared after your departure. However, much of the information contained in the report relates to the period while you were at the command. Now, among the reporting officers listed are Lieutenant Colonel BARKER and Captain MEDINA, and included in the task organization is Task Force Barker. There is a review of the activity in Operation Muscatine, and for the period 13 to 19 March 1968, this entry appears: "There were no activities conducted in the Muscatine AO." Now, we are interested at this time in an area that is an

extension, as I understand it, of the AO. My Lai (4) lies out of the Muscatine AO, so that it was necessary to have an extension of the AO for this particular operation. Does that mean that any after action report of this character, for that particular engagement would, under your procedures in the division, be separately covered?

A. I can't answer the question, sir. I don't think there was any specific policy as such. I imagine that each of these after action reports on a major named operation like Muscatine was written by new faces in almost every case because there was such a tremendous turnover of new people, most people occupying their jobs at most for 6 months. I don't think I could specifically categorize.

Q. Was this report in preparation for your departure?

A. No, sir. I am sure this report hadn't any relation to my departure at all.

Q. I would not think that it had any relation to your departure, sir, but it is a rather voluminous report and it would take some period of time to prepare. There would be information coming in, I would assume, over a period of months, that was correlated and placed in such a report in September. I wonder if you were aware of who was bringing that information together and who would be responsible for the report as finally prepared on 17 September?

A. Is that a division report that you are speaking of, sir, this entire Muscatine report, or is it an 11th Brigade report?

Q. It is entitled, "Combat After Action Report," Commanding General, Americal Division, Attention: AVDF-GC.

IO: Here is the identity (pointing). It is the Headquarters, either 196th or 198th Infantry Brigade, Americal Division.

A. That would be the 198th, sir.

MR MACCRATE: This would, therefore, be prepared at the brigade level?

A. Yes, sir. If that has the brigade heading, it was prepared by brigade, sir.

Q. I have no further questions.

IO: Mr. WEST?

MR WEST: In looking over the transcript of testimony of Colonel HENDERSON, he states at one point that when he completed his report of investigation, dated 24 April 1968, Exhibit R-1, he told us that he delivered this to you and handed it to you on 24 or 25 April. Do you recall this happening?

A. Not specifically, but I am sure that is true.

MR WEST: I have no further questions.

IO: Colonel FRANKLIN?

COL FRANKLIN: No, sir.

IO: Mr. WALSH?

MR WALSH: Yes, sir. I have a question, sir.

Who normally drafted orders during this period that we are talking about?

A. The G3.

Q. Would that also apply to letters to commanders, such as the one introduced here of the 24th?

A. I'm unable to say because it would depend upon the subject matter. If the division commander wanted to emphasize something in the area of the IG or the JA or so forth, he might very well have that individual prepare a draft. I don't recall the manner in which this particular one was written. It could have been written by the division commander personally. It could have been written by one of the ADC's or even a staff member. I don't recall.

Q. Do you recall if it's normal practice for some other officer to write a draft for the commanding officer?

A. He used both techniques.

IO: Did your division have any formal commander's notes which were issued?

A. I don't recall the division commander putting out a series as such, sir. No, sir.

Q. Did you have an SOP in the division?

A. There was a division SOP, yes, sir.

Q. I'd like to go back again, Colonel PARSON, to this matter of a formal investigation. Do you ever recall a report of formal investigation having been submitted to your headquarters?

A. No, sir, other than the report of Colonel HENDERSON, sir. I recall that he submitted a report.

Q. In the month of May, after Colonel HENDERSON's report, do you remember another investigation report having been submitted to division headquarters?

A. I can't recall it now, sir. No, sir.

Q. If such had been submitted to division headquarters, would you have seen it?

A. Probably. If by chance it went through one of the ADC's, I suppose it is conceivable I would not have. I wasn't privy to all conversations and activities between the division commander and his ADC's.

Q. We have indications that such a report was prepared and that it was submitted to division headquarters in three copies. I cannot state how or in what form it was delivered or submitted, and I am therefore asking if you had any information regarding this report of a formal investigation?

A. I can't recall it, sir.

MR WEST: Colonel PARSON, there have been a few references in the press to the possibility of the men of C/1/20 being under the influence of marijuana or some other drug during this operation in My Lai (4) on the morning of 16 March 1968. Do you have any knowledge of any such thing?

A. No, sir. Your mentioning it, right now, is the first I have ever heard of it. I didn't even notice that in the press, sir.

Q. Was the use of marijuana a problem in the division on or about this time, to your knowledge?

A. I can't recall that it was a specific major problem at this time. I do know that it was a recurring problem, and that the provost marshal was bringing information to the division commander about the use of marijuana from time to time. I don't recall that it was a major, serious problem. There was an element there, sir. Yes, sir.

Q. Did this extend to the use of marijuana by the troops during combat operations?

A. I don't recall of any such incident.

MR WEST: Thank you.

IO: Any more questions?

(No response.)

Colonel PARSON, I'll give you this opportunity to make any statement you would care to make to this group, or provide any additional information that you may have available at this time which you feel might be of interest for the purpose of this investigation?

A. I would give you any additional information if I had it, sir. As an overall comment, I would say that this incident, as presented to me, was not a major incident at that time. It obviously is a major incident, but as it struck me in my awareness of it, the initial allegations did not seem to be borne out by follow-up information, as I recall it, and I dismissed it from my mind. I have learned subsequently that there was an investigation by MACV or someone at higher level in Vietnam. I learned that from the newspapers quite recently.

Q. Let me stop you here. Did it say when the investigation was made?

A. No, sir. I don't recall at the moment, but they must have--I am talking about a MACV-level investigation which resulted in Lieutenant CALLEY being subject to court-martial.

Q. Could this have been an investigation of a comparatively recent date?

A. Yes, sir.

Q. Not one that took place back in, let's say, from March to June of 1968?

A. No, sir.

Q. Proceed.

A. When I first heard of this incident in the papers, my initial reaction was that this was the mid-May incident which happened in the 198th Brigade because it was the only thing of this magnitude that I ever could recall. I immediately had to dismiss it because it doesn't add up. I remember the May incident in much more detail than the incident now, of which I recall very little. It simply wasn't highlighted to me, sir. I have no explanation really as to why this thing didn't come to my attention more than it did. I was quite involved administratively at that time. I was not operationally oriented and this may have accounted for my inability, in part, to answer some of your questions about this specific operation. I didn't follow operations closely. I had major administrative problems in the division headquarters, and the combination of all of these reasons must be the explanation why this thing didn't come to my attention and stand out as a major, serious incident.

Q. Before you were chief of staff of the Americal Division, what was your assignment?

A. I was a division artillery commander in Germany, sir. I had a very short USARV assignment in USARV Headquarters just before I reported to the Americal Division to investigate handling of the dead killed in action because there had been some misidentification and other problems in about four cases.

My job for about 10 days, as I recall, was to investigate our procedures and see if they were adequate for handling the dead, notifying next of kin, and personal effects and this sort of thing.

Q. We appreciate your statement, Colonel PARSON, and I am sure you recognize the gravity of this investigation. I would ask you to continue to keep your thinking cap on, and if you can recollect or can reconstruct mentally any situation or activities which may have transpired during this period which we are referring to, which may have a bearing on this investigation, we would appreciate your calling this to our attention so that we can check into it further. We would also appreciate any documents, memoranda, photos, or other materials that you may have or know of which would relate to this incident, or may have a bearing upon this incident. Do you have anything further that you would like to add?

A. No, sir. I will comply with what you said and give you my full cooperation.

IO: This hearing will recess.

(The hearing recessed at 1055 hours, 12 December 1969.)

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(The hearing reconvened at 1745 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 MILLER and COL FRANKLIN.

Sir, the hearing recalls Colonel Nels A. PARSON.

(COL PARSON was recalled and testified as follows:)

Colonel PARSON, sir, I remind you that you remain under oath before this hearing.

A. I understand.

IO: Colonel PARSON, since you last appeared before this investigation in December, we have gathered a considerable amount of information primarily through having interviewed from the start of the inquiry up to the present time something now in excess of 350 individuals. In addition, we have assembled a large number of documents which have been entered into evidence. In addition to that, we have made a trip to South Vietnam where we had an opportunity to visit headquarters MACV, USARV, III MAF, and the Americal Division headquarters where we were all well received, and we had the opportunity to personally go through their files after they had combed them for documents. We also visited headquarters of I Corps and talked to General LAM. Subsequent to that time, we visited the 11th Brigade at Duc Pho, and I think I mentioned we here also went through their files.

We visited LZ Dottie to get the lay of the land, and we also visited 2d ARVN Division and talked to now General TOAN and some of his people who were on duty there at that time, some of the advisory elements that are there now and also I must say we've talked to numerous advisors from the 2d ARVN Division and from province headquarters, the U. S. advisors who served in that area during this particular time. We did visit province and had discussions with Colonel KHIEN, some of the other people in his headquarters, as well as, I

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indicated before, the provincial advisory staff, and the same thing could be said of Son Tinh District. We talked to now Captain TAN and part of his staff.

Above and beyond all of that, we also had an opportunity to visit My Lai, to walk through the village and to be able to confirm the geographic location of many of the things we have been interested in as far as this investigation is concerned. We have also had an opportunity to overfly the area, generally, of Son My Village. I might say here that, among other things, we got the Vietnamese geographic names of these villages and hamlets and subhamlets straightened out. The point that I'm making is that when we last had talked to you we were somewhat groping for information to put this jigsaw puzzle together. But we're in a much better position at the present time than we were then to be able to ask intelligent questions and to provide the documents to support those questions and to get matters clarified in that respect. Before we proceed, I would ask Colonel MILLER of The Judge Advocate General's Office to advise you concerning your rights, and I would also ask him to warn you of some of the things of which we may suspect you.

Q. You may suspect me of, sir?

A. That is right.

COL MILLER: When you appeared before on 12 December, you were not suspected of any offense and no warning was given. As General PEERS indicated, since that time there have been many, many witnesses and much evidence that has been considered by General PEERS and the other people who are here.

On the basis of the information that is in now, there is some reason to suspect you may have committed one or more of a number of offenses. I mention the word "suspect" rather than "charged" or "alleged." There are no charges and there are no allegations but there is some suspicion that you may have committed some of the offenses that I shall list in just a moment. After I have done that I will advise you of your right to counsel and your right to either testify or not to testify.

You are suspected of the failure to obey, or a violation of, the general regulations concerning the reporting of knowledge or information or reports pertaining to alleged or suspected or apparent war crimes. I'm referring specifically to offenses or alleged offenses committed by Task Force Barker in the Son My area on about 16 to 18 March of 1968.

A. Am I permitted to query at this time or do you prefer that I remain--

COL MILLER: (Interposing) If you have a question and I can answer it, I will.

A. I just don't understand what is meant by that.

COL MILLER: All right. Article 31 of the Uniform Code of Military Justice provides that no person subject to the Code may be questioned by other persons subject to the Code, and I will add to that other persons representing the Government, if they are suspected of an offense without first being warned of this fact and also advised of their right to counsel and their right to refuse to testify or to testify. As I said, there have been many, many witnesses and much other evidence received, and on the basis of some of this information there is reason to suspect that you may have committed one or more of the offenses which I shall relate. Again, I say this is not a charge. It is not an allegation or in the form of a charge sheet or formal allegation, but within the minds of one or more of the members who are present there is a suspicion. This is what I am warning you of.

A. I meant the first suspicion that you were reading to me. I don't even quite understand that. Would I be permitted to take notes on this or would you give me a copy of this?

COL MILLER: Certainly. You can make notes if you wish. I will give you a copy, and as soon as it is available you can have a verbatim transcript.

MR WEST: You mean of his prior testimony?

COL MILLER: And of these things that I am detailing at this time.

A. I'm shocked, I don't know what to say. Well, the first thing that you suspect me of--

COL MILLER: (Interposing) Failure to obey or violation of the lawful general regulation. In this case, specifically, MACV Directive 20-4, which requires certain actions in any case on information or knowledge or reports which refer to alleged or suspected or apparent war crimes. There is a duty to report that to one's commander.

A. It is suspected that I did not tell my commander?

COL MILLER: You did not obey that regulation, yes, sir. If it's all right, I'll proceed with this and we can come back if necessary. Second, dereliction of duty in that you had had brought to your official attention through American and Vietnamese channels allegations and reports of the killing of significant numbers of Vietnamese civilians in the Son My area of Vietnam by American troops, more specifically Task Force Barker troops, during the period of about 16 to 18 March 1968 and that you failed to take appropriate affirmative action to verify this information or to seek additional information through appropriate Vietnamese or American channels, or both.

A. I take it that that was--just reporting that to General KOSTER was not sufficient?

COL MILLER: That is right. That's the suspicion, that you did not take whatever action was appropriate to get what information you as the chief of staff of the division would be expected to take in the performance of your duty. Third, you did appear before General PEERS on the 12th of December and you testified under oath. You are now suspected of having withheld relevant information about matters on which you were questioned and of having given some testimony falsely under oath. This is a violation of Article 134, and it constitutes the offense of false swearing.

A. Could you elaborate on that?

COL MILLER: Not at this time. I'll continue with this now, and we'll come back. Fourth, with the suppression of and

conspiracy to suppress information and reports concerning, and the investigation of, acts which allegedly were committed by American troops, again, Task Force Barker troops, in the Son My area of Vietnam in the period of about 16 to 18 March 1968. The information and the reports and the investigation of which you are suspected of either suppressing and/or conspiring to suppress concerned reported alleged serious offenses which were in violation of the laws of war and also of the Uniform Code of Military Justice. I am referring now to various acts allegedly committed by Task Force Barker personnel in the Son My area. These included but were not limited to such things as rape, murder and other serious felonies.

A. The last thought, again, please. Would you mind giving the whole--

COL MILLER: (Interposing) The information and the reports referred to the offenses which allegedly were committed by Task Force Barker personnel, not that you committed them or anything like that, but that the information concerning these offenses came to you, and the offenses I refer to are among other things serious offenses, such as rape, murder.

A. I'm sorry, I still don't understand the point. You're just telling me these things were brought to my attention as a statement of fact.

MR MACCRATE: The first sentence, I believe, is what Colonel PARSON would like to hear.

COL MILLER: The allegation is that you either suppressed or you conspired to suppress, or you did both, information and reports concerning, and investigation of, acts which allegedly were committed by these Task Force Barker personnel. In other words, that you suppressed or conspired to suppress information and reports that came to you, or to suppress an investigation of these alleged acts, so that they did not become known or investigated as they should have been. And these reports and these acts pertain to the Task Force Barker personnel and what they did or were alleged to have done in the Son My area in March of 1968.

You are suspected of dereliction of duty with respect to your actions and your failure to act on reports

and information concerning alleged and unlawful killing of civilians by American troops in the Son My area about 16 to 18 March 1968. Your acts or failure to act are not limited to those dates but extend to whatever were your actions or inactions on information concerning those matters which came to your attention and to those things that you should have done in the proper performance of your duties.

You are suspected of being an accessory after the fact to possible offenses which were committed by Task Force Barker personnel during, and related to, the Task Force operations in the Son My area during 16 to 18 March 1968 and that you thereafter assisted the offenders in order to prevent or hinder their apprehension or their trial or their punishment.

A. These are incredible. Would you mind reading that again.

COL MILLER: You are suspected of being an accessory after the fact to possible offenses that were committed by these personnel in that this information came to your attention after the fact and you thereafter, after you had this information, assisted these offenders in order to prevent their apprehension, trial or punishment.

A. I assisted the offenders?

COL MILLER: That is right. This could be done in a number of ways, such as suppressing information, failure to act, or assisting in any way to avoid detection as related to the offense of suppression of information.

A. On what possible grounds or what motive or what incentive would prompt me to do any of this?

COL MILLER: Colonel, I don't know. These items of which you are informed are based on suspicions which are based on information and evidence which is before General PEERS at this time.

It is suspected that you may have had knowledge of the actual commission of serious offenses at or in the vicinity of My Lai village or Son My during the period of

16 to 18 March 1968 and that you may have taken some positive act or acts to conceal these serious offenses. The concealment of these acts would constitute misprision of a felony.

Included in this is the fact that you may have had knowledge of the actual commission of such offenses and you did not make it known to military authorities as soon as possible. Now, in this case by serious offenses I mean such acts as indiscriminate or unlawful killing or rape or other offenses of this sort that are in violation of the Uniform Code. And these may also be violations of the laws of war. This is a general detail, statement, of these items.

Under the circumstances, of course, you have both a right with respect to testimony and with respect to counsel. You have a right to remain silent and not answer questions. Any statement that you do make may be used in evidence against you in a criminal trial. You also have the right to be represented by counsel, and by counsel I mean a qualified lawyer. Such counsel can either be civilian counsel that you can employ at your own expense or it can be a military lawyer. If you wish, you can have both a civilian counsel in your employ, and a military lawyer will be detailed for you. If you have a particular counsel, military counsel, who is reasonably available we will try to make him available to you. If not, if you wish to have military counsel, we will appoint other counsel.

You may decide that you wish to proceed and answer questions without being represented by counsel or having counsel present. If you wish to do this, you certainly may do so. In that event, you may stop answering questions at any time. You also may request the appointment of counsel at any time. With respect to your right to counsel and your right to testify, do you feel that you understand those two rights: the right to remain silent and not answer questions, to testify with or without counsel, to employ civilian counsel or have military counsel, or both? I should add one thing. Certainly you can have this counsel with you in this hearing if you wish, and you can consult with him at any time.

A. I'm just flabbergasted. To say that I want counsel almost implies in my own mind I'm guilty of these things, and that I've just never experienced anything remotely approaching this, the accusation that I have falsely testified.

IO: This is not an accusation. This is a suspicion as was indicated to you by Colonel MILLER. These are not charges. These are the things which we suspect you of having committed, and we would be greatly remiss if we did not tell you of these before we questioned you further.

A. I'm really in a state of shock over it because I have been very proud of my honorable record and along with a cadet prayer which I have learned many years ago, "harder right instead of the easier wrong." And it has been so long ago and details are so lacking in my mind that it's difficult to discuss these. It's one thing that occurs to me. I have had the disadvantage of not being able to improve upon my knowledge of this at all. Your investigation has been very thorough and it is obvious you now have all the pieces. My blinders remain as narrow as before. I really agonized over this to try to remember anything else that I could contribute to this.

Q. We shall help you remember.

A. Lack of testimony, lack of specificity when I first appeared before you was for lack of recalling. I have no sensation in my own heart of, you know, wrongdoing or guilt or any sensation of hiding anything. This doesn't exist in my being. It is very easy for me to confidently come before you the first time and now and to try to cooperate, and I hardly know what to say. I'm not afraid to talk about it. I'm not aware of, certainly no conscious effort to do any of these things. There would be no incentive for me to do so, no purpose, nothing to be gained. The iron integrity of the Army is at stake, and of our own nation, and this is not the time for me to be evasive or withhold anything.

Q. We understand this better than you do, Colonel PARSON, very frankly.

A. Well, I didn't mean to imply that you didn't know this.

Q. No, I know your point, but when we are -- say that talking about looking into the My Lai or the Son My incident, we're looking into a situation, perhaps, where more than 200 women and children and old men were killed, and it may be as many as 500. We're also looking at a situation where numerous, not just one or two, but numerous, women were raped, where villages were leveled, hamlets I should say, and subhamlets, where all the animals were killed. Now we recognize the gravity of this situation and we recognize the gravity of it with respect to the Army, with respect to our country and our people. We recognize it very, very clearly, and we have gone through this testimony and what we're telling you right now is the combined thoughts of all the gentlemen you see right at this table after having heard this number of witnesses and having gone through this. As I say, we would be remiss if we did not tell you of our suspicions before we talk to you. As a matter of fact, we are required to do this by law.

COL MILLER: You mentioned a few minutes ago that apparently General PEERS had all of the pieces. One of the reasons that you were called back is that you may be able to contribute additional information which we do not have in spite of the amount of information we already have. Despite the enormity of what appears to have happened and the interest of the country it is also our duty to see that individual rights are still protected, and this is the reason why you are apprised of these suspicions at this time. It's in fairness to you rather than to call you in and question you without at least letting you know. This is done despite the fact we may have here an incident unprecedented in our history.

MR WEST: Did you pose the question for Colonel PARSON?

COL MILLER: I asked him if he wanted counsel or time to seek counsel.

A. You're really advising me to get counsel then. You're leaving it to me.

COL MILLER: I'm leaving it to you. You may wish to proceed without counsel. If you wish to seek counsel, you certainly have that right.

A. I'm so concerned over what you tell me that there is a misunderstanding or some explanation for this. I'm concerned--I don't know how to put it, but if there is circumstantial evidence despite my own belief of what I feel that I have done or failed to do, I probably should get counsel. I never thought I'd see the day that I was afraid to stand up on my own and tell you everything that I know and cooperate in every way possible, but I feel that I'm sort of backing off from that and to ask for counsel for this--

IO: (Interposing) Those are some of the rights and prerogatives that are afforded you under military justice.

A. I must make a decision. I am holding this group.

Q. I don't think you have to make a decision now. We're not going to go on this evening, anyhow. We have another individual that I want to talk to tonight, and, things being what they are, I won't get around to talk to you until Monday, but I would suggest that perhaps --Anybody object to providing time for him to determine if he desires counsel?

(Negative response.)

I suggest to you, Colonel PARSON, that you sit down with Colonel MILLER, and then make up your own mind whether or not you want counsel, and if you want counsel we will arrange it for you because you see it is not our intent to incriminate you or to make you testify against yourself. So, as a consequence, I think it would be wise if we recessed here and you should get together with Colonel MILLER and then we will reschedule you. As I say, I am sure it won't be tomorrow. It will probably be sometime Monday or conceivably Tuesday. We will give you an opportunity to review your previous testimony and to review your testimony with counsel if you

so elect. Do you have any further questions?

A. No, sir.

IO: The hearing will recess at this time.

(The hearing recessed at 1813 hours,  
13 February 1970.)

(The hearing reconvened at 0940 hours,  
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, COL ARMSTRONG, and  
MAJ LYNN.

Sir, the hearing recalls Colonel PARSON.

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

RCDR: Are you represented by counsel?

WIT: Yes, sir, I am.

RCDR: Will counsel please state his full name, grade,  
Social Security number, organization, and station.

IC: Joe P. CASEY, Lieutenant Colonel,  
Office of the Judge Advocate General, Department of the  
Army.

COL MILLER: Colonel CASEY, you are a lawyer admitted  
to practice of law for the Federal district court or the  
highest court of a state, are you?

IC: The Supreme Court of the State of Missouri,  
Federal District Court of the Western District of Missouri,  
Supreme Court of the United States.

COL MILLER: Colonel PARSON, on the 13th of February  
you were informed of certain offenses which you were  
suspected of, and were advised concerning your rights  
with respect to testifying and not testifying. That  
is your privilege under Article 31. And also your  
right to have either civilian or military counsel or  
both. At that time you asked for the opportunity to  
consider this. Since that time you did request that  
military counsel be made available. Colonel CASEY was  
so made available. Have you had an ample opportunity  
to discuss this matter with him?

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WIT: Yes, sir.

COL MILLER: Are you satisfied to have him represent you here?

WIT: Yes.

COL MILLER: I notice you do not have civilian counsel. If you need time to consider obtaining civilian counsel, you may do so.

WIT: Not at this time.

COL MILLER: Do you feel that you have now had ample time to discuss the matter, to make a decision with respect to whether you wish to testify or not?

WIT: Yes, sir.

COL MILLER: Would you like me to go over again your testimonial rights under Article 31?

WIT: Yes, sir.

COL MILLER: You have a right to remain silent. On the other hand, you may if you wish, make statements. You have the right to refuse to answer questions at any time. You have the right while you are here to consult with counsel at any time, or he with you. If you feel it is necessary to consult with him out of the hearing, either you or your counsel may request a recess be taken and we will give you the opportunity to discuss whatever you wish with your counsel.

Colonel CASEY, you have not been here before. I believe in a few moments you will be introduced to the other people who are in the room. Do you have any questions before we start?

IC: No, sir.

COL MILLER: Are you willing now, Colonel PARSON, to answer questions and make a statement?

(PARSON)

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WIT: Yes, sir. I want to help.

IO: For the benefit of you, Colonel PARSON, and Colonel CASEY, I'll reintroduce the people we have at the table here. I think you've met most of them. On my left is Mr. MACCRATE who is a civilian attorney. Mr. MACCRATE has volunteered his services to Secretary RESOR to assist in this investigation. He also provides legal counsel for me and other members of the investigation team. Mr. WALSH on the far right also is a civilian attorney who, similar to Mr. MACCRATE, has volunteered his services and he works with Mr. MACCRATE in performing those functions. On my immediate right is Mr. WEST, an assistant general counsel of the Department of the Army. Aside from myself, any of these gentlemen may address questions to you this morning. We have other groups of course, that are taking and have taken testimony from other individuals. It will be my job to see that a report is put together, to see that the evidence is weighed, and to determine the findings and recommendations. Do you have any questions before we proceed at this time?

COL PARSON: No, sir.

IO: Colonel PARSON, in your testimony of 12 December of last year you stated, and I will quote:

"I recall I dropped the incident in my mind because I didn't recall hearing any more about it. Sometime later there was a document which I believe was on the same subject written by either the province chief or the 2d ARVN Division commander. I recall the subject had to do with the killing or the unnecessary killing of civilians, possibly by artillery or what source I don't recall."

Also, in your statement to the CID on the 14th of January 1970, you stated, and I quote:

"I saw a letter that had been written by a Vietnamese official about this incident. Here again, I'm not sure what it said and I'm sure I gave it to the division commanding general."

I have here, Colonel PARSON, a document which has been entered into the record as Exhibit M-34. This is dated 11 April 1968. It is from the district chief of Son Tinh District to the lieutenant colonel province chief of Quang Ngai. Copies of this document, as you will notice when I show it to you, were also provided the 2d ARVN Division headquarters, a copy was provided Quang Ngai sector, that is to say, MACV, Quang Ngai Sector, which is to say Mr. MAY or Colonel GUINN's office, and also main U.S. advisor, Son Tinh Subsector. The Vietnamese version of this document is to the rear and the English translation is on the front. I would ask you to review this document please.

A. May I ask a question, sir? Is this the document which you showed me before?

Q. No, it is not. With reference to your question concerning the document, here is Exhibit M-28 which had been referred to you previously. This is dated 28 March 1968. It's written also by the district chief to the province chief. You will notice it does not provide the details that are included in the letter of 11 April. They are both prepared by the then district chief, Lieutenant TAN. Now my question is concerning Exhibit M-34. You stated that you had seen the document. Is this the document which you had seen?

A. I wish I could positively say, sir, but I don't remember. I sincerely don't remember what document I saw at that time. I'm unable to say which of these two--I don't recall two, I only recall one.

Q. This letter of 11 April is the letter that was the focus of attention between Colonel TOAN and General KOSTER. This we know from discussion with Colonel TOAN and Colonel KHIEN, the province chief. We know the antecedents of both documents and the reason one is so bland and the other is so vivid is the fact that some additional information or some additional statistics had to be provided before this letter could be written. It was finally written, sent, to the province chief with an information copy to General TOAN who took appropriate action on it. Now, this letter has some statements in it that it would appear to me if you had seen you would have remembered it. For example, any allegation that says the operational forces attacked a village, assembled the

people, and shot and killed more than 400 people at Tu Cung Hamlet and 90 people in Co Luy Hamlet of Son My Village. This seems to me that this would stick very vividly in someone's mind.

A. I can only be honest and say that I cannot recall, sir.

Q. Well, where did you see the document?

A. I believe in General KOSTER's office.

Q. What did he say about the document?

A. I don't recall any conversation about it at all, sir. I'm really not trying to evade, I just don't remember. It's been too long ago. Also, I don't know how pertinent you consider this to be, but I was working at this time at the highest pace that I ever have in my life and was just engulfed in the workload. That doesn't say something like this would not have jumped at me anyway, but there was so much going on that I just don't recall. If I could recall anything about this, I would tell it to you.

Q. Well, would you please explain what you were doing at that time so that you were so preoccupied?

A. The division headquarters was not really a headquarters at all. It was a task force headquarters which had about five brigades by then, or maybe four, because we had four and one was coming in and another was going out.

Q. We're talking about mid-April now, the month of April 1968.

A. I'm just trying to recall things that I was preoccupied with. I was administratively extremely preoccupied with things right there at the headquarters. Our AG had a long ways to go. It was made up of persons pulled in from the brigades, from a little personnel company which had been assigned. The headquarters company had just been assembled. The quarters situation was bad. The mess situation was bad. The local security was inadequate. Bunkers needed to be built, the tactical operations center was inadequate. The training center where the new soldiers were coming in

had much to be desired. No one had been given a specific responsibility for it. G3 had the problem. He was trying to support the CG in tactical operations. It was too much for him. I was taking a personal interest in that until I could get it properly assigned. I can think of some other things of that nature. I've written down some. Awards and decorations were a major time consumer. Visitors were so heavy that I was stuck right there at the headquarters with it all the time. Support command was being formed up at that time. The brigades had their own logistic support. We were going through a transition to develop support command. There was a serious problem in the handling of deceased and their personal effects which had been brought very vividly to my attention because the first job I got when I got to Vietnam was to examine our procedures, our, meaning the entire Army's procedures in Vietnam, for handling the deceased. There had been some tragic errors of identification and so on. I was most concerned that this did not happen. It had already happened before my arrival by one of the outfits of the task force. I was concerned about that and so on. Now, how pertinent that is to your question, I don't know, but I'm trying to answer as honestly as I can. I was just going full steam all the time, day and night, on all of these projects. I was only about six weeks into this job and I was engulfed in it.

Q. Going back to this document, you say you think you saw it in General KOSTER's office. Do you remember any of the circumstances whatsoever, any additional papers, if any other people were there, anything about this? Because this is quite a serious allegation. I know what a chief of staff does. I know the problems that were generated about that time. I can visualize those of the Americal Division. Here we have a major allegation by a GVN official. This must have perked up somebody's ears.

A. I just can't recall it, sir. I cannot recall the content.

Q. Were there any other documents associated with this at that time? For example, Viet Cong propaganda which also was associated with Colonel TOAN, 2d ARVN Division commander, and with General KOSTER, and also with the 11th Brigade. I will refer you here to Exhibit M-33 which is a Vietnamese radio intercept, taken down in Vietnamese, shown on the back two pages, the English translation of it is shown on the first two pages. This has been entered into the record

as Exhibit M-33. There is no date on this. This was an intercept at about this time, broadcast by the Vietcong, intercepted, and taken down, transposed, and translated into English and copies made available. Do you remember anything about this document of 11 April and associating this with any form of VC propaganda?

A. I can't remember it, no, sir. Now I do recall a general concern about VC propaganda. I can't articulate that into anything specific. A concern that the VC could use this, I presume report, that Colonel HENDERSON submitted, what he uncovered. I don't know why I have this recollection, but I have a recollection of a concern for VC propaganda. Which is all I can remember now.

Q. What did you mean in your statement to the CID to the effect that you gave it to the commanding general?

A. The Vietnamese, one of these papers?

Q. Yes.

A. I think I must have. I think I was in his room. I must have handed it to him.

Q. When you made your statement on the 14th of January to CID you were asked, "Is there anything you would like to add to this statement?"

You said: "Yes, it was either before Colonel HENDERSON turned in his report or after, I'm not sure which. I saw a letter that had been written by a Vietnamese official about this incident. Here again I'm not sure what it said, and I am sure that I gave it to the division commanding general."

A. Well, I must have, I must have given it to him.

Q. Well my question, then, is, where did you get it?

A. I just don't recall, sir. The thing is very vague to me. That may be an inadvertent overstatement. I must have given it to him. It seems rather likely that I would have. I don't recall any more about it, than that.

Q. But see, these are the things that are so incomprehensible. In your previous testimony you had indicated that--and to the CID the fact that you were knowledgeable of the fact that a helicopter pilot had reported that many civilians had been killed unnecessarily. Here we see another paper in which the Vietnamese are alleging 490 civilians were killed. Nobody gets excited about it. Nobody does anything about it. It just doesn't seem logical.

A. I know in my own heart, sir, because of my code of living, I would have told my division commander about any thing that came to my attention of this nature.

Q. It all sounds very good to me, Colonel PARSON, but the fact remains that you know and I know that MACV regulations said that any time there was any killing of civilians that it would be reported through incident reports. It also says very clearly in your own division regulations that if any civilians were killed, by artillery for example, that aside from U.S. troops who were killed or wounded, or ARVN soldiers, or Vietnamese civilians, that an artillery incident report would be initiated. I find nothing of this happening. You are the division chief of staff. This is what I find almost totally incomprehensible, that people can have such a callous attitude with respect to the Vietnamese. Yet it's the very thing which the division commander has been talking about.

A. Sir, may I comment on callous attitude. Sir, I couldn't possibly have a callous attitude about this. When I first came into the country and saw our boys dead, this was even worse, more depressing than the dead that I saw in World War II. When I first began to hear briefings with the use of these atrocious words, "body count," "kill ratio," bragging about the number killed, the measurement of success in all of Vietnam being in terms of number killed, I was sickened by it. I always have been. I cannot possibly be callous about this. It's repugnant to me.

Q. Well the fact remains that despite what you state, there was not too much action by the Americal Division headquarters with respect to this particular situation. This is exactly what we're trying to determine.

A. Yes, sir.

Q. Now, do you remember any action at all, irrespective of whether you gave this paper to the commanding general or whether he had the paper, or whether it was associated with anything? Do you remember, this would be along about maybe the middle of April, do you remember him taking any action whatsoever on this paper?

A. No, sir, I can't recall. That's not saying there wasn't some action, but I don't recall any action.

Q. Do you recall that about this time General KOSTER drafted a letter to Colonel HENDERSON, commanding officer of the 11th Brigade, stating that these allegations of the village chief had been passed through the district chief to the commanding officer of the 2d ARVN Division and with General KOSTER indicating that he wanted Colonel HENDERSON to conduct an investigation of these allegations and to submit a report?

A. All I recall now, sir, is that General KOSTER directed Colonel HENDERSON to make an investigation. I don't recall the manner in which this was done.

Q. Well, now, which one are we talking about. You see, I think, Colonel PARSON, we're really talking about two different investigations and although they may be addressed to the same general subject, they are quite separate and distinct that there are separate allegations. For example, the first allegation, which you are quite well familiar with, had to do with the complaint of the helicopter pilot which was received in the headquarters on the morning of 17 March. The operation itself had taken place on the 16th. There was an investigation of that allegation. The situation fairly well died down until about the middle of April when the 11 April letter of Lieutenant TAN came to light. Which makes an entirely separate allegation. Now, coming back to the second one. What did General KOSTER say to Colonel HENDERSON, and what did he write to him concerning the allegation which he received from Colonel TOAN?

A. I cannot recall any, sir.

Q. We are led to believe that along in about the middle of April something in the headquarters of the Americal Division created quite a stir and everybody was pretty well stirred up in the headquarters. I say everybody, maybe not everybody, but more than a few people were stirred up. In addition, it has been reported that you made several trips to Quang Ngai City about this time. You received several telephone calls from people in the Quang Ngai Province advisory staff.

A. On this subject?

Q. I'm not saying what the subject is. I'm saying you received these calls. Also, on at least one and maybe more occasions, Mr. MAY and/or Lieutenant Colonel GUINN came up and conferred with you.

A. On this subject?

Q. It would appear that if you were going down to Quang Ngai City about this time, you are going down for some reason. We have indications that people made arrangements for you to visit the division and also to visit province, and also that you were on the phone two or three times a day for certain periods, and that people came up to see you from province?

A. I can't recall this, sir. I have, of course visited Quang Ngai Province from time to time, especially after I had been there awhile and I had an opportunity to get away once in awhile.

Q. But at this time you indicated to us before that you were up to your eyeballs in all this work around there, Colonel PARSON?

A. Yes, sir.

Q. So, this wouldn't seem an opportune time to go out and visit the provinces just for the sake of going out and visiting provinces?

A. I see what your--

Q. (Interposing) Now, just think it over a moment. Don't give me a hasty answer. You may have had some business down there that was logical business. I don't know. But, I'll tell you, it appears that you were going

down to talk about this business because this was the general subject of quite a bit of consternation by General KOSTER at that time.

A. I'm unable to account for it, sir. It appears that I'll be obliged to somehow or other reconstruct why I went down there and who I talked to and what about, which will be very difficult, but, I can't recall it. I know that I've been down to Quang Ngai City. The division advisor, for example, was an old friend.

Q. Who are you talking about at the present moment? Which individual are you referring to at the moment? You say the division advisor? Which one?

A. I'll have to give you the name later. It won't come to me right now.

Q. I can give you the name. Up to a point it was Colonel ULSAKER.

A. ULSAKER, yes, sir.

Q. By this time, Colonel ULSAKER had departed and his place was taken by another colonel by the name of HUTTER, H-U-T-T-E-R. He took his place about 1 April.

A. I remember visiting Colonel HUTTER and asking Colonel HUTTER to come to see us when he first arrived. I don't know that I asked him. Perhaps the division commander did because he was anxious to establish a good close relationship with the division. It was his intent to sit in on a number of our briefings. He was going to try to come in on a weekly basis or something like that to more closely integrate his activities with the division's activities. He was very cooperative about getting the 2d ARVN Division and the Americal Division working closely together. I don't know, but it's possible that we had some meetings on this subject. He was very friendly and did call me. I think I have called him.

Q. Now, let's move over to province headquarters and talk about Mr. MAY and Colonel GUINN?

A. I can't recall. I'm not saying that it didn't happen, but I can't recall visiting Colonel GUINN or Mr. MAY. Surely at one time or another I must have. I remember I had been at the headquarters quite awhile and Mr. MAY was sitting in the outer office and I didn't even know who he was. I was rather embarrassed when I discovered that he had been sitting there cooling his heels and I hadn't gotten him into the division commander or he was there and I hadn't given him a cup of coffee or treated him with the respect that I felt he was due, simply because I didn't know who he was. I don't know how pertinent this is. I guess the point I'm trying to make is I never did have a very close relationship with Mr. MAY. I didn't know him too well. I don't recall having any conferences with him.

Q. How about Colonel GUINN, the deputy? Mr. MAY had been gone for quite awhile during this period. He had been back in the States for about 6 weeks on a special board back here. He was getting himself reestablished and coming and going for a little while. So what about Lieutenant Colonel GUINN, who was his deputy during this period?

A. I only recall a very few contacts with Colonel GUINN. Colonel GUINN was interested in getting a command and my first recollection of him, I don't recall the timing, was when he was introduced or introduced himself to, I think, the division commander in the 2d ARVN advisory compound, Colonel HUTTER's compound. I don't know whether this was either HUTTER or ULSAKER at the time, but GUINN was seeking an opportunity to meet the general, I think, and he indicated an interest to come to the Americal Division someday. That's my primary recollection.

Q. Let's talk a little bit about this discussion now. You were down there and this was one of the things--do you remember your liaison officer at the 2d ARVN Division?

A. No, sir. I don't remember who he was.

Q. A captain by the name of JOHNSON, an artillery officer?

A. I don't recall him. No, sir.

Q. He seems to recall seeing you together with General TOAN and Colonel GUINN.

A. It's entirely possible. Yes, sir.

Q. You were down there with General KOSTER evidently, otherwise you wouldn't know about Colonel GUINN talking to General KOSTER. Who else was present beside yourself?

A. I'm not even sure it was General KOSTER, but it seems rather likely because what I recall of the incident was Colonel GUINN's obvious desire to make himself known to the Americal Division, so it could well have been General KOSTER. I wouldn't want to flatly state it was General KOSTER, but it probably was General KOSTER. I'm not trying to be evasive about this. It seems reasonable that it was General KOSTER. This was so long ago, sir.

Q. Well, that's exactly the reason that I am more or less leading you around and putting you with people and places according to what people have told us, to see if we can't refresh your memory and reconstruct some of this.

A. I appreciate that, sir, I am trying very hard.

Q. What did Colonel GUINN say? What were you discussing?

A. I don't recall the purpose of our visit.

Q. Did you see Colonel TOAN?

A. I probably did. I don't recall it, sir. The thing is that you mentioned Colonel GUINN or when did I first meet him. The thing that comes to my mind is that I met him down there in Quang Ngai. I think it was at the compound the 2d ARVN Division advisory echelon had there. That's my recollection of meeting Colonel GUINN. My recollection was that he was anxious to make himself known to the hierarchy and he would like to get a job somewhere in the Americal Division. That's all I can remember at the particular moment about this visit.

Q. Let's follow through on your CID statement to the effect that you may have given this particular paper to General KOSTER. Do you recall General KOSTER ever telling you to follow through on this and check into it with General TOAN and the advisory group there and perhaps with the province chief and members of the province advisory staff or anything of this nature, so that you would be looking into this to see if there was any substance to it?

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Q. You don't recall any discussion with the people at 2d ARVN or at province, either Vietnamese or U.S., concerning anything which may have happened in Son My or something which may have been incurred by Task Force Barker during about the middle of March 1968?

A. I cannot recall it. No, sir.

Q. Colonel HUTTER arrived on 29 March and ULSAKER departed on 31 March.

I have here, Colonel PARSON, an exhibit which has been introduced and entered as R-1, dated 24 April 1968, "Report of Investigation," to the Commanding General, Americal Division. You have seen this report before, and I would like you to now review it and I'd like to then address questions to you.

(IO hands Exhibit R-1 to the witness.)

Now, would you tell me what you can about that particular piece of paper? When it was received? Who reviewed it? What part you played in it and so forth?

A. Sir, as I believe I testified before, I don't recall. It's possible that Colonel HENDERSON handed it to me at some time or other, either down there or in the Americal Division headquarters, at which time I passed it on to General KOSTER. I don't even recall that for sure. I don't know that I was an intermediary. I believe from something that you have said in the past, that Colonel HENDERSON gave it to me, that this is probably the case. I don't recall that. I do recall that Colonel HENDERSON did write a report and it did get to the CG.

Q. Well, we're not sure, but what Colonel HENDERSON may have prepared two reports: one, a written report covering his oral report to the commanding general concerning the warrant officer allegation, and then this is the second written report that we know of. Colonel HENDERSON indicates that he believes that this copy was hand-carried. Two copies of this were hand-carried to you for the commanding general. Or that may be the case of the other one and this one came in to you by the courier from the 11th Brigade who flew from LZ Bronco to Chu Lai on a daily basis. As chief of staff, is it not logical to assume that you would see this piece of paper? General KOSTER feels that you were well cut in on the entire action, according to General KOSTER's statement.

A. General KOSTER is an honorable gentleman and it must be so. I don't recall but one report. What I recall from the report is a refutation or explanation of the events. As I read this, as you showed it to me when I was here before, and I read this, it seems to explain why it didn't seem to be as bad as we first thought it might have been. But I don't recall two reports. I can't remember it.

Q. We are not sure of it either. I am telling you only what we can surmise from testimony we have received from others. We have not found the other report.

A. I don't recall any other report.

Q. To put you in the proper time frame now, we are talking about 24 April. That's when this report was prepared. Exactly when it was received at the division, I do not know. Whether it was the next day, 2, 3, 4 days later, I am not sure. The record does state, however, that on 28 April General KOSTER departed on R&R to Hawaii and he returned on 7 May. Now, you undoubtedly can put this time period in your mind. This period when General YOUNG was the acting division commander for about 10 days.

A. Do you mind giving those dates again?

Q. He departed on 28 April and he returned on 7 May for a total of approximately 10 days.

A. Yes, sir.

Q. Now, does that fix it in your mind, whatever you may have had to do with this paper with respect to General KOSTER? It may have actually taken place?

A. It seems to me that this went to General KOSTER. I don't recall this going to General YOUNG. I could be in error about that, but I don't recall that going to General YOUNG. I could be in error about that, but it seems to me that General KOSTER had it.

Q. What makes it seem that way?

A. Possibly because it hadn't occurred to me that General KOSTER left so promptly. This thing was addressed to him. If it wasn't given to General KOSTER it was given to General YOUNG who was the acting division commander. If I am in error about who it was given to, that's possible. It hadn't occurred to me that General KOSTER had left at this particular time. I knew he had gone on R&R. I see what you are saying. The time is rather tight there. If this thing had not been delivered right away it would have gone to General YOUNG rather than General KOSTER. Yes, sir. I understand what you are saying.

Q. I'm just putting this up to refresh your memory. I think I know who handled it and so on, but I am trying to see if this brings back to your mind this paper and the action that was taken on it and when it was taken, and what you had to do with it.

A. Yes, sir. I understand. I am trying very hard to cooperate, but I cannot recall. I am trying very hard to recall. I've tried very hard ever since I first appeared before this group. I promised you when I left I would do everything in my power to recall anything I could about this, but I have had very little to go on.

Q. You've been working on the fringes. There's no question about that because you have knowledge about these things, but about that time your memory sort of collapses. As the chief of staff of a division and your relationship with the division commander, at least the commands that I have held, I would certainly assume that my chief of staff was well aware of it, that he knew what had been received and what it said and what action had been taken.

A. The only answer or comment I can make on that, sir, and I don't mean to say this in a derogatory sense at all, because I have a great deal of respect for General KOSTER, is that he is or was there, when I first met him,

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because I had never known him before, a little hard to get acquainted with. There was an aloofness. There was a gap. There was a time to get acquainted which took quite a while. Our relationship was not a real close one. I don't say this, sir, in any derogatory sense at all. I think by the time he left I felt that I had a rapport with him and not that I had any difficulties with him. I did not. There were times when I didn't handle visitors to his satisfaction or something like that, which is a normal human thing, but our relationship was not for sometime a real close one. I'm not trying to use this as an excuse.

Q. We are already talking about a period of about 6 months after General KOSTER arrived. Right? We're not talking about the end of April you know?

A. I'm talking about the period of time that I was the chief of staff. It took a long time to develop a real rapport with him. I believe that there were a number of things that went on that he did not take me into his confidence on.

Q. Did you have the same relationship with the commanding general that you feel that your predecessor Colonel MUSSER had?

A. I don't know how to answer that question, sir. For example, General KOSTER pretty much did his own work of selecting brigade commanders. I can't recall that I knew very much about that at all.

Q. That's command. I can understand that. Every division commander does that. Here we are talking about administration and paper work and so forth. This does flow through the office of the chief of staff. He handles the processing of it. He handles the assignment of staff actions.

A. I'm not trying to imply that General KOSTER withheld things from me. I am only trying to say that there wasn't the close relationship with General KOSTER for a long time that one might expect that might be normal because of his personality, and perhaps mine.

Q. I'll ask you to turn to the first inclosure and read the first five or six lines (referring to Exhibit R-1). Do you consider this report as responsive to this allegation?

A. The report appears to refute the allegation.

Q. To a degree, yes, but now, if you are the chief of staff and you are looking at a piece of paper like this would you not ask where is the letter? This is in reference to a letter from the Son Tinh District chief to the Quang Ngai Province chief. I see no letter. It also says he received a letter from the village chief. I see nothing there. In this request it is totally inadequate to have a statement--who prepared this statement? Do you know?

A. No, sir. I do not recall.

Q. Had you seen this statement before?

A. I'm not sure, sir. I believe this was the same thing that you showed me when I appeared here before. Prior to that two years ago, I don't recall whether I saw it or not. I feel that I turned this problem over to the commanding general. It was addressed to him. It was his business.

Q. Well, the commanding general can't do all the staff work for the entire headquarters. You, as the chief of staff, and having a paper like this coming through you undoubtedly sit down and--General KOSTER felt that he kept you informed on these matters. What recommendation did you give General KOSTER or what discussion concerning this report ensued?

A. I'm afraid I don't recall, sir. Can you help me? Is there anything that General KOSTER may have said in the way of a discussion that we had on this?

Q. Not specifically. He feels very definitely that he kept you informed. He did not find this report satisfactory according to his testimony and directed that a formal investigation be conducted.

A. I don't recall that. Not now I don't, sir.

Q. He seems to remember that he took action on this paper after he returned from R&R. Now, does that help you in bringing things back?

A. No, sir.

Q. Do you recall General KOSTER having been on leave and coming back? What did he do when he got back from R&R?

A. I can't recall that, sir, what he did.

Q. Do you recall him possibly calling you in. I say possibly, discussing this paper, indicating that he wanted it looked into and looked into properly? This is a very serious allegation. We're talking about 450 civilians being killed irrespective if somebody comes out and says the district chief placed little importance on it. This is an allegation made by a Vietnamese official.

A. No, sir, I can't recall any such conversation.

• IO: Mr. MACCRATE?

MR MACCRATE: Colonel PARSON, I'm going to be very frank with you as to my evaluation of what is transpiring here. You are a very precise man, a very conscientious man. You have a much better recollection than you have yet given us the benefit of because you are concerned about involving General KOSTER. You are so intent on explaining why you didn't challenge General KOSTER in any respect, for the benefit of hindsight today, that you are just washing some of the details of this away. You have been very accurate in things you have told us. You had in your recollection that it was the province chief of Quang Ngai Province. You had in your recollection that it was Colonel TOAN of the 2d ARVN Division. You had in your recollection that it was an incident or complaint or an allegation regarding unnecessary killing of civilians. All of these things are there, and then immediately you get up beside them and you fall back from them.

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You say you had so very little to go on. Now, there is a great deal today that we have for you to go on. But how things fitted together, we don't have all of the details. That is where we need your help. We can put this together in a pattern of what has happened here, and it relates to things that you had a personal knowledge and awareness of at that time, and only you can provide what was transpiring. We are aware of relations in the headquarters. We have talked to any number of people in your headquarters. We've talked to the NCO's. We've talked to those who headed the various sections of the division, various personnel who were there at the time, so we have a pretty good assessment today of what was going on and some of the problems within the command. We also know that there were documents there and there were documents circulated which cannot be found today. Something has happened to those papers. Now, starting with the complaint you recall coming from the province chief of Quang Ngai Province, and the fact that you associated with General TOAN--You can put to one side this letter of 28 March. As far as we can determine, that never came into your hands. This seems to have remained with the Vietnamese. The later letter, which is M-34, you have before you. Now this document, if you will note, has right on it that a copy went to the 2d ARVN Division headquarters, a copy to MACV, Quang Ngai sector, and major U.S. advisor, Son Tinh subsector, courtesy copy. Now, just to refresh your recollection, you said you didn't have anything to go on before. Let me refresh your recollection: The 2d ARVN Division headquarters, Colonel TOAN; MACV, Quang Ngai sector, that is Colonel GUINN and Mr. MAY, major U.S. advisor; Son Tinh subsector, that is Colonel GAVIN and Captain RODRIGUEZ. Now, this fills you in as to who were the people receiving information about these things down at that level. Furthermore, we can tell you that when this letter of 11 April arrived at the 2d ARVN Division, the G2 of the 2d ARVN Division submitted the letter to Colonel TOAN and submitted it with the VC propaganda that is there with R-1, the same broadcast that was taken down. These are delivered to Colonel TOAN. We then know that Colonel TOAN passed these things on to General KOSTER, that these were in the Americal Division. You did have an opportunity to see and to read these and what would any man do who saw such things and read them? Just natural

curiosity would lead you to take a look at them, and what goes on from there? Within the headquarters what happens? We have here a further detail. You have the statement of 14 April. Notice the date, 3 days after the letter of 11 April. The statement's prepared on it.

A. I'm missing your point here, sir.

Q. This is a statement of 14 April.

A. Yes, sir.

Q. Directed to this letter of 11 April. That's what it's talking about right in that first paragraph.

A. Yes, sir.

Q. This letter of 11 April has been given to General KOSTER possibly through your hands. A statement is prepared about it dated 14 April, 3 days later. Eventually that statement is ultimately sent to the commanding general. What we are interested in is what you do recall about the preparation of that statement? How it came about? Who asked for it to be prepared? What were your conversations when you were down in Quang Ngai at this time? Now, this statement comes from province. This comes from the province advisory team. They had obtained the statement. We know from whom they obtained it. We know that there were many discussions at this time. What we want is your recollection of these events as they transpired, what you can recall. You said you didn't have much to go on. I've sketched in for you, to show you the sequence of events of a letter going from Captain or then Lieutenant TAN to Colonel KHIEN with a copy to the commanding general of the 2d ARVN Division. At the same time a copy goes to MACV, Quang Ngai sector. A statement of 14 April is prepared for MACV Quang Ngai sector. All of these eventually end up in the Americal Division. Now, you as the chief of staff, what do you know about it?

A. I think I understand your point, sir. I have been as precise as I know how. I think I said with respect to the first point you made that I remember something from a Vietnamese official. I don't know who. I'd have to look at my exact testimony.

That remains my recollection now, something from a Vietnamese official. Maybe the province chief, maybe the division commander.

Q. Let me read what you said:

"Sometime later there was a document which I believe was on the same subject written by either the province chief of Quang Ngai Province or the 2d ARVN Division commander. I don't recall at the moment which one it was, but it was an official out of Quang Ngai, a South Vietnamese official, about this incident and apparently this same incident. I don't recall the content of the document. I recall the subject of the letter had to do with the killing or the unnecessary killing of civilians, possibly by artillery, of what source I don't recall. I don't recall the content of the paper. There was an English translation in it which was in the headquarters. I recall that paper."

A. Yes, sir, and that's true.

Q. But you've only told us a very small portion of the story. Colonel PARSON, men don't recall that a piece of paper is in the headquarters in abstract. You don't have that kind of an abstract recollection. What we're talking about is a paper, and we put it into a chain of events for you here. To say that the only thing that you can recall at this time is that there was a piece of paper somewhere in the commanding general's office. You haven't explained to us whether he handed it to you or you to him or whether you saw it in his out basket or waiting in his in basket. We understand how the in basket worked. How it was brought out from his office and put into the safe every night. We've talked to Specialist HERRIS who was his secretary at the time. We've talked to your secretary. We know the telephone calls you were making and what you were doing and the trips you were making. It's these things that other

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people recall with so much preciseness and you just tell us that a piece of paper was there. Now, you've got to go beyond that if you're going to be credible.

A. You concern me greatly with what you say, sir, because I don't know how to go beyond that. I see what you mean. I can see how you come to the conclusion that you do. I can't recall telephone conversations with Quang Ngai or visits with Quang Ngai on this subject. The only plausible explanation that I can offer, I don't say plausible, I say possible, was this new rapport being developed with Colonel HUTTER. I'm not saying that's why I was calling Quang Ngai. What I do remember is being directly involved in some kind of followup action on this thing. I don't recall making visits or talking to people or being charged with doing something about this. I don't recall it.

Q. We are not suggesting that you necessarily were, but you haven't told us anything about your position in relation to the document other than you saw it. That's all you've told us. You leave us hanging at that point. We hear that you did make trips to Quang Ngai. We hear that you were making telephone calls. We have no reason to believe that they were not associated with something that was obviously of concern in the headquarters. We have no explanation as to what they were all about.

A. I understand how you could arrive at that conclusion, sir, but I don't know how in God's name I can clarify this. I'm at the limit of my recollection.

Q. Whatever became of this report of investigation? You are the one responsible as the chief of staff for the papers in the headquarters?

A. I can only--you mean this one here, sir?

Q. Yes, the report of investigation.

A. Well, I'm sure the CG saw it. You mean after that?

Q. After that. Why cannot a trace of that document be found in Americal headquarters?

A. I would have thought that's where this came from, the Americal headquarters.

Q. No. That came from the 11th Brigade. That's the file copy of the 11th Brigade, but your files have just gone with the wind. Things you were responsible for. This is why you have a burden to explain.

A. I wish I could. I really wish I could. I don't recall. You're painting an atmosphere, a possible atmosphere of conspiracy here, destruction of all evidence or something which in my heart doesn't come out.

Q. All I'm doing is stating the facts. The documents have disappeared.

A. Yes, sir.

Q. The letter of 11 April in division headquarters is gone. The VC propaganda in division headquarters is gone. The letter to the commanding general of 24 April is gone. The inclosures to that letter are gone. An earlier report upon the allegations of the helicopter pilot--we are told there was a report--is gone. Now, it is this kind of a situation that you are confronted with. It behooves you to piece together what we have laid out before you in the sequence of what was transpiring and to put the little pieces together that you may have seen and when you saw them. Otherwise we have a situation that, when presented to the public, would certainly be regarded as an act of suppression.

A. I don't know how to answer because I don't know what happened to these documents. If there was an act of suppression I cannot recall it nor do I believe I was a party to it.

Q. Where was the last place that you saw the report of investigation?

A. I'm unable to remember that precisely, sir.

Q. Did you ever see it after you saw it in the commanding general's office?

A. I don't recall that I did.

Q. Are you sure you didn't show it to someone?

A. No, sir, I'm not sure.

Q. Can you ever recall showing it to someone?

A. No, sir, I can't recall it.

IO: Well see, here's the difference. You have alluded to having a passing remembrance of having seen this kind of a paper. There are other people who have said they think they have seen it, too. But these people are paper shufflers. They're administrative kind of people. They're not chiefs of staff, people who are in responsible positions. There is a vast difference between them and yourself. Anything that happened in this division, certainly a major allegation such as this, or any allegation where civilians were killed unnecessarily, is certainly a major event in the life of a division. I frankly cannot state any more than Mr. MACCRATE has stated. This is what we have been doing this morning in walking you through step-by-step. One thing that was not shown to you, which I do not know, but I would assume, General TOAN may have shown this particular piece of paper to General KOSTER. In all events, I know from General TOAN's testimony to us that he did inform him about this particular piece of paper. We have entered that into the record as Exhibit M-32. It is dated 15 April by Colonel TOAN, signed by his chief of staff, Lieutenant Colonel Pam Cao DONG. So, you see, this letter of 11 April that we are referring to, we are quite sure reached the headquarters of the Americal Division as well as the VC propaganda. If it did reach there, the likelihood is that you saw it.

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A. Not necessarily, sir. I don't know that I saw it. I don't know how concerned General KOSTER or General YOUNG were with the sensitivity of this, the danger of VC propaganda, exploiting it and so forth. I don't know how they handled it. I don't recall how they handled these matters. So help me God, if I knew I'd tell you. I'm not, you made the suggestion that I may be trying to protect General KOSTER. The truth is much more important here than the protection of any of us.

MR MACCRATE: My reference was to the fact it was suppressing what might otherwise come out. Not a conscious act of protecting, Colonel PARSON. I was trying to help you to see what might be concealing some of these things from your own recollection.

IO: We'll just keep those documents there. I would like to go back to the period of mid-March. What did you hear about what had transpired in My Lai or Son My or the Task Force Barker area during their operation of 16 to about 19 March?

A. I can recall having brought to my attention by someone, and I believe you provided me the information that it was probably Colonel HOLLADAY, that there had been some unnecessary killing, that there had been killing of innocent civilians in an operation that day. The CID agent who interviewed me brought it to my attention that Chaplain LEWIS had brought this to my attention as well, or some information to my attention. I don't recall that, but Chaplain LEWIS is an honorable Christian and I'm sure he did. I can't recall at this time any details associated with what the nature of the event was, but I'm sure I passed it on to the commanding general that something had gone wrong. I have a vague recollection, and I don't know why I do, but I have a vague recollection that an ADC, one of the ADC's, was dispatched to go look into this. I don't recall the details of what I was told.

Q. Were you present when the commanding general was informed?

A. You mean by the same source that came to me? I don't recall how the commanding general was informed, sir.

Q. I can tell you how the general was informed to refresh your memory. The initial report was made by Colonel HOLLADAY and Major WATKE to General YOUNG on the morning of the 17th which is a Sunday morning, at about 0800. At that time General KOSTER was probably not there in the headquarters because you had a Lieutenant General DOLEMAN who had been staying with you over night. Shortly after 8 o'clock in the morning General KOSTER and General DOLEMAN were in Duc Pho at 0820. So it is therefore logical to assume that he was not there in the headquarters at Chu Lai at 8 o'clock when these individuals reported. Now, do you remember Major WATKE and Colonel HOLLADAY coming in to ask you to talk to the ADC or the commanding general?

A. I really don't remember that, sir, but I know that the information came to my attention and it must have been in the way you described it. It came to my attention somehow. Maybe General YOUNG told me about it. I don't recall the manner in which I learned of it.

Q. Do you recall a discussion with Colonel HOLLADAY?

A. No, sir, not specifically.

Q. Let me read you part of his testimony. This is on 22 December when he said:

"Colonel PARSON had jumped me, if I can use that term, several times for not keeping him informed. It is a routine thing to do and he reminded me of it several times. And it was that as much as anything that prompted me to go in and tell him this story. As a matter of fact I remember very clearly his asking me why I went to General YOUNG first. And I pointed out to him that he was my rating officer and my immediate superior which he was at that time.

I can remember Colonel PARSON becoming quite perturbed about it, the term murder--how are we going to win these people over. He was visibly and forcibly shaken up about this story as I related it to him. I related the story this time, not Fred WATKE. I didn't feel it necessary to bring him up."

This was sometime late in the afternoon or evening of the 17th. Now, do you recall that discussion?

A. No, honestly I can't recall it, sir, but I'm sure it's true. Colonel HOLLADAY is an honest gentleman.

Q. Well, what Colonel HOLLADAY is reporting here is what information he had received from Major WATKE via Warrant Officer THOMPSON. They're talking about basically two major problems. One, the killing of large numbers of civilians. As Colonel HOLLADAY would remember, he was talking in terms of about 120 and he was also talking about a confrontation between part of his helicopter or aviation unit with the people on the ground to the point where at one time a helicopter on the ground had its machineguns trained on the ground forces. Now, certainly that ought to stand out in your mind.

A. It stands out in my mind, sir. Something awful had happened. Something very likely did. That's all I can remember.

Q. Well, you're a senior officer. An allegation such as this is just not something that can be brushed off lightly.

A. An allegation? You mean these facts?

Q. Well, yes, a complaint or allegation, call it anything one might. We're talking about civilians being killed unnecessarily and large numbers of them.

A. Well, from Colonel HOLLADAY's evidence, testimony, I obviously did not take it lightly.

Q. Well, you didn't, but my question is what did you do about it?

A. I think the commanding general must have done something about it. He took over.

Q. Did you talk to the commanding general to find out what he knew, what was being done?

A. I must have because I knew that first of all an ADC, I recall, was going to investigate it and later on Colonel HENDERSON was going to be an investigating officer to follow up on it.

Q. Well, now maybe you ought to tell us just what you can recollect about all this? Tell us everything you can recall from the time Colonel HOLLADAY told you all about this. You see in his mind, he has already talked to an ADC, but you are also in the reporting chain. You are the coordinator of the staff action. I believe in your service to the commanding general it behooves you to find out everything about this to insure that it is being handled properly within your staff. If you received an allegation such as this, the logical thing is the first individual to let know about it are the JAG or staff judge advocate and the IG. This is a very very serious complaint. It is a major war crime. Do you see what I'm getting at?

A. Yes, sir.

Q. Now what did you do?

A. I don't recall specifically because in my mind the generals were doing what needed to be done. The generals took this project over.

Q. But you're the chief of staff. You have to know everything that is going on in this division. You're running the general staff and the special staff.

A. I'm not running those two generals, sir.

Q. No, but you've got a major atrocity on your hands and you're the chief of staff of the division.

A. If I believe in my heart that they're doing something about it, wouldn't that be reasonable to wait for further instructions from them?

Q. No. It would be more reasonable to me that you would go talk to them and to find out what has been done and relay to them the story that you had. I'm not just talking about some little piece of artillery going astray or anything of this nature. I'm talking about something that you know and every senior officer in this theater knew, how General WESTMORELAND felt about the handling and treatment of civilians and noncombatants.

A. Yes, sir. It's critical.

Q. Yes, and all of a sudden we get to a big point where we have a major crisis and we just say, "The generals are taking care of it." When Colonel HOLLADAY came to you, he came to you with a purpose to make sure that you were cut in so that you were within the reporting chain. Even though they had been in talking to General YOUNG there still remained quite a requirement to discuss this within the command element. This is what I mean when I mentioned to you before a rather callous attitude, to have a major allegation such as this and then, "I thought the generals were taking care of it."

A. No, sir, I couldn't have possibly had a callous attitude about something like this. For all I know, and I don't state this as a fact, for all I know the general officers told me that they would take the necessary steps. That they would look into this. I'm not saying this is a fact. My impression is that they took over on this thing. They took over.

Q. You are familiar with MACV Regulation 20-4, right?

A. I don't know which one that is, sir.

Q. I'll show it to you. This has been entered into the record as Exhibit D-1, dated 27 April 1967, subject: "Inspection and Investigation of War Crimes." You can read the entire document.

A. You showed this to me before didn't you, sir?

Q. Yes. I now call your attention to paragraph 2 and paragraph 5a, on the second page.

A. Yes, sir.

Q. The indication is upon receipt upon any allegation of a war crime that MACV is to be notified. I don't find this happening. This is why when you have received this, one of your first steps should have been to find out if a war crime had been reported to MACV in accordance with this regulation.

A. If I believed that the general officers were doing that, that this was such a serious matter that the general officers stepped in to look into this, is it for me to override them or go around them or do things without their instructions?

Q. As a senior officer in this man's Army the answer is, yes. You are the chief of staff. The reason that you are the chief of staff is the fact that you are a senior and a well qualified officer and they are expecting that you will assist them. They may have directed an investigation, but this is above and beyond an investigation. This says, "any suspected or alleged--any real suspected or alleged war crime will be reported."

A. Yes, sir.

Q. We find no such report. Now then, you say you know that it was being investigated?

A. Yes, sir.

Q. What happened?

A. I don't recall that I was party to what happened other than Colonel HENDERSON's report.

Q. What did he report, when and how?

A. He reported this, I believe this must be the report that was given to the commanding general.

Q. No, just look. That report has nothing to do with the THOMPSON allegation--nothing. This report is about the allegations made by the district chief.

A. I see what you're saying, yes, sir.

Q. We're talking about a month earlier than this. We are not talking about back in the 16, 17, 18 March time-frame. We're talking about immediately after the incident was to have occurred.

A. I don't recall any actions on the part of the commanding general or any instructions to me on this problem, sir.

Q. Don't you feel obligated to your command and staff to know what is being done so that you can respond to their queries and reports to you?

A. It must not have occurred to me at the time to take any action until I had been told to do so. That is the only possible explanation I can give.

Q. Well, General KOSTER is of the opinion that he was keeping you informed. Do you recall about the 20th of March that Colonel HENDERSON came in? Now, you should be able to fix this fairly close in your mind because the day after this Colonel HENDERSON was involved in an enemy inspired grenade incident in which he was wounded and subsequently his leg was put in a cast for a couple of weeks. Just before this he was reported to have come to the division headquarters and talked to the commanding general. Were you present at that discussion?

A. I don't recall that I was, sir.

Q. Didn't the commanding general tell you about what had been reported to him?

A. I can't recall that he did, sir.

Q. What did the commanding general tell you after this?

A. I don't recall any instructions from the commanding general on this subject, sir.

Q. Did he tell you that he had directed or that he wanted Colonel HENDERSON to put this in writing?

A. I learned somehow that Colonel HENDERSON was to make an investigation. I probably learned it from him.

Q. Did you see a written report which he submitted covering the allegations by the warrant officer concerning indiscriminate and unnecessary killing of civilians, and a confrontation between the aviation unit and the ground element?

A. I can't recall seeing such a report. I can't recollect it.

Q. Do you have any recollection of having seen a paper that was about three-quarters of a page long with Colonel HENDERSON's signature on it which discussed the allegation of the warrant officer?

A. No, sir, I don't.

Q. Some people seem to remember that a paper such as that did come in to the headquarters.

A. I can't recall it, sir.

Q. Colonel HENDERSON seems to think that that report was about three to five pages in length and could have come into you about the first part of April. The dates that stand out in his mind are, for some reason, about the 4th to the 6th of April.

A. This is a report on the helicopter incident?

Q. That's right, on the helicopter pilot's report, allegation, or complaint.

A. No, sir. I cannot recall it.

Q. Well, I'll go through one more. I'll tell you that Warrant Officer THOMPSON felt very badly about what he saw, and as a matter of fact he was just out and out mad. He was so irritated that upon his return to Chu Lai on the 16th, that was the day of the operation, he went directly to the division artillery chaplain, who was Major CRESWELL, and told him the entire story of what he had seen. This chaplain, that is to say Major CRESWELL, in turn passed this information on to Colonel LEWIS. Colonel LEWIS in turn states that he went to you and, "He, Colonel PARSON, assured me that whatever the matter was that occurred would be investigated and he would report back to me." He also states that on several later occasions he asked you about it and you indicated that it was being investigated and we were not to talk about it.

(Witness nods in the affirmative.)

Now, do you remember Lieutenant Colonel LEWIS talking to you about that?

A. No, sir. I don't remember that, but I'm sure it happened because I accept this man's word. I believe that an investigation was being conducted and that it would be reasonable to keep it quiet even as this is being kept quiet, particularly because of the danger of VC propaganda use of the thing.

Q. Well, isn't this whole business though not in itself a suppression? If we know, well, "Let's just not talk about it. It's being investigated." This in itself is suppression of information.

A. Well, not in my mind it isn't, sir. The only reason I say that is because I compare it to an incident which occurred in May, which I mentioned before, in another unit, in which equal steps were taken, and I remember that in more detail because I was more involved in the thing. We tried to keep it as quiet as possible because of our concern about the thing being made public and the propaganda use that would be made of it. At the same time we made reports to MACV frequently on the thing.

Q. Those are all very commendable and I agree with you.

A. But the same action, I mean the same closehold atmosphere existed in both in my mind.

Q. No, not quite right. Not quite right. There's one major difference. One major difference. An investigating officer was appointed and a proper investigation was conducted. If anybody at this time, and I can name you at least 60 or more places, that if anybody had felt concerned about this thing, the whole thing would have been uncovered.

A. I'm sorry, sir. I didn't follow your point.

Q. My point is that there was such a suppressive effort, call it callousness, call it indifference, call it anything one might. There are at least 100 different--not 100, but at least 50 or 60 or more places that if anybody had pushed in any degree, this incident would have been uncovered completely.

A. Not in my heart, because I believed the competent authorities were on this and were doing something about it.

Q. After you had the unit being investigated, you had heard it from HOLLADAY, and you also received a comparable story from Colonel LEWIS, did you check with the JA or the IG to find out if they were involved in it, the proper investigative authorities?

A. I don't recall that I did, no, sir.

MR MACCRATE: Colonel PARSON, you make the point that on this other investigation that was carried on, you know MACV was kept informed. How do you know that?

A. Because the JA was writing messages, progress reports.

Q. Well, as this other investigation of this incident we're concerned with here was going forward, wasn't it your responsibility to keep MACV informed as to what was going on there? Does the JA do a better job than the chief of staff where something is being done at headquarters this way?

A. Sir, I was new in this job, relatively new, and I wasn't sure whose responsibility it was to do what. I knew that the generals were acting on this, that my superiors were doing something about this.

Q. But you knew they weren't reporting it to anyone. You knew that?

A. I'm not sure, sir. I don't recall.

Q. Well, any report of that sort would have come through you, would it not, any written report going out?

A. Any written report such as the JA writing up something. I would have been aware of this, but I don't know to this day that General KOSTER did or did not tell his superior that this happened. I don't know.

IO: Well he would have had to send a message in. It wouldn't have been in the back channel. It would have had to have been right on the front burner.

(IO left the hearing at 1150 hours.)

A. I forget what our point is, sir. Have I answered your query?

MR MACCRATE: I think you have said that you know of no report having been made, and none was made by you.

A. Excuse me, on the second incident, the May incident?

Q. Well, with respect to the May incident, you indicated that a staff member did report to MACV. But with respect to the incident with which we are here concerned, the investigation which you say was going forward, in that case no report was made, at least no written report was made?

A. No, not that I'm aware of by the JA.

Q. (Interposing) Nor by headquarters.

A. Probably no formal written report because I probably would have been aware of it if there had been. Unless there was some sort of back-channel message. Do you know the term back-channel message?

Q. Very well.

A. Unless some sort of back-channel message was sent which I wouldn't have been privy to, I'm not aware of a written report. But the only reason I can offer or suggest for the difference in the handling of the two things was that when the May incident came to our attention and General YOUNG'S attention, who was the acting division commander, there was absolutely no question about the fact that we had a war crime on our hands. He or somebody called in the JA. That's when I really became aware of this thing for the first time, I think (referring to Exhibit D-1).

Q. Why were you so much clearer in May than you were in March or April?

(IO returned to the hearing at 1153 hours.)

A. Because General YOUNG had almost daily meetings on the progress of this thing. He was calling me into his office and the JA.

Q. Why are you so clear that you had a war crime on your hands in May, but even after Colonel HOLLADAY spoke with you, you had no such feeling? Are you suggesting in March--

A. (Interposing) No, I'm not suggesting that I had no such feeling. I felt that it was being looked into, that the generals were finding out. I recall the results, principally this paper here (referring to Exhibit R-1) as refuting this as a war crime as such.

Q. But Colonel PARSON, you said yourself that that doesn't even deal with the helicopter pilot's allegations, so how can it refute what you had heard? It isn't directed to what you had heard.

A. The only plausible explanation that I can give is that in the minds of the general officers concerned who were looking at this, there was no cause--they didn't find enough, they hadn't found enough in any stage of the game to report it. That's the only explanation that I can give. The two cases were handled quite differently.

Q. Extremely differently, from all you've said. One was handled as a thorough-going investigation under established procedures, and the other was handled in a completely informal way with no records being made. You made apparently no entry of the fact there was such an investigation going forward. No report was sent to MACV with respect to it--just complete informality despite the fact that a complaint was received from a helicopter pilot. Something is done with that, and the lid is put on.

Then, lo and behold, the Vietnamese come into the complaint just when everyone thought the whole thing was quiet and they have put a cork in it. It comes up again. You have no recollection of what was being said at the headquarters at that time. And the whole thing came out of the bottle again with the complaint of the Vietnamese officials--

A. (Interposing) I recall the subject being raised again, but that's all I can recall about it.

Q. Raised by whom?

A. By some document that had shown up.

Q. Well, the document doesn't walk in by itself. Someone has the document, and it gets raised again because someone has gotten the document. But who raised it? Who was doing the talking about this? What were they saying? What were their concerns? This whole thing had been settled, out of the way, and then all of a sudden, poof! It blows up again. I'm sure this would have been a rather unsettling thing around headquarters.

A. It must have been. I can't recall exactly what the CG did about it. I don't know.

Q. Well, can you tell what he said to you about it?

A. No, sir.

Q. Can you recall any conversation, or any meeting?

A. No, sir.

Q. You there with General YOUNG or with General KOSTER?

A. No, sir, I don't remember being a party to it.

Q. Do you remember Colonel ANISTRANSKI coming over and talking to you about this?

A. No, sir.

Q. Do you have any recollection of Colonel ANISTRANSKI being in with the commanding general about this time in connection with these problems?

A. I have to say I don't recollect it. It could well have happened, of course. The division commander was doing his own looking into the matter. He must have been if Colonel ANISTRANSKI was in to see him about it.

Q. But it just by-passed you completely?

A. I can't say that categorically, but I don't recall being a party to it.

Q. The only thing you still recall despite all we've given you of the surrounding events is that there was a piece of paper from a Vietnamese official.

A. That's all I can recall now, yes, sir. And I'm really trying.

MR WEST: I'd like to clarify something, Colonel PARSON. You indicated that the generals had taken over and that they told you that they'd take care of the matter.

(MR MACCRATE left the hearing room.)

Q. I want to know if you're stating a theory or whether this is a fact.

A. No, sir, I don't want to state that as a fact. That's a feeling that I have.

Q. It seems to me that's a very irresponsible thing to say unless it is a fact. You're casting suspicion on these two generals, and I assume you're talking about General YOUNG and General KOSTER.

A. I'd like to correct my testimony in whatever manner is appropriate then--

(PARSON)

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Q. (Interposing) Just tell me, did they or did they not take over and tell you that they would take care of the matter and you were to stay out of it.

A. No, sir. I recall no such statement on their part.

Q. Then what did your prior testimony mean just a few minutes ago? For about the past 10 or 15 minutes you've been speaking of their handling the matter, and you weren't involved.

A. I'm not trying to disengage myself from this thing, sir. I'm trying to get at the truth with you. I think that's very difficult.

Q. That's why I raised this question. You in effect have said that they had taken over. They'd let you know. They'd take care of the matter. From then on you knew nothing about it.

A. I don't want to leave that impression. I don't know what words to use to be accurate and honest about it, but my initial, my primary impressions are that an ADC was first to look into this.

Q. Well let's give him a name.

A. I don't recall which one it was, whether it was General GALLOWAY or General YOUNG. And then there was an investigation to be made of this by the brigade commander.

Q. I'm not sure I understand what that has to do with the question of whether you were told by the generals that they were going to take over.

A. If I said that, I would like to retract that, because it's not my intent to say that the generals told me they were going to take over. That's unfair to them. That's inadvertent. I'm very glad you brought that up.

Q. Then where lay the responsibility? How did it get shifted from your shoulders?

A. The responsibility for what, sir?

(MR MACCRATE returned to the hearing room.)

Q. You knew something about this report of Mr. THOMPSON's which Colonel HOLLADAY had informed you of. You indicated that you took no action because the generals were taking action.

A. Yes, sir.

Q. You said the generals had taken over. You said that they said they'd take care of it.

A. I would like to retract that last remark.

Q. All right, what did they tell you?

A. I don't recall what they told me because it's been too long ago. The only point that I'm trying to make is that I recall that atmosphere of their looking into it, of their doing things about it. If I had failed to do certain things that I should have done, as the chief of staff, that's a separate matter, but my recollection is that they were following up on this.

Q. And therefore you did nothing?

A. I can't recall that I did nothing.

Q. Well could you tell me something that you did?

A. No, sir. I can't recall--

Q. (Interposing) You can't recall doing nothing or you can't recall doing anything?

A. Sir, it's been--

Q. (Interposing) This is not that long ago. We've talked to over 350 people. They can remember things of this sort. They can remember things of much less significance and importance. This is a very serious matter. You yourself have said several times.

A. I--I--

Q. (Interposing) What was the role of the general officers? Now you know we're talking about General YOUNG and General KOSTER. What was your role in this matter after Colonel HOLLADAY had brought it to your attention?

A. My role was to see to it that the commanders-- that the commander was informed.

Q. What did you tell him?

A. I'm not certain because I don't recall. But he obviously knew about it because Colonel HOLLADAY had gone to him first.

Q. Who was "him"?

A. Apparently General YOUNG.

Q. All right. What about General KOSTER? What did you tell him?

A. I can't recall specifically, but he must have known about it. He found out about it. We saw to it that he knew about it one way or another. Either General YOUNG told him or I told him about it because he knew about it.

Q. What was it he knew? You're talking in generalities here.

A. Well he had to have known--

Q. (Interposing) One reason I'm talking to you like this is to stimulate your memory a little bit. Now, he had to have known. Go ahead.

A. He had to have known what Colonel HOLLADAY related to Colonel YOUNG, General YOUNG, and to myself.

Q. Why did he have to know?

A. Because we would have told him. One or the other or both of us.

Q. All right. Let's say he did. Now from that point on, what was your role? What were you to do? You've been informed of a commission of a major war crime. What did you do? What did he say to you?

A. My recollection is that they went after the project, the incident, to see what it was all about.

Q. Did they tell you to lay off and they'd take care of it?

A. No, sir. I don't recall they told me to lay off.

Q. Well, what did you do?

A. I can't recall precisely. I must have awaited the outcome of their--awaited instructions from them as to what to do. I'd never been confronted with anything like this before in my life.

Q. I'm sure that's true. I'm sure they hadn't either. Are you telling us that you did nothing, you waited?

A. I can't say that categorically. I can't remember that I did--

Q. (Interposing) You did?

A. I can't remember that I did anything.

Q. You don't remember doing anything? Can you remember what they did? General KOSTER and General YOUNG?

A. Not precisely, no, sir. I remember the outcome of their investigating, of their looking into it, was Colonel HENDERSON being told to write his report, to investigate this, my awareness that he had been told.

Q. All right. One thing you're telling us that they did. Which one was it, General KOSTER or General YOUNG, who gave some instructions to Colonel HENDERSON?

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

Q. Is this because of a confusion in your recollection?

A. It could have been that--

Q. (Interposing) You were not privy to it?

A. It's entirely possible that I was not privy to it when they were told. I don't recall any direction to Colonel HENDERSON in the form of writing or in my presence to investigate this. I don't say that I wasn't privy to it, but I don't recall being privy to it.

Q. Maybe it's repetitious, but why at this time didn't you bring the JA, the IG, or the G5 into this, particularly the JA who had a role in the reporting of a war crime?

A. I don't think it occurred to me, sir.

Q. Would you explain why not? You had an allegation of perhaps 120 innocent civilians being killed. You said you had been told about innocent civilians being killed. That's a war crime, let's face it.

A. That's the only answer that I can give was that I was awaiting the results of the investigation that was being made either by the ADC in the first case or Colonel HENDERSON in the latter, and it must not have occurred to me.

Q. You mean you were not told by the generals that they'd take care of it and you should do nothing?

A. I can't recall such instructions, no, sir.

Q. Then it was your own decision not to do anything, but to wait and see what happened?

A. I can't recall a conscious decision not to do anything, no, sir. I'm not trying to be evasive. I'm trying to remember everything I possibly can about this. The only suggestion that I can make is that it didn't occur to me to take any action until I got some instructions from my superiors.

Q. Was that the kind of relationship you had with the commanding general, that you didn't dare move unless he gave you instructions? And I would like a good straight answer to that.

A. That's a very difficult question to answer.

Q. Answer it. Now, this is too serious for any holding back or any nice feelings.

A. Sir, really, I'm not holding back. I would think that something of a serious nature which the division commander was looking into, which had his attention, was something that I would leave alone until he told me what to do. I know better now.

Q. In other words, what you're telling me then is he had assumed responsibility for it and you were awaiting his orders before you did anything further?

A. Yes, sir.

Q. Please answer my question about the relationship between you and the commanding general.

A. Would you say it again, sir? I was trying very hard to answer it as directly as I know how.

Q. All right. Was your relationship with General KOSTER such that in any serious matter, such as a matter like this, you would not act on your own without getting instructions from him?

A. Yes, sir, I believe that was our relationship.

IO: You didn't have a rapport that you could go in as the chief of staff and could sit down and talk to the division commander about things that were on your mind, that were bothering you, and make sure that this division which you both represented was doing things properly?

A. I could approach the general, yes, sir.

Q. But you didn't approach him on this subject?

A. Oh, I must have.

Q. Well then, if you must have, what was said?

A. I don't recall, sir. If this is in relation to his question--

Q. (Interposing) It is! It's the same question!

A. Should I have banged off a message immediately to MACV without his permission, without further ado, or--

Q. (Interposing) No, but to discuss the matter with the staff judge advocate on the one hand to make sure that the division was doing this thing properly, and subsequently to sit down with the commanding general so that he realized the implications of what he had his hands on. He has many things bothering him about this time, and so for you to go in and sit down and say, "Now I've received this-- I've talked to HOLLADAY, and he told me all about this thing, and we've got a real serious problem on our hands." You don't just brush away a large number of noncombatant casualties. They don't brush under the rug.

A. Surely I did that, sir. Surely I didn't withhold that from him or fail to mention that to him. Why on earth would I? For what possible motive or intent or excuse?

Q. I don't know, but I'm trying to ask you, and we've been trying to find out all morning, I think, what you did do. You say, "Surely, I must have done that." But when did you see him and what did you talk to him about, and what action did he tell you to take, or what action did he tell you he was taking? That is what we're trying to find out.

A. I'm really trying to answer your question, sir. I sincerely am, and the detail is not there in my recollection.

MR MACCRATE: Colonel PARSON, you always come back to what must have happened. Your testimony is replete with what must have been. You let that get in the way of really doing some hard recollecting or association of things that were happening, of that which you do recall with the natural sequence of events when people are in communication with each other. It's always, "It must have been."

A. That's perhaps inappropriate on my part, sir. But when I turn to my own mind with what capacity is there and try to remember, not recollecting and not knowing why I don't recollect, not knowing what else was on my mind at that time, how does one make his brain work beyond the point of possibility? What can I do? You are implying that I'm withholding something, and God knows I would tell you anything I could think of if I could.

Q. I get the impression that your focus is always on what "must have been," what "ought to have been," and not on what was.

A. Well if that's inappropriate, I'll try to avoid saying that any further because I'm not trying to paint any picture that's inaccurate or create any impression that's not honest.

IO: Now, I would like to discuss another point too, relating to these reports, and again we come back to Colonel HOLLADAY. Colonel HOLLADAY recalled having been shown a copy of a report by either yourself or possibly Major BEASLEY, your assistant chief of staff. But he seems to recall it was you. This could have been the report of early April or it could have been this report of 24 April (R-1). He seems to recall it as having been this paper when he saw the paper. Do you recall that instance where you said something to the effect, "Look what just got in. Look what we have here"?

A. No, sir, I don't recall the incident.

Q. Well let me read you just a little bit of Colonel HOLLADAY's testimony. The question was:

"So now over a month later you get this report. You read it. It is not responsive to what you feel is the charge of General YOUNG to Colonel HENDERSON to investigate."

A. May I ask a question, sir? Is this quoting somebody? Is this what Colonel HOLLADAY was saying?

Q. Yes, I'm quoting the question that was posed to Colonel HOLLADAY, at the moment. Let me repeat it for you. This is the question that was posed to Colonel HOLLADAY in his testimony:

"So now, over a month later you get this report. You read it. It is not responsive to what you feel is the charge of General YOUNG to Colonel HENDERSON to investigate. Colonel PARSON has shown you this. What did you say to Colonel PARSON immediately upon reading this?"

"A. I muttered or stated a vulgar term of some kind. Probably a one-word term that told Colonel PARSON that I did not think this report was responsive to the allegations made by Major WATKE and Mr. THOMPSON.

"Q. What was Colonel PARSON's reaction to this?"

"A. I don't remember him saying anything. I would like to say that he sort of smiled. In fact, I will say that he sort of smiled. I don't remember him saying anything."

This is from the testimony of Colonel HOLLADAY, who remembered this whole situation quite vividly. I might add, perhaps far more vividly than anybody in the entire headquarters because he finds it most upsetting to find that there were large numbers of civilians killed. Now, do you remember this situation? He claims you showed him this document, maybe before it had been in to the commanding general, maybe it was afterwards. I'm not sure.

A. I don't recall the incident, sir. I'm sure it happened, if he said so. I can't possibly imagine my being callous, which is the implication of this thing. Now I believe General KOSTER was not satisfied with this. I believe you told me that.

Q. I did tell you that. I asked you if he found it unsatisfactory, if he had given you any instructions. You don't recall?

A. No, sir, I don't.

Q. Nor do you recall receiving any subsequent report?

a. No, sir, I don't. I'm not saying it didn't happen. I don't recall it.

MR MACCRATE: Colonel HOLLADAY was very clear in his mind, when he saw that report, that it was a coverup. He was clear about this. It wasn't a question of you being callous. As I understood what he was saying, it was a question of your understanding that it was a coverup. What did you think of this report at that time?

A. I'm unable to recall what I thought of this report at that time, sir.

Q. Did you feel it was an adequate report?

A. I look at it now and I say it's inadequate.

Q. Inadequate?

A. Yes, sir.

Q. Well, you have no recollection of any reaction of yours at the time? You see, the unbelievable thing, Colonel PARSON, here Colonel HOLLADAY comes in, and he tells us what was going on. He recalls where he went, what he did, and his reaction when you showed him the document. You tell us, "I don't recall showing him the document. I don't recall my attitude, my reaction, how I viewed it."

A. Maybe this was the very thing that triggered General KOSTER's requiring a better investigation.

Q. Colonel PARSON, there is not one trace of that better investigation anywhere. Not one trace. There's not one indication that there was ever any better investigation. That is it.

A. I see. I didn't know that. I was under the impression from you, sir, that General KOSTER was dissatisfied with this and had ordered another investigation.

IO: According to his testimony, he did. According to Colonel HENDERSON's testimony, such an investigation was conducted. We can find nobody that had anything to do with it, that knows anything about it.

A. Does Colonel HENDERSON, if this is an appropriate question, recall who was told to conduct the investigation?

Q.. He thinks he was told. The investigation which he in turn said was conducted was conducted by Lieutenant Colonel BARKER, and was reported to have contained anywhere from 15 to 20, perhaps 25 signed statements by individuals, including company commanders, members of the unit, members of the staff of Task Force Barker. We can find nobody, literally nobody that ever signed a statement.

A. That's an investigation, now, subsequent to his one that was as a result of this--

Q. (Interposing) It was supposed to be a follow-on report of that one, which, as you can see, is absolutely, totally inadequate recognizing that at that time General KOSTER had a copy of that 11 April report. He knew what it said.

(PARSON)

A. I can't contribute anything to that second investigation, sir. Did Colonel HENDERSON ever see-if it's appropriate for me to ask--Colonel BARKER's investigation?

Q. He was reported to have indorsed it, but we can find no trace of the documents or anything else. None of the people that we've talked to, that he said statements were made by, were ever interrogated or ever prepared a signed statement.

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

Q. Well you can recognize how, at this stage of the game, that Colonel HOLLADAY, having brought forward such allegations to the division, and getting no response, is of the belief that there is a coverup.

A. Yes, sir, I can see how you can come to that suspicion. If this is not satisfactory, and it is not, and another investigation was conducted, and that has disappeared, if we know that it was conducted--

Q. (Interposing) We don't know that it was conducted. As a matter of fact, I think it's a mythological report. People that were reported to have signed statements were never interrogated.

A. If I could contribute anything to that subject, sir, I would. I cannot.

Q. Well, now, I'd like to ask you just about the headquarters of the Americal Division. We've gone through the Americal Division headquarters. The current command and staff elements have searched their records in the command building, in all of the staff sections, to find any record of these reports, either by the reports themselves, by having them entered into the log, or any form. We have found absolutely nothing in the headquarters of the Americal Division. Moreover, when I visited South Vietnam with Mr. MACCRATE and Mr. WALSH and others, we had a team of people familiar with the incident and knowing what should be looked for go through the files of the Americal Division. There was nothing to be found. Now, to cite a few that we know reached the headquarters. Going over the things that Mr. MACCRATE mentioned before, the 11 April report of the district chief, the VC propaganda,

a copy of this report (R-1), the other report which Colonel HENDERSON is reported to have submitted, a written report concerning Warrant Officer THOMPSON's allegation. None of these are there. There's no report of destruction in the files at the command section. These are confidential papers. You just don't take them out and destroy them. It gives the appearance that they were purposely eliminated.

A. All I can answer to that, sir, is that I have not participated in any such activity. I could not have done this. I don't recall any such action.

Q. Well, do you recall that in mid-July you had an IG inspection from 7 to 14 July 1968?

A. There was an IG inspection, yes, sir. I don't recall the time.

Q. By USARV?

A. Yes, sir.

Q. Yes. Do you recall screening the papers in your headquarters to eliminate any unnecessary papers?

A. No, sir. I don't recall it.

Q. Well can you possibly explain to us why we can find no record of any kind of these papers or any papers relating to them?

A. No, sir, I just cannot.

I will show you another paper that was reported to have been in the headquarters. This is a notice by the Quang Ngai National Liberation Front Committee, dated 28 March, which has been entered into the record as Exhibit M-35. You will notice the Vietnamese version that starts on page five, and it takes a rather odd format.

(The IO hands Exhibit M-35 to the witness.)

Do you ever recall having seen that piece of paper or the English translation of it, which appears on the front?

**CONFIDENTIAL**

Q. At province level they had a Census Grievance Committee. This is a report ostensibly which was originated at that level.

(The IO hands Exhibit M-31 to the witness.)

Do you recall ever seeing this paper?

A. No, sir, I don't recall ever seeing this paper.

Q. Now, General KOSTER left in early June, about 3 June, shortly before which he had been notified that he was to become the Superintendent of the U.S. Military Academy. When he left what did you do with his personal papers?

A. I never had access to his personal papers, sir. I don't remember having any of his personal papers at all. I don't recall it.

Q. Well, do you recall the name of his aide at that time?

A. ROBERTS, or maybe DICKENS.

Q. DICKENS was his aide at that time. Dickens says he was not involved in it. We do know that in the classified file in the SGS office or the assistant chief of staff's office there was a folder--one for General KOSTER and another for each of the ADC, and I believe you had a file there as well according to what we've heard from the administrative NCO's, Sergeant SAIMONS and Sergeant LOFTIS. Do you remember anything happening to General KOSTER's file which was held in that safe, forwarding it to him at a later date?

A. I don't recall that, no, sir.

Q. We've also talked to General KOSTER's stenographer about his personal papers which he kept for General KOSTER in a file cabinet which he had in his office. General KOSTER evidently took his private papers, that is his letters to his wife and various other people. But the other letters which were official and semi-official in nature written within the confines of the Americal Division and associated with his job, were maintained in a separate folder. These could well have been letters between himself and the province chief or the ARVN commander and so on. According to Specialist HERRIS, who was General KOSTER's secretary, after

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Q. No, I don't know what was to be done. I would assume that one of the first things that you would have probably done would be to go through them to see if there were any papers of any importance.

A. I just can't recall the incident, sir. It's entirely possible. I don't know why they were given to me, whether I was to hold them or--you've enumerated the alternatives they might have been used for.

Q. Well now, I'd like to come back to this relationship with the commanding general. What was your relationship with the ADC's and the general staff and the special staff? Was this a smooth-flowing operation?

A. In general, it was pretty good. When the--I'm not sure what you're after--

Q. (Interposing) Well, I'm just trying to find out how the headquarters functioned. Whether it was a really efficient and effective organization of people sitting down and discussing mutual problems or whether it was just sort of a ramrod kind of organization?

A. It was somewhat formal. The division commander would have the G-staff in with him and the ADC's and the chief of staff every morning, and a formal briefing would be presented of what happened last night, what's going to happen today. Each member was called upon in turn to report anything to the general he wanted to. Then the general would make any remarks that he wanted to and then he would excuse the staff, including myself almost always. Very very frequently he would hold the two ADC's back and they would have an additional conference about matters I did not know about, and be on their way. In the evening the briefing was in a somewhat larger room. The morning briefing was in the division commander's office. The evening briefings were in a little larger briefing room and the special staff would attend as well. This was even more formal. It was strictly informational, G2 and G3 type briefing with representatives of the G4, and on a weekly basis the G1 and signal and certain other officers would bring things to the general's attention. It was quite formal, the general walking in, everyone at attention, and sitting down and hearing the briefing. Then he would walk out.

Q. Was there any time during the course of the day when people would sit down and talk about things, the evening meal or anything of this nature where people did get together?

A. Before the evening meal was a time that there was an opportunity for that, yes, sir.

Q. Did you feel that it was a happy organization that you had there at that time in the Americal Division headquarters?

A. I felt so.

Q. We've heard from some people that they felt that the G3 was in fact the commanding general. He strictly controlled all operations himself. The G3 was put in the role of necessary administration, picking up the pieces and so forth, but the commanding general pretty much retained the decisionmaking and policymaking and so forth concerning operations to himself. Can you comment on that? You were sitting right there now.

A. The G3 and the G2 worked directly with the general and with the two ADC's a great deal. My predecessor reminded me that this was a major problem. It was probably Colonel HOLLADAY's idea because it was so hard to keep the chief of staff informed. The two ADC's, especially the initial two, were strong and aggressive, doing things, calling the G2 and the G3 and getting facts and issuing instructions. Often this would be as a result of coming out of the division commander's office with things to do which he had told them to do. The G2 and G3 would frequently go straight, especially the G3, straight to General KOSTER and get his instructions about what to do. There was a direct chain there with the G3 with the ADC's and with General KOSTER, that's true.

Q. Did you feel that with the departure of General RYDER, for example, and also the fact that maybe you were taking over from Colonel MUSSER, there had been a change within the ADC's and so forth, that there was a change in the concept of command and supervision and control at division level?

(PARSON)

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A. I don't know that it changed appreciably. General GALLOWAY was much more amiable, less aggressive. I don't mean that in a derogatory sense, but less pushy than General RYDER.

Q. Well a job changed at that time. General YOUNG moved over to take over General RYDER's job and General GALLOWAY moved in to take over General YOUNG's job so one was oriented primarily towards the logistics area and administration whereas the other one at that time was predominantly operational?

A. Yes, sir.

Q. So my question is again, you didn't notice any--of course you were part of this shift in effect between yourself and Colonel MUSSER and General RYDER's departure, YOUNG moving up or over to take over from General RYDER and then Colonel GALLOWAY moved to take over from him. Perhaps the commanding general took a much greater hold than he had before?

A. You're asking me did the commanding general take more of a hold than he had before?

Q. Yes.

A. It's awfully hard for me to discern. General RYDER was very strong about what ought to be done and was often convincing the general of what should be done. General KOSTER was relatively new and General RYDER had been in country a lot longer. So I think that's possible that the general would grow in confidence and authority.

Q. How long were you there with General RYDER?

A. I would have to reconstruct that, sir. I don't recall exactly when he left.

Q. But you were familiar enough with his operation to know how he functions in his relation with the commanding general?

A. To the extent that I was present many many times when there were only the two or three of them together.

MR MACCRATE: Colonel PARSON, we've been told you sometimes kept various materials in the lower right-hand drawer of your desk, had some special files in there. Do you recall what you kept in there?

A. I for years have just taken folders and written when some subject comes up, just write across the top of the folder the subject matter, maybe nothing more than G1, G2, G3, G4 or whatever by subject matter and drop things into it. It's also possible that I kept in that drawer carbon copies of notes that I wrote. I experimented there for a while, and it wasn't too satisfactory, but I experimented there for a while using the little message forms, those are now obsolete. Remember, we learned how to use these things about this big (indicating), sir. Each little message has three copies to it. When you wrote a message you put a cardboard under it and you would automatically have the carbon.

Q. (Interposing) Did you ever have a folder there relating to this incident or its investigation?

A. I doubt it very much, sir, because that would have been classified, and I don't think I kept anything classified in my desk at all. I rather doubt it.

Q. One other little administrative matter. Was it during your time as chief of staff that a drawer became stuck in the safe?

A. You really got me with a tough one there. I can't remember a drawer being stuck in the safe. It's possible.

Q. This would have been in the SGS's safe?

A. I can't contribute to that, sir. I don't recall that. It could have happened.

IO: When you departed headquarters of the Americal Division and went down to your job with CORDS in Headquarters, MACV, what papers did you take with you?

A. I don't recall that I took anything at all. I think I left behind my little pack of carbon copies of little notes that I had written for whatever use they might be to my successor. He could have disposed of them when he got through

with them. I don't remember that I took anything, sir.

Q. Do you have any papers today in your possession concerning this particular period or the life of the division?

A. I've looked through my things and I don't find anything. I'll make another thorough search.

Q. It is possible that you might have some of this unclassified VC propaganda, letters and so forth, and I think it might be advisable to check--

A. (Interposing) Well, I've done this, sir. I tore my attic up and looked, but I'll do this all over again.

IO: Well, I'll give you this opportunity to ask any questions that you care to ask or if you would like, now would be the time for you to enter a statement into the record.

A. I have no prepared statement, sir, nor any questions that I know how to ask. Anything that I would say now would sound probably moralistic or trite, or not ring to you or it would sound emotional. So I'm hesitant to say all the things I want to say at this time. I only know that to say if I have erred in connection with this which has now turned out to be an awful thing--all of these allegations turn out to be--I'm talking about what happened in My Lai. If all of this turns out to be true, if I have somehow or other contributed to this, it has been inadvertent because I don't live like that. I don't cover up. I never have. That's not my code. That's not the way I was brought up. If I say any more I'm sure I'll sound less sincere and you'll think that I'm trying to put on an act or something. You understand what I'm trying to say, sir.

Q. Yes.

A. From my home life, my belonging to the Scout movement, my entire life, my church association, from my training at West Point, my religious convictions, because I very nearly went into the ministry before I got my appointment for West Point, and I feel that I retain the same dedication had I gone into the ministry. All this adds up to me to feel honest, to feel right, to feel I did the best that I saw at the time, that I'm doing the best that I can as I see it now. If I have erred it has been inadvertent.

Q. Fine. This will be made a matter of record, but the fact still does remain this situation did exist and the incident did occur, the enormity of which is practically beyond my personal description. The fact remains it was not uncovered by division. It was not properly investigated and that's why we have this particular investigation team looking into it.

A. Yes, sir.

Q. I will say to you in closing that we have provided you with these papers and the line of questioning. We've given you some considerable information, some of which you may have known and some of which you may not have ever realized. Having had this information, I would like to again recation you to the fact that you've been directed not to discuss your testimony here with others including other witnesses who have appeared before this board or who may possibly later appear before this investigation. Do you have any questions at this time?

A. I will not disclose any of this to anyone, and I'll do everything within my power to try to recollect. Perhaps if I could go over this testimony that's been made today it would help.

Q. We'll make it available to you, but at a later date. Perhaps tomorrow afternoon or the following day before we can have the draft drawn up on it.

A. I guess that's all I can say at this time, sir.

IO: The hearing will recess at this time.

(The hearing recessed at 1300 hours, 17 February 1970.)

SUMMARY OF TESTIMONY

WITNESS: POWELL, Jamo C. MAJ

DATE OF TESTIMONY: 4 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Chief of Staff, Americal Division, 20 ~~May~~ 1968 to 15 September 1968.

1. DOCUMENTS IN THE AMERICAL HEADQUARTERS.

a. Documents control.

The witness stated that he did not recall being transferred any papers requiring special handling upon taking over his Americal assignment (pg. 3). He stated that there was only one safe in his office and this was inventoried by Sergeant First Class SAIMONS, his NCO (pg. 4). All classified papers, secret and above, were logged, but there was no formal control of other documents (pg. 5). The witness testified that prior to the IG inspection in July 1968 the files in his office were placed in order, although he did not recall discarding any papers (pgs. 6, 7). The logs were also placed in order (pg. 6). Further, the witness could not recall the destruction of any classified documents when he was with the Americal Division (pgs. 7, 8). The witness had no explanation for the absence of logs covering his period of office (pg. 7).

b. Handling of the division commander's papers.

The division commander's working papers were in the control of his officer aide who took care of their security

(POWELL)

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(pg. 9). The commander also had a stenographer, VAN ABLE, who took care of his personal, as well as his official, correspondence (pgs. 10, 11).

c. Recall of pertinent papers.

The witness opined that if a report of investigation had come into his office, for either the DC, ADC, or the chief of staff, he would have known of it (pg. 12). He could not recall ever having seen HENDERSON's report (Exhibit R-1), or either of its inclosures (pgs. 13, 14). He had no recollection of a letter from his commander directing an investigation (pg. 15).

2. KNOWLEDGE OF AN INCIDENT.

The witness testified that he had no knowledge of any incident as alleged having taken place (pg. 16). He did not recognize Captain MEDINA (pg. 16). He heard nothing, socially or officially, of aviation personnel confronting ground troops or of the killing of women and children (pgs. 16, 17).

3. OTHER INFORMATION.

The witness noted that Major John BEASLEY preceded him as assistant chief of staff and Major Rodney HALLMAN followed him (pg. 2).



(The hearing reconvened at 1200 hours, 4 February 1970.)

LTG PEERS: 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 Major Jamo C. POWELL.

(MAJ POWELL was called as a witness, was sworn, and testified as follows:)

RCDR: Major POWELL, for the record, will you please state your full name, grade, Social Security number, organization and station.

A. Major Jamo Cash POWELL, , Student Detachment, United States Army Comand and General Staff College, Fort Leavenworth, Kansas.

RCDR: Thank you.

IO: Major POWELL, on my left is Mr. Robert MACCRATE. Mr. MACCRATE is a civilian attorney who has volunteered his services to Secretary RESOR to assist in the conduct of this investigation. He also provides legal counsel to me and other members of the investigation team. On my right is Colonel ARMSTRONG, who has been designated by the Chief of Staff, General WESTMORELAND, as an assistant in this investigation. Besides me both Mr. MACCRATE and Colonel ARMSTRONG may address questions to you this afternoon. We have other groups such as this that are taking testimony from other individuals. I will have the task of putting together a report, weighing the evidence, and determining the findings and the recommendations. Have you had an opportunity to read the instructions (Exhibit M-57)?

A. Yes, sir, I have.

Q. Do you understand them?

A. I understand them, sir.

(POWELL)

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Q. Do you have any questions?

A. No, sir.

Q. Major POWELL, would you indicate your duty assignment with the Americal Division, any changes of assignment you may have had, when you joined, the approximate dates of any changes of assignment, and when you terminated your assignment with the Americal Division?

A. Yes, sir. I arrived in the Americal, I believe, on 20 May 1968 and was assigned as assistant chief of staff at that time, for morning report purposes. Some 2 months or so later, it was changed to the secretary of the general staff. But essentially the same duties were involved. I left the Americal and went to Headquarters, MACV in Saigon on 15 September I believe, sir.

Q. 1968?

A. Yes, sir.

Q. Who occupied this position prior to you?

A. Major John BEASLEY, sir.

Q. John BEASLEY. Who occupied it subsequent to your departure?

A. Major Rodney HALLMAN.

Q. Major POWELL, the My Lai incident of 16 March 1968 became a matter of public knowledge about 4 or 5 months ago, that is, toward the end of September or early October via the newspapers, various publications, radio and TV, and so on. Since that time, have you had any conversations with anybody from the Americal Division concerning the incident itself, the reporting of the incident, or the investigation of the incident?

A. I have had conversations with contemporaries, sir, not concerning the incident so much as, "Did you know anything about it," type thing. In other words, students, classmates of

mine that happened to be at the Command and General Staff College at the time. Our discussions were always to the effect, "Did you know anything about it?" And the answer was always "No, I didn't," type thing, if that's what you mean, sir.

Q. Yes. There wasn't any getting into detail, "Well what do you remember about it? Do you remember anything about it?"

A. No, sir, the first I heard about it was when I either heard it on television or read it in the paper 4 or 5 months ago as you mentioned. It was a complete shock to me.

Q. When you took over this assistant chief of staff or secretary of the general staff job from Major BEASLEY, were there any special handling papers that were transferred to you at the time?

A. None that I can recall, sir.

Q. How about papers in an envelope or special papers for the commanding general marked "For the commanding general, eyes only," or anything of this nature?

A. None that I recall, sir.

Q. Did you have any particular group of papers that were handed over to you requiring special handling or anything of this nature?

A. No, sir, I don't remember any at all. Of course there were files that were there that went from one to the other. There were custodian files and things like this for the funds that I was responsible for, but I don't remember any special thing that was for the general's eyes alone or to be held for the general or anything of this nature.

Q. Now you had working for you a noncommissioned officer, is this correct?

A. Yes, sir.

Q. And who was in that position while you were there?

A. Sergeant First Class Nick SAIMONS.

Q. How do you spell that, please?

A. S-A-I-M-O-N-S, I believe, sir. I'm sure of that. He's presently in Alaska.

Q. Was he the only individual in that job, or was it changed while you were there?

A. When I got there, sir, on the 20th, the person that was there prior to Sergeant SAIMONS was there only for about 2 or 3 days after I got there. He left, and I believe Sergeant SAIMONS got there a day or two after I did. He actually got to division 3 or 4 days before I did, but he was in the training center, and he got there a day or so after I did. He was there the entire time that I was there.

Q. Do you recall the man that preceded SAIMONS?

A. No, sir, I do not remember his name.

Q. Above and beyond that, SAIMONS was with you all the time that you were there up until mid-September?

A. Yes, sir.

Q. When you took over this job, did you have an inventory made of the files?

A. Not a formal inventory, no, sir.

Q. How many safes did you have?

A. We had one safe, sir, in my office. I can remember one safe.

Q. And who--

A. (Interposing) Sergeant SAIMONS was the one that inventoried that, to the best of my knowledge.

Q. Yes. Now, with respect to SAIMONS, did he have a log which he maintained for entry of documents into the command section?

A. Classified documents, sir, or just documents?

Q. Well--

A. (Interposing) Classified documents, yes, sir. He maintained a log on the classified documents that came in.

Q. How about the other action papers that came in?

A. For other papers that came in there was no formal log that I can remember. No, sir.

Q. What level of classification were papers logged?

A. Secret and above, sir.

Q. Not confidential?

A. No, sir, I don't believe confidential. I did not personally handle the classified material, the signing in of classified material. Sergeant SAIMONS did, but to the best of my knowledge, we only signed for and logged secret material.

Q. Secret and above?

A. Secret and above, yes, sir. But we did not maintain top secret documents in our safe.

Q. You didn't maintain top secret documents in your safe?

A. No, sir. Our office was not a top secret depository.

Q. Where were the TS documents retained?

A. Well, they came in and were kept under surveillance the entire time they happened to be in the command building. Someone would come and pick them up from AG or whoever had brought them over, and they were taken back. They didn't remain in the building.

Q. Did you ever physically see how he was maintaining that log? What did it look like?

A. The classified document log is the only one I remember, sir. I don't remember the DA or DD Form number, but it's the log for logging in classified documents, where you list the pages and the title, and so forth.

Q. And the number of copies and so forth?

A. Yes, sir. Now he maintained another log which Colonel PARSON instituted sometime after I arrived there dealing with actions coming in, but that was a separate log.

Q. Suspenses?

A. A suspense log, yes, sir.

Q. You had an IG inspection along about the middle of July. Do you recall that?

A. Yes, sir. I remember the IG inspection.

Q. Yes. I think it was held the week of 7 to 14 July. What happened to the files during this preinvestigation? Was there any searching through the files to eliminate excess materials?

A. Not to my knowledge, sir, no.

Q. Well, wouldn't that be the normal thing to do with the IG coming in, to have the files searched to make sure you don't have a lot of papers in there that you shouldn't have, for example?

A. We went through the files to make sure they were in order for the IG, if that's what you mean, sir, but not as a means of covering up anything or something else.

Q. I'm not talking about covering it up, I'm talking about the IG.

A. Yes, sir, we checked the forms and the logs and what have you to make sure the things were entered properly. If I remember correctly we had assistants from different staffs come over and look at our paperwork and what have you, yes, sir.

Q. What happened to the excess papers you had?

A. As far as I know, sir, we didn't have any excess paper. I don't remember any excess paper being found as a result of the preinspection.

Q. Well maybe you can give me a clue as to what happened to the logs, for example. What happened to the logs when he had finished these? Where did he keep these on file? What did he do with them?

A. Where did Sergeant SAIMONS keep them, sir? The best I remember, the classified document logs were kept in the safe. As far as any logs other than the suspense logs, I don't know of any other log that he kept, sir.

Q. Do you know of any reason at the present time why there are no logs there, covering the period that you were there, for example?

A. Do you mean classified document logs, sir?

Q. Right.

A. I can think of no reason. They should be there.

Q. Who served as the officer to certify destruction of the documents?

A. Sir, I can't remember offhand. I don't remember. In the headquarters of the command building itself, I don't remember.

Q. What if you did have some extraneous classified papers? What did you do with them? Even some secret papers, let's say, or some special confidential papers that had been entered into the log? What would you do for destruction?

A. If they were unneeded, unnecessary, they would be destroyed, I would imagine, sir, with the destruction officer and certifying officer and what have you. I can't remember any time when any were destroyed. I can't personally remember

having seen any destroyed or instructions for any to be destroyed at all. If I remember correctly, we did not have any secret documents in the safe.

Q. What was the classification of your operational orders when you issued them?

A. The tactical operations orders, sir? I believe they were secret, sir.

Q. You didn't have any of those in the headquarters?

A. We didn't normally keep them in there. No, sir. They usually came in and were not kept on file.

Q. What about the personal files of the commanding general? Where were they kept?

A. I do not know where his personal files were kept, sir. Well, I take it back, in one of the drawers of the safe. His aide could take things in and out of the general's office. At the close of the day his enlisted or officer aide would put them in one of the drawers. That was the general's safe. It was, from my understanding, what was on top of his desk at night.

Q. Who was his aide when you first took over?

A. Captain DICKENS was. I believe it was DICKENS who was his senior aide at the time. His junior aide was a Lieutenant CAMPBELL.

Q. Where did he work?

A. Lieutenant CAMPBELL? Lieutenant CAMPBELL actually occupied a desk beside mine in my office. His primary job was the supervision of the general's mess at the time.

Q. Did he have anything to do with the general's papers?

A. I don't believe so, sir.

Q. Well, an individual such as the commanding general has two different kinds of papers. He will have his own personal letters and things, which are strictly of a personal nature. You might call those private papers. He has other letters which he will exchange with, let's say the commanding officer of the 2d ARVN Division.

A. Yes, sir.

Q. He may have an exchange of correspondence with III MAF, or there are a variety of people he could be writing to, and receiving correspondence from. This is not private. This generally gets into somewhat the official vein. So I would not visualize that those would be filed with private papers. Now how were those handled?

A. Well, if I can give you a little background, I did not work directly for the commanding general. I was working for Colonel PARSON, the chief of staff. The general had an enlisted stenographer who handled all of his correspondence as far as the typing and what have you.

Q. What was his name?

A. I can't remember, sir. He was SP5, but I can't remember his name. If I had the name, I could probably remember it, but I can't remember it offhand, sir.

MR MACCRATE: Was it VAN ABLE?

A. VAN ABLE, yes, sir. Specialist VAN ABLE.

Q. Was he there for the entire period that you were there and left?

A. I believe he left shortly before I left. I would say he was there approximately 3 months during the time that I was there. He was there when I got there.

IO: He was already in the position?

A. Yes, sir. He was already in the position.

Q. So he would have been there until sometime perhaps in August?

A. Perhaps, sir, July, August, or September. I can't really remember exactly when he left, but I do know that he left before I did. Yes, he left before I did.

Q. Do you know when he joined the headquarters?

A. No, sir, I don't.

Q. What was the name of Colonel PARSON's stenographer?

A. I can't remember, sir. It was a blonde-headed young man. I can't remember what his name was though. He was a SP4.

Q. Do you recall this VAN ABLE? Was he able to take dictation?

A. I never saw him take dictation. I assume he could, sir. He was supposed to be a stenographer, a trained stenographer.

Q. Yes. How about this other who worked for Colonel PARSON?

A. I believe he could take dictation, sir, but I couldn't swear to that. I think he could. I'm sure he was a trained stenographer too.

Q. What was the name of the steno for General YOUNG?

A. I can't remember the name, sir.

Q. Now if you were there on 20 May, you were there at the time of General KOSTER's departure, right?

A. Yes, sir.

Q. Also being in the capacity of the SGS or the assistant chief of staff, you probably had something to do with getting together his papers at the time of his departure?

A. No, sir, I did not. To the best of my knowledge, VAN ABLE kept all of his papers. Other than what the aides brought in in the evening and put in the safe in the drawer we had reserved for the general, and taking them out in the morning, I had nothing to do with the general's papers that I can remember.

Q. Where did VAN ABLE keep his papers?

A. VAN ABLE had some filing cabinets in his office, which was adjoining the general's office. I assume he kept them there. I don't know. Anything that would have been classified he could have brought in and put in the general's drawer and my safe.

Q. Any form of classification, confidential or--

A. (Interposing) Yes, sir. This is an assumption on my part. That was more or less the policy, that anything classified would be in the safe at night.

Q. When you'd go in and pick up these papers from the general's desk, for example--

A. (Interposing) This I never did, sir. I never picked up papers from General KOSTER or General GETTYS' desk.

Q. Was Captain ROBERTS there at anytime during your tour? Captain ROBERTS had been General KOSTER's aide.

A. No, sir, he was not there while I was there. Captain DICKENS was there when I got there.

Q. You don't recall anything about General KOSTER's personal papers at all, getting things out from SAIMONS and so forth, getting together papers, classified papers and transferring these?

A. No, sir. I do not. I do not remember handling any of General KOSTER's papers. First of all, VAN ABLE was very good; he was very capable to start with. He was really General KOSTER's right-hand man as far as administration went, and I worked more for the chief of staff.

Q. Well now, tell me just what did you do? What was your job then, in the headquarters?

(POWELL)

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A. Well, it was primarily to handle correspondence as it came in, and route it where it needed to go within the command building. I was responsible for the supervision of the enlisted personnel in the command building, a rather routine-type supervision. I was responsible for meeting, greeting, and billeting, and what have you, the VIP's that might arrive at division headquarters, and things of this nature.

Q. You didn't have a protocol officer?

A. Lieutenant CAMPBELL was probably what you would call our protocol officer, if anyone was.

Q. Well, if any paper had come into the headquarters, before it would go to the chief of staff or before it would go to anybody in the command section, your job was to review this, to recommend to the chief of staff the distribution on it and so on?

A. Yes, sir, that's right, sir. It came to Sergeant SAIMONS first. In general terms, everything came to me from Sergeant SAIMONS, unless it was something that was just very routine that I didn't need to see, that he knew where it needed to go.

Q. If a report of investigation came in, would you have seen it?

A. I think I would have. Yes, sir.

Q. If it was being looked at by Colonel PARSON, by the commanding general, or possibly by one or both of the ADC's, would you probably have seen it?

A. I think I would have. Yes, sir.

Q. Well, coming down to this period, about the time you took over in May, do you recall a report of investigation which probably consisted of 4 or 5 pages that had 15 or 20 or possibly even as many as 25 statements, sworn statements, attached to it as inclosures?

A, No, sir. I did not.

Q. Which came from the 11th Brigade, probably with an indorsement by the commanding officer of the 11th Brigade?

A. No, sir, I don't remember any such investigation. The only investigations that I can remember are aircraft investigations and artillery investigations which were of a relatively minor nature that came across my desk. Those are the only investigations that I can remember.

Q. I have here a document, Exhibit R-1, which is not the document which I alluded to before, but another document. It's dated 24 April. It's addressed to the Commanding General, Americal Division from the Commanding Officer, 11th Brigade. I show you this document and ask if you saw this at anytime, this page and a half, within the headquarters of the Americal Division?

A. No, sir, I do not remember seeing this, although it's been 18 months, and I can't swear that I did not see it. But I certainly do not remember seeing it.

Q. Well, with what you've indicated before, that you didn't see any report of investigation except artillery incident reports or things of this nature, if you would have seen this, having read what you've read, even though you perused it rather rapidly, you would have undoubtedly remembered it, would you not?

A. May I have a little more time to read it, sir?

Q. Yes.

A. I think if I had read it, and if I read paragraph 4, which talked about the 400 to 500 civilian figure, it would stick in my mind, and it does not stick in my mind at all, no, sir.

Q. Now, go to the first inclosure, dated 14 April, "Statement." I'd ask you to read that and see if you've ever seen this paper, either in this form or with a signature down at the bottom?

A. No, sir, I do not remember ever seeing anything on this one either.

Q. Now I'll ask you to turn to the second inclosure, which consists of two pages, and ask if you've ever seen that piece of paper? As indicated in the cover memorandum, this is a piece of VC propaganda, but it's not indicated in the memorandum that this is a VC broadcast that was intercepted and then, of course, taken down and translated into English in this form. We know that copies of this, separately, in this form, went to headquarters of the Americal Division. For the record, let's indicate that Exhibit R-1 was referred to Major POWELL.

A. I've never seen that, sir.

Q. I have here, Major POWELL, another exhibit, M-34, dated 11 April 1968, which is a memorandum from the district chief of Son Tinh District to the province chief of Quang Ngai Province. I show you this document. You will notice that the original Vietnamese is on the second page. What you see here is the English translation of it. We also know that a copy of at least the English translation was in headquarters of the Americal Division, so I would like to know from you whether or not you saw this paper and when and where you saw it.

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

Q. Now you see here I have two documents for you. One document is confidential. Would this have been entered into the log maintained by Sergeant SAIMONS?

A. To the best of my knowledge, he would not have entered confidential. I really can't give you a flat "yes" or "no", but I don't think he entered anything other than secret or higher.

Q. Well, I was concerned not so much about the classification as the actual subject matter; the fact that here is something of considerable importance.

A. Yes, sir.

Q. Irrespective of the classification.

A. Yes, sir.

Q. Similarly, this, as you will see it, has no classification, even in Vietnamese on it, and as a consequence, the English translation is not classified. Now it is possible that when this was transmitted to the division it may have been transmitted with let's say a classified indorsement or forwarding memo providing this. This we are not sure of at the moment.

A. Yes, sir, but I just don't remember seeing it, I really don't.

Q. Well, let me ask you one other question. Do you recall seeing a letter which had been prepared by the commanding general to the commanding officer of the 11th Brigade indicating that he had received an allegation from the commanding officer of the 2d ARVN Division? CG, 2d ARVN reported that he had received information to the effect that the Americans had killed a large number of women and children in Son My Village about the middle of March, and the CG, Americal Division directed that the commanding officer of the 11th Brigade conduct an investigation.

A. No, sir.

Q. You never saw that?

A. No, sir. If I could say something, when this thing first came up on television, my first comment to my wife was, that I thought this couldn't have happened, because even though I got there supposedly 2 months later, rumor, if nothing else, would've made me aware of it. I just had absolutely no knowledge. That's why I feel assured that I didn't see these documents, because I'm sure it would have rung a bell. As a matter of fact, my first comment was one of the reasons it couldn't happen is because young American soldiers don't go out and shoot children and women. This was my thought. Reading this where it talks about the women and children, I feel certain that I would've remembered it if I'd have read it. And I'm sure I never read it.

Q. Well, this is why we're trying to cite for you certain things, to see if this doesn't fit in someplace, to get some memory gears going.

A. Yes, sir.

Q. Now speaking of these so-called rumors and things that you just mentioned, did you ever hear in your official capacity or in an unofficial capacity, let's say in the mess, at a bar, either a statement, comment, or overhearing somebody mention the fact that a warrant officer of the 123d had reported through channels to the effect that he had observed the unnecessary killing of women and children?

A. No, sir. I never did.

Q. Did you ever hear of a confrontation which took place between aviation elements, specifically the 123d, and a ground element, to the point where the machineguns of the helicopter were trained on the ground forces?

A. No, sir. I never did.

Q. You were there, I believe, when Captain MEDINA joined the G3 section of the division.

A. From seeing Captain MEDINA on television, I don't recognize him. My travels into the G3 section were very rare, and I don't remember him as a G3 briefer. I don't think he was. That would have been my main contact with him, if he had been a G3 briefer. I don't recognize him from seeing him on television.

Q. Well that's fine, but the fact of the matter is, he was a G3 briefer.

A. Yes, sir.

Q. And he came in, I don't recall the exact date, but I believe it was sometime in July or August, sometime in there. He was also one of the briefers that briefed the command section in the morning, not everyday, but periodically.

A. I didn't hear the morning briefing. The evening briefing was the only one I was in on. The morning briefing was a classified briefing of a nature that I couldn't listen to.

Q. Did you ever hear the chaplains or the S5 or anybody talk about having received a report of unnecessary killing of civilians or indiscriminate killing of civilians, or anything that may have referred to, possibly, that some women and children may have been killed?

A. No, sir. I never did.

Q. Did you ever hear of anything about burning hootches or burning villages or killing the livestock?

A. No, sir. I think I probably was aware even before I went to Vietnam that this went on, to move people from one area to another, but I don't remember anyone ever mentioning it during the time that I was in the Americal Division.

Q. Well, you're talking about what is referred to as relocation.

A. Yes, sir.

Q. I'm not referring to that.

A. No, I don't remember anything like burning houses or killing livestock just to harrass people. I don't remember anyone ever saying that.

Q. Mr. MACCRATE?

MR MACCRATE: Major POWELL, when you first examined Exhibit R-1, the first two pages of the document, you said you can't swear that you had not seen that before. I'd like to ask you now, are you prepared to swear that you at no time saw that two-page report in any form?

A. Sir, I can swear that I do not remember seeing the document. A tremendous amount of paperwork came over my desk daily, and I didn't have time in all cases to read everything. I think my statement was, if I had read this, I feel that paragraph 4 would have caught my attention.

(POWELL)

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Q. It isn't a question of paragraph 4 catching your attention. That whole document is of a kind that if you saw it, you saw it. It's a report of an investigation made by the commanding officer of the 11th Brigade to the commanding general of the Americal Division. You either know when you've seen a report of that sort or you don't. It's perfectly clear to me.

A. Well, to the best of my knowledge, I never saw this report.

Q. Who was the aviation officer when you became the secretary of the general staff?

A. He was there for not too long after I got there. I would know his name if you mentioned it, sir.

Q. Colonel HOLLADAY?

A. Colonel HOLLADAY, yes, sir.

Q. Do you have any recollection of Colonel HOLLADAY coming into your office and asking to examine any reports or being shown any reports of investigation?

A. No, sir. Now do you mean along this line?

Q. Along any line.

A. I think he may have come in on maybe an aircraft accident investigation report. I can't remember a specific instance where he did. I do know that he came into the office infrequently. I can't remember him ever coming in for any particular one. If he did come in to ask about any report that I can remember, it was about an aircraft investigation report.

Q. Well do you have any recollection of him coming in and--

A. (Interposing) No, sir, I don't remember him coming in and asking about any report.

Q. Or his being shown any reports?

A. No, sir.

Q. We were asking you before about the individual who was working in headquarters. Do you recall a specialist by the name of HILL?

A. Yes, sir.

Q. For whom did he work?

A. Well, we had two or three stenographers out there, secretaries, and we weren't real sure. He worked for both Colonel PARSON and General YOUNG, and General COOKSEY when General COOKSEY came in. I believe that HILL was considered to be Colonel PARSON's secretary.

Q. When General YOUNG, for a temporary period in June 1968 became the commanding general, who kept General YOUNG's papers at that time?

A. I am not sure if it was HILL. We also brought another sergeant in who, as a matter of fact, took over as NCOIC of the command building. That was Sergeant SAIMONS. He was, for a short period of time, a secretary for one of the generals. I can't remember for sure whether he was working for General YOUNG at that time or not. If I can go back, I'm not sure that VAN ABLE was the one that I'm thinking of as being General KOSTER's secretary now. I think VAN ABLE was the stenographer in the center of the building for one of the ADC's. I think it was another man that was General KOSTER's secretary. Well, VAN ABLE did, too. VAN ABLE moved down and, after General GETTYS got there, worked for General GETTYS. But it's the predecessor to VAN ABLE that I'm thinking of that was more or less the private secretary to General KOSTER. And his name hasn't been mentioned yet.

Q. When did VAN ABLE become General KOSTER's secretary? Did he at anytime?

A. I don't think he was ever General KOSTER's secretary. I think it was after General GETTYS got there. General KOSTER left less than 2 weeks, I think, after I got there. I believe that his stenographer, the one I was referring to first, was there the entire period General KOSTER was there. As a matter of fact, I'm pretty certain of that.

Q. Do you remember a man by the name of HERRIS?

A. HERRIS was, Sergeant HERRIS, SFC or E-6, sir?

Q. Yes. That's the one that took over from Sergeant SAIMONS. And he was the one that was kind of an interim secretary in the middle part of the building where the ADC's were located, and where General YOUNG stayed in his office. He may have been General YOUNG's stenographer during that time, or it may have been HILL. HILL kind of worked for both Colonel PARSON and General YOUNG. So that the two individuals taking care of Colonel PARSON and General YOUNG would be HILL and HERRIS?

A. HILL and HERRIS and VAN ABLE, initially. VAN ABLE was also a secretary for the ADC's and Colonel PARSON, that group of three people, until VAN ABLE went to become General GETTYS' secretary when the SP5 that I'm thinking of, whose name I can't remember, left. The one that was General KOSTER's secretary.

Q. Now do you recall another individual by the names of James JOHNSON?

A. Offhand, no, sir.

Q. We understand he was a clerk at the command building during 1968.

A. The name doesn't ring a bell.

Q. Rocky IFFRON, I-F-F-R-O-N.

A. Yes, sir. He got there shortly before I left. I can't remember whether he was a secretary or a driver right now.

Q. Do you recall a man that was called Dieter. Actually Dieter is his first name, D-i-e-t-e-r. He seems to have generally been referred to as Dieter. His last name was WINDHOVEN.

A. No, sir. The name doesn't sound familiar.

Q. But you can't recall the name of General KOSTER's secretary?

A. No, sir, I can't. This was the one that I was indicating that kept his personal records. If anyone kept his personal records, it was this young man. It seems like it started with an "S", but I just can't remember his name.

IO: Did this other individual you were indicating take over from SAIMONS as your administrative NCO?

A. HERRIS? Yes, sir. HERRIS took over from SAIMONS.

MR MACCRATE: Had LOFTIS arrived?

A. Oh, I'm sorry, LOFTIS. LOFTIS is the one that took over from SAIMONS, and LOFTIS is the one that came in and was the secretary. An E-6.

Q. Are you sure that HERRIS was not General KOSTER's secretary?

A. The name doesn't sound right, but I know HERRIS from somewhere in the building, and I can't think of any other place. Perhaps it was HERRIS that was General KOSTER's secretary. He had been in that position, as I understand it, for a long time as his secretary.

Q. The man who was there, you're not sure it was HERRIS but the one who occupied the commanding general's secretary slot.

A. Yes, sir, and I think it was HERRIS. I think it was HERRIS. I think that was his name, and he was replaced by VAN ABLE.

Q. Now did Colonel PARSON have any files that he kept in his own office?

A. He may have had some files in his desk, but I never went through them or anything like this. I don't know what he had in the way of personal files. He never gave me anything in personal files to put in the safe for him or anything like this.

Q. Did he have a drawer in your safe the same way that the commanding general did?

A. No, sir.

Q. If he had anything that he wanted kept secure, he would give it to you?

A. Yes, sir, or to Sergeant SAIMONS. Normally Sergeant SAIMONS cleared off Colonel PARSON's desk.

Q. Now Colonel PARSON left before you did, did he not?

A. Yes, sir, about a month before I did.

Q. When you left, you reported to headquarters, MACV?

A. Yes, sir.

Q. What was your position there?

A. I was a plans officer in the plans and programs directorate of CORDS.

Q. You worked there with Colonel PARSON?

A. Yes, sir.

Q. Did you retain a common relation to him in CORDS that you had had with him when he was the chief of staff? In other words, were you assisting him at that time?

A. No, sir. Colonel PARSON was the chief of a division, a plans and programs director. He had an executive officer, and then there were two subdivision chiefs.

Q. When Colonel PARSON left the division, did you assist in the gathering of his papers?

A. I probably did. I don't remember doing it as such. But I helped him in any way I could, and I probably assisted him in that also. I don't remember specifically getting his papers for him or anything.

Q. Do you have any recollection of helping him clean out his desk at that time?

A. I think I did help clean out his desk.

Q. Do you recall what disposition was made of papers taken out of his desk at that time?

A. No, sir, other than to give him his papers, the ones that he wanted.

Q. Did you help package or have packaged for him certain papers and then there were others that he left behind?

A. I don't remember helping package any papers for him, sir. He took everything. Nothing was sent on after him after he left. He took everything with him. I just really don't remember the details of the cleaning out the desk.

Q. Do you recall who succeeded him as chief of staff?

A. Either Colonel TIXIER or Colonel LAWRENCE as an interim chief of staff. They were both acting chiefs of staff at one time or another during Colonel PARSON's absence. I think Colonel TIXIER is the one that came in immediately after Colonel PARSON.

Q. That is our information. And you acted as his assistant for a period of--

A. Approximately 3 weeks, 4 weeks, sir.

Q. Before you left?

A. Yes, sir.

IO: When you say Colonel LAWRENCE, you're referring to Colonel JONES?

A. Colonel JONES, excuse me.

Q. Well, we're appreciative of you coming in, Major POWELL. I would ask, based upon our line of questioning, that if any of these thoughts come to mind after you leave here at any time, we would like you to get in touch with this office because we are putting together this story piece by piece. We have most of the pieces, but we still lack a few little bridges in here from place to place, and you may possibly have

just the thing we need. It may seem insignificant to you, but which in fact may be quite important as far as the investigation is concerned. If any of this does come into mind, please get in touch with this office. In addition, if you can think of any documents which may be of use to us, in terms of directives, memoranda, reports, photos, maps, or anything of this nature, we'd appreciate those.

A. Yes, sir.

Q. I'll give you this opportunity to ask any questions you may care to ask, and if you would like to enter a statement into the record.

A. I have no questions, sir. I can't think of anything to say other than what I've already said.

Q. Now we have told you some things here this morning and you've seen some things that are quite significant, so I would again caution you that you are directed not to discuss your testimony here with others, including other individuals who may have, or may appear here as witnesses, except, of course, as you may be required in the performance of official duty before competent administrative, judicial, or legislative bodies. I will say with respect to the latter that it is possible that you may be called before one of the congressional committees. More specifically, the investigative subcommittee of the House Armed Services Committee. Your testimony here and your appearance here would in no way prevent you from testifying or appearing before such a committee.

The hearing will recess at this time.

(The hearing recessed at 1300 hours, 4 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: QUALLS, Orbun F. LTC

DATE OF TESTIMONY: 15 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: G1, Americal Division.

1. KNOWLEDGE OF TASK FORCE BARKER.

The knowledge the witness had of Task Force Barker was limited to that which he would be familiar in his capacity as Americal Division G1 and his personal relationship with Lieutenant Colonel BARKER (pgs. 5, 6).

2. KNOWLEDGE OF THE INCIDENT AT MY LAI.

The witness recalled that Task Force Barker had been in heavy contact, but did not recall the date or the place other than via the newspaper accounts (pg. 7). He did not recall any particular comments about the kill ratio (pg. 8). He stated further that he had no knowledge of an investigation of the incident nor of a report from the brigade commander to the division commander (pg. 8). The witness stated that in his social acquaintances with the other officers of the staff and in his contact with enlisted men, he never heard My Lai discussed (pgs. 12, 13). He was not aware of an investigation being conducted by either Colonel HENDERSON or Lieutenant Colonel BARKER or the ARVN (pgs. 13-15).

3. DISCUSSION OF MY LAI WITH CHAPLAIN LEWIS.

The witness denied ever discussing My Lai with Chaplain LEWIS, and ever cautioning him to keep quiet about it (pgs. 9, 10).

4. FILING AND RECORDING WITHIN THE DIVISION.

Normally, messages to the division commander from a major unit commander were taken immediately to him, often with no prior AG processing. If they were personally delivered to the commanding general they would probably not be returned to AG for logging and processing. In the latter instance, the assistant chief of staff would have logged them in the command files (pg. 11), but only in case of secret or top secret documents (pg. 12). He noted that confidential documents may have been logged in his daily journal (pg. 12). He added that he did not know the disposition of that journal (pg. 16). The witness stated that had he discovered Colonel HENDERSON's report of investigation, Exhibit R-1, while clearing the files, he would have retained it (pg. 18).



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(The hearing reconvened at 1100 hours, 15 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, LTC NOLL and MAJ LYNN.

(LTC NOLL was sworn as a member of the inquiry group.)

RCDR: The next witness is Lieutenant Colonel Orbun F. QUALLS,

(LTC QUALLS was called as a witness, was sworn, and he testified as follows:)

Colonel Qualls, for the record would you please state your full name, grade, Social Security number, branch of service, organization, and station.

A. Orbun Fredrick QUALLS, Jr., Lieutenant Colonel, United States Army, , Office Chief of Research and Development, Air Defense and Missile Division, the Pentagon, Washington, D.C.

RCDR: Colonel QUALLS, 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.

(QUALLS)

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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, will later become a matter of public knowledge.

IO: Colonel QUALLS, aside from myself at the table, on my left is Mr. Robert MACCRATE a civilian attorney, who has volunteered his services to Secretary RESOR to assist me in this investigation and also provide me legal counsel. He perhaps will address some questions to you this morning. And on my right is Lieutenant Colonel NOLL who has been designated by the Office of the Chief of Staff as one of my assistants in this investigation, and he likewise may address questions to you. In addition to this group, we have other investigating teams that are likewise taking testimony. But in the final analysis it will be up to me to put together the report and make the findings and recommendations.

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

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

A. No, sir.

(QUALLS)

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Q. However, if at any time you are so cited, your testimony here would in no way change the applicability or effect of that order. Do you have any questions which you would like to ask at this time concerning any of the instructions you have received?

A. No, sir.

Q. Colonel QUALLS, what was your official duty assignment in the middle of March 1968?

A. I was assistant chief of staff, G1, Americal Division.

Q. How long had you been in that capacity?

A. Approximately 4 months, I became G1 in October 1967.

Q. That's when it was Task Force Oregon?

A. In Task Force Oregon I was assistant chief of staff of Task Force Oregon. During the activation period of the division I was designated by the commanding general to be the G1 and so served from that time until my return.

Q. And when did you return?

A. 15 July 1968.

Q. From the time that the My Lai incident of 16 March 68 became a matter of public knowledge in the news media, radio, television and so on, in the latter part of September, or early October 1969, have you had any conversations with anybody within the division, with the 11th Brigade, or Task Force Barker, concerning what may have happened at My Lai or concerning the investigative process, or any other matter related to it?

A. I have not. I am, of course, aware and had contacts occasionally with some of the members who have been here before. We have not discussed any of their testimony or any of the events which may or may not have occurred.

Q. Would you explain what your official duties were in the middle of March 1968? Explain how you performed your duties as the personnel officer of the division?

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A. Sir, during this time period I monitored, through the adjutant general, the casualty reports and notification procedures for those casualties that we received in the division and the receipt and subsequent training and assignment of the replacement personnel coming into the division. I made frequent trips with the division surgeon and other members to the hospitals that were in our area and checked both the civilian casualties and the military casualties who were there. We were at this time frame becoming involved, as I remember, sir, with setting up what was to be termed a civilian war casualty hospital in the Chu Lai area, so we were working toward that also.

I had the normal post exchange operations that were going on, clubs and messes that were becoming operational, being chartered as a new division would have to be. We were in the process also of consolidating the separate elements of the separate brigades that had gone into making up the division and we were still in that process and did not have data processing equipment, for example, in the AG section. We operated a postal mail service that was the equivalent of a base operation rather than division normal mail operations. Being senior headquarters in the Chu Lai area, we operated the postal unit for the entire sector, both the Marines and the Navy personnel there and what few Air Force people we had.

I gave a daily status of personnel strengths to the division commander, the two assistant division commanders, and the chief of staff at a very abbreviated morning staff meeting. Once a week I gave to the assembled staff and commanders who were able to be present in the division conference room or tactical operations center the personnel status, the status of the replacements, and the hospital general status as to whether there were more or less malaria cases. As a portion of what was called the G1 briefing, the provost marshal presented the status of the prisoner of war facilities that were in the area and the number of personnel there. I believe that--

Q. (Interposing) Were you responsible for the operation and direction of the replacement training center?

(QUALLS)

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A. No, sir, not the total center. This was somewhat a joint responsibility, and the assistant chief of staff, G3 had the training responsibility for it. I'm not sure of the time frame. Somewhere in this general time frame there was some discussion and possibly the action had gone under way to assign the major, who was to be the commandant of the Americal Division training center, to the support command commander. I maintained a personnel replacement team there under the auspices of the AG, plus a finance team. I did not mention the finance officer earlier, sir. We had a team of personnel from finance who also were there at the training center itself, which was located some 2 or 3 miles away on the coast. They took care of the administrative processing but I as the G1 was not charged with the training responsibility of the sector.

Q. As the G1, and with general staff supervision over the functions of the adjutant general, you were therefore responsible for all of the maintenance of the logs, files, and so forth within the division headquarters. Specifically with the AG section for all materials arriving to the division and being--

A. (Interposing) Under the general staff supervisory responsibility, yes, I was, General.

Q. Who supervised the files in the command section of the headquarters?

A. I am certain that the assistant chief of staff did. I did when I served as the assistant chief of staff of the division. The headquarters complex was separate from any of the other staff buildings or tents or whatever, and I, as the assistant chief of staff, assumed all that responsibility during my 5 months in that capacity.

Q. This is a position that we sometimes hear referred to as secretary of the general staff, is that--

A. (Interposing) That's affirmative, yes, sir, and protocol officer. This occupied some portion of the time being essentially SGS, although not authorized by that title in the TO&E.

Q. Were you familiar with Task Force Barker?

A. Only to the extent of its existence, sir. By that I knew the commander and was familiar with the fact that it took officers from within the brigade in which certainly the brigade commander would like to have additional people to put on his staff. I did not get involved to the extent of assigning replacements of any type to Task Force Barker. They were still assigned to the parent organizations, and they, in turn, gave them to their subordinate companies or units that were with Task Force Barker.

Q. As I understand, it was only a little while before this, about simultaneous with the arrival of the 11th Brigade, that you set up a consolidated G1-AG section for the headquarters as compared to the independent ones with the separate brigades?

A. That's correct, General. We received the 11th Brigade AG section in the December-January time period. Almost immediately upon their arrival in country, rather than get them established in a separate location, we brought what equipment they did have that was in common usage to us and their personnel to Chu Lai.

Q. You indicated just a minute ago that you knew the task force commander.

A. Yes, sir.

Q. Would you explain your relationship with the task force commander?

A. I had met him when he arrived with the 11th Brigade. It was my first acquaintance with Colonel BARKER. I believe that his capacity would have been essentially that of an executive officer at the time. Of course, General LIPSCOMB was commanding. Colonel HENDERSON, a full colonel, was the deputy brigade commander in the transition period. In other words, moving from a brigadier general's position as a brigade commander down to a full colonel's position. I had some contact in the sense that Colonel BARKER was more logically the man I would go to if I had difficulties with maybe the S1 of the brigade and I could not resolve them or which the S1 thought it would be better to get a decision from the command group such as. And this continued until the time of his death, sir, seeing him at briefings, and when I visited the commands as I did as frequently as I could.

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Q. Were you familiar with the operation of Task Force Barker into the My Lai or the Son My area on 16 March?

A. Not in any specific details. I was familiar with the general geographical area in which they operated. I was not physically present at any time in that immediate area. I only flew over going to and from the various command elements that were there. I do not believe I ever even went to Task Force Barker headquarters, whatever landing zone they established as their headquarters.

Q. Do you recall the results of the operation of the 16th, when they were briefed at your evening staff briefing on the night of the 16th?

A. Very generally. I recall a larger than usual count being given. I would not have associated the date other than having seen it in the papers now as being My Lai. But, where task Force Barker had had some contact which appeared to be stronger than usual, and no other details as I recall.

Q. I have here the log of the Americal Division for 16 March which has been entered into the record as Exhibit M-6. I'll show you the last entries in this report to you and particularly where it says Operation Muscatine and there onward. I would ask if you can recall these figures having been briefed on the night of the 16th.

A. General, I cannot recall these specific figures, nor on that specific date.

Q. Well, do you recall when the results of Task Force Barker's operation in Muscatine AO were briefed, if there was any unusual or different discussion or questioning that went on with the briefing officer?

A. No, sir.

Q. Do you recall any comments being made by anybody concerning the wide variation between the number of enemy killed and the number of weapons captured: 128 enemy killed and 3 weapons captured?

(QUALLS)

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A. Not specifically this, General. I can't recall a specific instance of that. I'm certain that we periodically compared weapons captured in the columns that were many times portrayed in some form or another with the number of enemy killed that were reported. But I do not recall the specific instance of this 128 against 3 weapons.

Q. Do you recall anything such as where are all the weapons or recall anybody saying something to the effect about 124 of those were women and children and 4 VC?

A. No, sir.

Q. Were you ever aware that an investigation was being conducted of what may have transpired in the My Lai or Son My area around 16, 17, and 18 of March 1968?

A. No, sir.

Q. Were you aware that the brigade commander had ever reported verbally to the division commander?

A. Concerning an incident of this nature, sir?

Q. Yes.

A. No, sir.

Q. Within the preceeding 2 or 3 months were you aware of any other investigations that may have been under way of an incident that may have occurred in that area?

A. Not in the My Lai area.

Q. I have here a report of investigation, dated 24 April 1968, addressed to the Commanding General, Americal Division. This has been entered into the record as Exhibit R-1. I would ask if you have ever seen this document. I would like you to look at all parts of it to see if you've seen any one of the three parts, either the basic document or its two attachments. Have you ever seen any of that?

A. No, sir.

Q. Do you recall who the division chaplain was at that time?

A. Yes, sir. Colonel Francis LEWIS.

Q. Did you ever conduct any discussions with him?

A. With regard to My lai, no, sir. Just very-- I suppose in brief terms, the investigation that was being conducted with regard to an exercise that occurred or was alleged to have occurred in Tinh Phuc Special Forces Camp or in that general vicinity. Some comment was made and I suggested to the chaplain we should not discuss it. An investigation was being conducted, I knew nothing of the investigation as far as the findings and all.

Q. Chaplain LEWIS seemed to be of the opinion that he discussed the My Lai incident with you in a broad sense.

A. General, I was not aware of the My Lai incident or of any allegations to such. I was aware of two incidents in which I felt a rather complete investigation was conducted. The results of the investigation I did not see. One occurred in an operation in a special forces camp involving one or two or three captured prisoners. Another one involved an incident of a soldier alleged to have struck a Vietnamese civilian from a vehicle that was passing by. I believe that the soldier was subsequently tried by general court-martial.

Q. I'm going to read to you a couple of statements.:

"I didn't get much satisfaction from QUALLS, he kept--everytime I would bring it up...he'd say, 'Oh, no, we can't talk about that.' So he did satisfy me. He did say that it was being investigated."

And I interrupted him at that time and asked him;

"Who did he say was investigating, can you recall?"

And he said:

"I didn't get who it was from him...but I did know that such an individual had made the investigation because he told me in this conversation I had with him at division. I didn't officially know who was making it from QUALLS or any of the other staff and the only way I got that was from what I happened to intercept from this individual one day at division. I wouldn't have known who officially had been designated, but I was assured that it was being properly investigated. That was all. But who it was, no, QUALLS never said. He was very secretive about it."

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Now here we're talking about the My Lai incident and we're not talking about any incident over in the Tinh Phuc CIDG camp area.

A. Sir, I do not like to contradict the chaplain, but I did not discuss My Lai nor be secretive about the My Lai incident with Chaplain LEWIS or anyone else. I was not aware--

Q. (Interposing) Was there a general practice within division not to discuss anything such as this, to keep quiet about all this stuff, "We'll investigate it and until such time as it is investigated sort of 'Fermez la bouche' keep quiet about it."

A. I think to say yes to a general statement like that would be false. I was under no instructions to not talk about any specific incident other than when an Article 32 investigation was being conducted or orders had been cut assigning a senior officer to conduct an investigation--that he should be allowed to conduct this investigation without, shall I say, the rumors, if you will, sir, the general day-to-day discussions going on with the suppositions and opinions that would come out.

Q. Well, I want to pin this down rather specifically, whether or not Chaplain LEWIS had indicated to you that it had been reported to him that there had been some indiscriminate and unnecessary firing into women and children during the conduct of Task Force Barker's operation in the My Lai area.

A. Not to my knowledge. I do not remember any conversation with the chaplain specifically oriented on Task Force Barker.

Q. Did you ever have any discussion with Chaplain CRESWELL?

A. No, sir. I know CRESWELL, but very slightly. The name I am familiar with.

Q. Could you tell me why a report of investigation such as this would not be logged in at division headquarters?

(QUALLS)

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A. No, sir. I cannot.

Q. Can you give any explanation of why a report such as this could not be located in the files of the division?

A. No, sir.

Q. What was the normal procedure at that time for handling reports and memoranda such as this?

A. Most pieces of correspondence addressed to the commanding general from a major unit commander, the brigade or support command commanders, were, if brought through the message center, taken immediately to the commander. They were many times delivered to the commander without any processing. Sometimes the commanders themselves would bring them in. If they were brought in by the commander who had signed it, he would leave them with the command group, possibly the chief of staff or the general himself. At which time they-- I filed them when I was there, sir, but I did not return them to the AG for logging in the message center or insertion in the message center logs of any type.

Q. But under the system as you would understand it, it would have been logged in to the command or the chief of staff central file, is that right?

A. Yes, sir.

Q. While you were in the division, did they to your knowledge, ever have a cleaning of the files?

A. Yes, sir.

Q. What did they do with the material that they removed from the files?

A. I will have to speak for what I did, sir. I screened the records, what few were there, when I arrived at Task Force Barker and separated them into the items which I thought should be retained or retired,

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and those items which I recommended be destroyed. I gave to the chief of staff with my recommendations for such. Unless they were something--well I can't think of anything that I wouldn't have given to him.

MR MACCRATE: You said Task Force Barker, I believe you meant Task Force Oregon.

A. Oregon. I did mean Task Force Oregon. I was not associated with Task Force Barker.

IO: In your files at division, and while you were in the division command group area, did they make a practice of logging in confidential documents or did you log in only top secret and possibly secret documents?

A. I logged in secret and top secret documents. The message center logged everything but within command group itself there would have been a record of secret and top secret documents.

Q. Well here we have a confidential report and let's assume it was hand-carried to the division commander.

A. Yes, sir.

Q. "Report of Investigation" is the title of it. Would this have been logged?

A. I'm trying to recall exactly how I kept my daily journals. It probably would have been in my daily journal, but not in a classified documents log.

Q. When you were G1 of the division, I would assume that you ate with the command group in the division CG's mess. At any time in the discussions there, do you recall something being brought up concerning the investigation of My Lai or Son My area?

A. No, sir.

Q. Did you ever hear any discussion going on with the enlisted personnel?

A. No, sir.

Q. We have some indication from other members of the staff that it was pretty much general knowledge within the general and special staff at division. Furthermore, that there was an awful lot of talk about it going on amongst the enlisted personnel.

A. General, I know that this is contrary to those type of rumors or statements made to you, but the enlisted personnel with whom I associated within my particular area of influence there, did not to my knowledge discuss it. I am certain that my sergeant major did not discuss or dwell on any of the facts. I did not discuss it in the CG's mess, and I do not know that it was, or whether anyone made any attempt to keep such discussions from happening. Here in this time frame I ate part of my meals there, quite a few meals I didn't eat at all, and some of the briefings I made and some of the briefings I did not make at the evening staff conference. I could not positively state that I was even at the briefing on 16 March. I do not have a log that shows even what times I was away--like USARV headquarters on personnel business. But of one thing I am sure, I did not discuss My Lai. I was not aware of any allegations of such an occurrence until the newspaper article carried the allegations.

Q. Were you ever aware that Colonel HENDERSON was ever conducting an investigation of any kind in this time period?

A. No, sir.

Q. Or that Colonel BARKER was conducting an investigation at any time?

A. No, sir.

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Q. Did Colonel BARKER make a practice of coming to you on division staff and talking to you about matters?

A. Not while he was task force commander, sir.

Q. Subsequent to the time he was task force commander and during the period that he was executive officer of the brigade and assumed command of the 4/3?

A. Colonel BARKER and I talked about general personnel matters, and one particular problem which continually caused General LIPSCOMB problems and that was mail, late receipt of mail and rerouting of mail. That would be the one item I would say we repeatedly talked about. Another item which we discussed was their personnel problem because they had arrived in country minus a battalion and considerably short of personnel by deploying earlier than anticipated. The normal date was early sometime in the March time frame and it was accelerated. We discussed that, and it was a serious enough concern that it was, in fact, discussed with General JOHNSON, the Chief of Staff at that time, during his Christmas visit.

Q. I'm really addressing myself to a period subsequent to Task Force Barker being dissolved on about 9 April, and for a period there until about 1 June. The period that Colonel BARKER served as the brigade executive officer.

A. General, I believe that during this time frame Colonel BARKER took some leave, possibly I'm wrong, prior to assuming command of a battalion, or a contemplated assuming command of a battalion, as opposed to a task force, and I do not recall any specific discussion about that or anything.

Q. Well, I think it is true that sometime in this period he did take a week's R&R, but we're talking about a 50-day period.

A. I don't have any specific time, sir.

Q. Do you ever recall any discussion by the commanding general or General YOUNG, the assistant division commander or by the chief of staff, concerning any investigation?

A. No, sir.

Q. Did you ever see a set of orders appointing an investigation officer?

A. Not to my knowledge, general.

Q. Did you have any knowledge at all of the ARVN were conducting an investigation?

A. No, sir.

MR MACCRATE: What kind of a G5 operation did you have at the Americal Division?

A. We had a somewhat combined civic affairs and what was termed the psychological operations. The psychological operations officer who made the broadcast with regard to the Chieu Hoi program and need for relief, and so forth, came under the G5. The G5 was a very active person in going out into the area, attempting to set up programs with, well one thing was this pig farm, I recall--

Q. (Interposing) During the period of March to May 1968, who was the G5?

A. Lieutenant Colonel ANISTRANSKI. I do not-- I'm not sure of the exact time frame he became the G5, but it was somewhat near the time that I became the G1.

Q. And what size staff did he have?

A. He had one or two officers that were termed in the G5 section. An enlisted man or two and he had one or two persons in the psychological operations side. He normally had a detachment--

Q. (Interposing) Officers or enlisted personnel?

A. I believe there were two officers and one or two enlisted men and a detachment with a sound truck and all. It was from a psychological operations group whose headquarters, I believe, was at Danang.

Q. In addition to Lieutenant Colonel ANISTRANSKI can you identify by name any of the other personnel in the G5 operation?

A. There was a major by the name of HOLTAN.

Q. H-O-L-T-O-N?

A. T-A-N, I believe that is the correct name and I believe he was born in England or Australia. I'm not certain of the background. I cannot remember the-- there was a lieutenant colonel initially in the psychological operations job. I cannot remember his name.

Q. For what period did you serve as assistant chief of staff?

A. From the 3rd or 4th of August until the latter part of October. I do not recall the exact date, but somewhere from the 12th to the 20th, I believe.

Q. And after October 1967 your service was entirely as G1?

A. That's correct.

Q. You indicated that while serving as assistant chief of staff you kept a daily journal. For what period of time was that journal retained? Is this something disposed of after it has served its purpose or is it something that continues as a record of the division?

A. While I was there, it continued as a record and I do not know the exact disposition. I thought the records were forwarded as a matter of a combat journal, similar to the one which the General just showed me, from out of the G3. We had one of that type from which I annotated every day. It should have been a day by day record.

Q. Did you have any responsibility with respect to awards and commendations?

A. Yes, sir, in a general staff supervisory manner, sir. Awards and decorations processing was under the specific responsibility of the adjutant general section, within his staff. I had the general staff responsibility for it. I also was a member of the board that voted on the awards. We set up a process whereby three officers evaluated each recommendation for award and we had several sets of these three people. It was our desire that no award would be more than 15 days old at the time of presentation. Therefore, we hand-carried our stacks of awards around in folders of 25 at a time, as they were assembled.

Q. You say no more than 15 days old. That is measured from what date?

A. From date of receipt by us until the certificate and the medals were packaged for return for presentation or provided to the command group for presentation if he were to make it.

Q. Do you have any recollection of recommendations for awards with respect to the operation in to the Son My area in mid-March 1968?

A. No, sir.

Q. It might refresh your recollection if I tell you awards were made to members of the crew of a helicopter operation in the 123d Aviation Battalion. Does that ring any bell with you?

A. No, sir, not in the specific instance. We gave what were termed impact awards in order to give adequate recognition of specific events on a quite frequent basis. Awards up to those could be approved by the commanding general. In order for an impact award to be given, which could have been of this type, there was merely a brief proposed citation prepared. That was the total extent. It was brought in and screened normally by the chief of staff and one or two others if he desired that we assist and say these appear to merit a recommendation, at which time he asked the commanding general his desires.

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Q. Do you have any recollection of reviewing recommendations of awards from an event where two members of a crew rescued a wounded Vietnamese child from a ditch, taking that child to the Quang Ngai hospital? Do you have any recollection of that?

A. Not an award for that.

Q. But if such an award were made it would have come before the board on which you sat?

A. No, sir. I did not sit on all the awards. There were five or more. I do not know the number. There were several three-man boards, and the boards that did not have awards in their possession at the time the next package was prepared received that package of awards. Therefore, I could have seen and reviewed a very small amount of the total awards presented.

Q. You referred to cleaning of files and how that was handled. If in your cleaning of files you had found a report of the kind that you had shown to you this morning, what would have been your disposition of such a report?

A. I would have marked it permanent and retained it, sir.

Q. Colonel QUALLS, do you remember at any time saying in words or in substance to Chaplain LEWIS with respect to an investigation or an investigation report that, "It was not for our eyes," that is to say your eyes and Chaplain LEWIS' eyes?

A. I do not remember saying that. I might very well have in a general court investigation that subsequently came to trial. I do not recall saying such.

Q. Do you have any recollection of Colonel BARKER having said in your presence that the troops of the Task Force Barker had gone a little wild in the My Lai operation?

A. No, sir, I do not.

Q. Do you remember the division aviation officer during this period?

A. I believe Lieutenant Colonel HOLLOWAY.

Q. HOLLADAY?

A. HOLLADAY is correct, sir.

Q. Do you remember where he used to sit at the evening briefing sessions?

A. No, sir. It was the extreme right end or left end near the front row we had chairs for just the command group right near the center, and the next row back had the general and special staff members of which he was one. But I do not remember the exact seating arrangement.

Q. That's the same row in which you sat?

A. Yes, sir.

Q. And in what row did the chaplain sit?

A. Almost immediately behind me, sir.

Q. Almost immediately behind you?

A. Yes, sir.

Q. And do you recall who sat on either side of you?

A. On my left was the G2, sir, and on my right was--I don't remember sir, if it was the engineer or support command.

Q. Colonel QUALLS, I show you a document dated 23 April 1968, award of the bronze star medal, ANDREOTTA, Glenn U., Specialist Four, and ask you if that refreshes your recollection of any award that may have come to your attention at or about that time in 1968. I show you also the accompanying documents. (The recommendation for award and accompanying documents were later entered as Exhibit M-43). Does that in any way refresh your recollection?

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A. No, sir. The warrant officer who signed it, his name is familiar in that I have seen his signature. I recall having seen his signature on awards, but this specific one does not.

Q. Well I show you an award, dated 1 July 1968, of the Distinguished Flying Cross to THOMPSON, Hugh C., Warrant Officer (later entered as Exhibit M-44). Does that refresh your recollection of any such award having been made to Warrant Officer THOMPSON?

A. No, sir.

Q. Do you remember any discussion around the division of the awards either to Mr. THOMPSON or Specialist ANDREOTTA or to another enlisted man, COLBURN, at or about this time for such acts?

A. No, sir.

IO: We are doing everything possible to put together this investigation of the investigation. Anything that you can recall which would have a bearing upon the investigative process at that time, or was used in the investigation would be extremely valuable to us. Now I recognize, Colonel QUALLS, we're taking you back a period of about 2 years. I would also be sure, however, that this morning we have given you some bits and pieces of information which may tend to refresh you memory, if such events were ever known to you. As a consequence, I would ask that you continue to think about this and should any of these facts and circumstances ever come to mind, that you immediately get in touch with this office so we can make these facts a matter of record. In addition, if you can think of any, or have any materials in the form of documents, memorandum, letters, reports, photographs, maps, or anything which in your judgment would be of assistance in the purpose of this investigation, we'd like very much to have those. I'll give you this opportunity to address any questions you would like to members of the inquiry here or to make any statement for the record if you wish.

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A. General, I have no questions. For the record I would like to state again that I am certain that I did not discuss with Chaplain LEWIS, My Lai, nor an investigation that I had any knowledge of being conducted. Furthermore, during the time frame of processing and filing documents I would not have destroyed anything of a controversial nature that could be vital later on to me or the United States even if it appeared that we were not fulfilling our mission there, and I never received any instructions from the commanding general to conceal anything that came forward in the way of controversial matter that should be investigated. So I was not aware of this.

Q. Do you have anything else to add?

A. No, sir.

RCDR: Let the record show that the award for the bronze star with V device pertaining to Glenn U. ANDREOTTA and related papers is entered into the record as Exhibit M-43.

The orders and related papers for the award of BSV to Lawrence COLBURN are entered into the record as Exhibit M-42.

The recommendation for and approval of award for the DFC to WO1 Hugh C. THOMPSON is entered into the record as Exhibit M-44.

IO: The hearing will recess at this time.

(The hearing recessed at 1215 hours, 15 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: RITCHIE, James R. III

DATE OF TESTIMONY: 12 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Administrative NCO in the Office of the Chief of Staff of the Americal Division.

1. FILING SYSTEM.

The witness received all incoming correspondence and directed it to either the CG, the appropriate ADC, or the chief of staff (pg. 2). While secret material was logged, confidential material was not (pgs. 2, 3). No record of incoming confidential material was maintained (pg. 3). The secret log was kept in the deputy chief of staff's office (pg. 3). The top drawer of this safe contained the secret material (pg. 3). The second drawer was empty during the day, but contained General KOSTER's incoming and outgoing mail at night (pg. 3). There was very little confidential material, but that which they had was filed in the first and third drawers (pg. 22). Permanent secret documents were kept in the third and fourth drawers (pgs. 3, 4). He had no recollection of the second drawer becoming stuck or a flight helmet and briefcase stored in the safe (pgs. 5, 6). Because of the number of papers in the files, many of which had been held since the time of Task Force Oregon, RITCHIE and Major BEASELY destroyed a number of secret documents in early April or May 1968 (pg. 4). Certificates of destruction were prepared for the documents and these were maintained in the top drawer of the safe with all the other logs (pg. 4). The filing cabinet used by RITCHIE contained blank forms only (pg. 5). He inventoried the logs with Sergeant SAIMONS prior to leaving Vietnam (pg. 22). He never saw an "Eyes Only" folder for General KOSTER in the safe (pgs. 22, 23).

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2. KNOWLEDGE OF REPORTS ABOUT THE OPERATION.

He had no recollection of any investigation with respect to an operation of Task Force Barker (pg. 8). He heard nothing about a helicopter pilot's complaint that civilians had been unnecessarily shot during such an operation (pg. 8). In early April there was some excitement which caused a number of brigade commanders and other senior officers to congregate in KOSTER's office, but RITCHIE did not know what it was (pgs. 8, 9). He did not remember seeing or hearing talk concerning a short report from HENDERSON regarding a confrontation between air and ground personnel, the indiscriminate shooting of civilians, or a captain shooting a woman (pgs. 10, 11). He never saw HENDERSON's 24 April report (Exhibit R-5) (pg. 17). He did not recall Lieutenant Colonel HOLLADAY or Major WATKE coming into headquarters on a Sunday in March 1968 to get an appointment to see a general (pgs. 11, 12). RITCHIE recalled that after he returned from R&R in mid-April Mr. MAY visited Colonel PARSON at headquarters (pg. 14). While he did not specifically recall seeing the VC propaganda leaflet dated 28 March 1968 (Exhibit M-35), he did see some short propaganda statements mentioning killings not related to the war (pg. 15). With one of these there was a note from Lieutenant Colonel ANISTRANSKI calling the propaganda to KOSTER's attention and stating that he need not "put too much store in it as correct information" (pgs. 15, 16). It was unusual to receive a sample of VC propaganda into headquarters (pg. 16). He knew of no investigation of a Vietnamese report that a large number of civilians had been killed in the Son My Village area (pg. 19).

3. OTHER INFORMATION.

a. RITCHIE had not had any conversations concerning the My Lai incident since it became a matter of public knowledge (pg. 2).

b. The witness was on R&R from 7 April 1968 through 15 or 16 April 1968 (pg. 13).

c. He recalled an investigation of a rape in the Duc Pho area about the time he was leaving Vietnam (pg. 18).



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(The hearing reconvened at 1150 hours, 12 February 1970.)

COL ARMSTRONG: The hearing will come to order.

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

The next witness is Mr. James R. RITCHIE III.

(At this point LTG PEERS enters the hearing room, time 1151.)

(Mr. RITCHIE was called as a witness, was sworn, and testified as follows:)

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

A. James Robertson RITCHIE III, occupation: configuration management Grumman Aerospace Corporation, address: 9306 Honey Branch Road, Silver Springs, Maryland.

COL ARMSTRONG: Mr. RITCHIE, have you read the instructions (Exhibit M-57)?

A. Yes, sir.

Q. Do you understand them?

A. Yes, sir.

Q. Do you have any questions about them at all?

A. No, sir.

Q. On the extreme left is Mr. MACCRATE, a civilian attorney who has volunteered his services to the Secretary of the Army for the purpose of advising General PEERS and the rest of the group on legal matters and to participate in the execution of this investigation. General PEERS, of course, you recognize as leading the investigation. He has been appointed by the Secretary of the Army to conduct the investigation and the incidents surrounding any activities in the My Lai hamlets in Vietnam in the spring of 1968. I'm Colonel ARMSTRONG. I've been appointed by the Office of the Chief of Staff to assist General PEERS. You should know

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that there are other groups, similar to this, taking testimony. Would you explain to us what your assignments were in the Americal Division in the spring of 1968, your tenure with the Americal Division, and when you left?

A. Right, sir. At the approximate time of this incident, I was the administrative NCO in the Office of the Chief of Staff of the Americal Division. I was in this office from January 1968 through May 1968.

Q. What happened in May 1968?

A. In May 1968, I left Vietnam, sir, to return to the States.

Q. What was your grade?

A. Staff Sergeant.

IO: Sergeant RITCHIE, this My Lai incident became a matter of public knowledge about 4 or 5 months ago, as a matter of fact, September or October of last year, through the radio, television, newspapers, and so on. Since that time, have you had any discussion with anybody from the headquarters of the Americal Division or the Americal Division itself concerning the incident, the reporting of the incident, or the investigation of the incident?

A. No, sir.

Q. I'll ask Mr. MACCRATE here, who has been following in this particular area, to direct the questioning. Either Colonel ARMSTRONG or I may follow on with some additional questions.

MR MACCRATE: Mr. RITCHIE, could you describe for us your duties as the administrative NCO for the chief of staff?

A. Yes, sir. My main business at the time was to accept all incoming mail, classified documents, et cetera, and direct them to the commanding general, the ADC's, or the chief of staff, depending on the duty.

Q. What records did you maintain of incoming documents, correspondence, memoranda?

A. Normal stuff, nothing, sir. Secret on up, of course, we kept the usual logs.

(RITCHIE)

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Q. In so far as confidential material, no record was kept of its entering the headquarters?

A. No, sir.

Q. Were there any routing slips that were attached to such material to be passed around headquarters?

A. Not normally, sir. Normally anything coming in was already marked as to who needed to see it.

Q. With respect to the secret and higher classification, you did keep a log. Where physically was that log located?

A. In the safe in the deputy chief of staff's office.

Q. We've had testimony from various people in the headquarters of the Americal Division. We know, through recently having been in the building and having looked around, generally the layout of the building. We know about this safe to which you refer. There has been some testimony regarding that safe, how the papers were arranged in the file drawers. Would you give us your best recollection of that safe and its contents? We understand and everyone seems to be in agreement on this, that there were four file drawers in the safe. Starting with the top drawer and working down, we would like to have your best recollection of what, during your period as administrative NCO, was kept in those drawers.

(At this point LTG PEERS leaves the hearing room, time 1155.)

A. The top drawer held the logs, et cetera, and actually it held most of the correspondence that was coming in and out.

Q. The secret material?

A. Right. The second drawer, if I remember right, was usually pretty well empty, except at night after the CG, General KOSTER, left. At which time all of the boxes from his desk of both his in and outgoing mail were put in that drawer. Third and fourth drawers were more or less permanent secret documents that we maintained there at the headquarters.

Q. Well first with respect to the third and the fourth drawers, do you believe there was that many secret documents for which you were accountable?

A. Yes, sir.

(At this point LTG PEERS resumed his seat in the hearing room, time 1158.)

Q. We have already talked to Sergeant SAIMONS and to Sergeant LOFTIS, who succeeded him. You're the first one to indicate that there were as many secret documents as that. Your recollection would be that there were secret documents down in the third and fourth drawers?

A. Yes, sir.

Q. During the period that you were there, was there any attempt to reduce the volume of the files?

A. Yes, sir. There was. Major BEASLEY, who was the deputy chief of staff, and I went through them and at one time destroyed quite a number of documents.

Q. Well, now, with respect to any destruction of documents, are you speaking about miscellaneous documents, or are you speaking about secret documents?

A. Secret.

Q. With respect to this destruction of secret documents, what procedure was followed?

A. They were taken out behind the building to an incinerator, torn apart, and burned with Major BEASLEY, myself, and Specialist HERRIS, who I believe was here just a little while ago, in attendance and witnessing it.

Q. Was a destruction certificate prepared enumerating each of the documents?

A. Yes, sir.

Q. Where were the destruction certificates filed?

A. In the top drawer with all the other logs, et cetera, sir.

Q. In addition to the safe, we understand that there was a file cabinet maintained in your area outside of the assistant chief of staff's office. Do you have a recollection

of your own file drawers out there in which you kept certain records and papers?

A. The file cabinet that was in my office was used, if I remember right, by the clerk of one of the ADC's. Exactly what all he kept in there, I'm not sure. The file cabinet that I used was in the clerk's office of the chief of staff, in which we kept mainly just blank forms.

Q. You didn't have any reference file there or, for example, documents with respect to destruction, or destruction certificates?

A. Just the blank forms, no certificates themselves, sir.

Q. You indicate that the second drawer in the file cabinet was the one which held the papers at the end of the day that were picked up from the commanding general and also from the chief of staff?

A. No, sir.

Q. Just for the commanding general?

A. Yes, sir.

Q. His papers were placed in that second file drawer?

A. Everything that was on his desk, regardless of classification.

Q. Did that continue for as long as you were there?

A. Yes, sir.

Q. Do you have any recollection of that second file drawer becoming stuck or having any problem with its operation during the period that you were there?

A. Not that I can remember.

Q. Do you have any recollection of a flight helmet or a briefcase being kept in this safe belonging to one of the aides or assistant aides or junior aides?

A. No, sir.

Q. This may have been at a later period of time, but you have no recollection about any problem with the operation of that second drawer, being able to get into it?

A. No, sir.

Q. In the spring of 1968, were you acquainted with the existence of Task Force Barker and its operations?

A. Yes, sir.

Q. Do you recall the report of their operations at that time in March 1968 in the Son My Village area of Son Tinh District down in what has been called the Muscatine AO?

A. Nothing specific, no, sir. I remember seeing lots of paperwork on BARKER, but I don't remember anything specific, because I didn't read most of it.

Q. Well, we're interested in the paperwork that you may have seen relating to Task Force Barker. Do you have any recollection of some of these papers that you may have seen at that time?

A. No, sir, not really, because I made it a habit of not reading any of the stuff that came in. Once in awhile I'd glance at their message file that they got everyday, but that was about it.

Q. But surely there was some exchange of information among the NCO's around headquarters. You had a rather able and intelligent group of men, we found as we trudged through them. We know you had your ears open and your eyes at times, and would see things as they came into headquarters, and see them move about.

IO: Also if you've logged these documents you don't have to read them, but you do at least have to know the title in order to know the origin. You have to know the addressee, and you have to know the title and you have to know the date of the document and any identification the document has on it.

A. Right, sir. But it was so long ago and I logged so many I really couldn't tell you, sir. When this first came

out last fall, the names of the villages and all sounded slightly familiar to me, but from exactly where I don't know. Whether I saw the map in the general's office or what, I'm not sure, sir.

Q. Well we recognize, Sergeant RITCHIE, that we're pushing human memory quite a bit when we're asking you to bridge up these bits and pieces that took place 2 years ago, approximately 2 years ago. That's the reason that actually we intend to sort of refresh your memory and refer to you these documents and see if you've seen these before. While he's doing that, let me ask you a couple questions. You said you had a lot of secret documents. What were these secret documents? At one time I know you had quite a few secret documents, but I'll tell you why you had them, because you had just organized Task Force Oregon, hadn't you?

A. Yes, sir.

Q. So you had a lot of Task Force Oregon documents which had to do with organization and a lot of that kind of schnitzel with General ROSSON and then with General KNOWLES. I think I'm in the right time frame, aren't I?

A. Yes, sir.

Q. I know a little bit about this. So you had a lot of Oregon directives and you had a lot of big papers from III MAF and from all of this. So at that time you probably had a lot of secret documents. But you don't want to get yourself all clogged up with that kind of document which is already outdated. I think your place was taken by Sergeant SAIMONS, wasn't it?

A. Yes, sir.

Q. Before you turned over to SAIMONS you undoubtedly had a cleansing of the files to get rid of that kind of material which you didn't need any longer?

A. Right, sir.

Q. You're running a division now. You're not Task Force Oregon.

A. Right, sir.

Q. Am I correct in what I've indicated here?

A. Yes, sir. I think it was sometime in April or early May when we went through the drawers and destroyed this.

Q. You indicated that you destroyed a lot. Now, tell me about Major BEASLEY. How did he keep his papers? Was he quite a pack rat? Paper pack rat?

A. No, sir.

Q. Neat and clean as a whistle, eh?

A. Well not quite neat and clean, but he turned over everything on his desk at least every other day. He got rid of it. He very seldom kept anything more than 2 days. In most cases it was sent out elsewhere.

MR MACCRATE: You've indicated you do have a recollection of the operations of Task Force Barker in a general way; that it existed. I assume that you knew it was commanded by Colonel BARKER, and that it was a part of the 11th Brigade, and that it had been established by drawing three companies out of each of the battalions of the brigade as an ad hoc organization? Now, do you have any recollection along about the end of March 1968 hearing about any investigation with respect to any operation of Task Force Barker?

A. No, sir.

Q. More specifically, did you have any recollection of hearing about a complaint an aviator, a helicopter pilot, had made with respect to what had occurred in an operation? Perhaps you didn't hear that it was with respect to Task Force Barker, but a helicopter pilot complained about perhaps some unnecessary shooting of civilians?

A. Sir, along about that time I can remember some excitement, but exactly what it was, I did not know. It seems to me that there was a large number of the more senior officers, et cetera, congregating back with the CG.

Q. Well, we'd like to get your best recollection of

just about when this occurred?

A. Well, I left for R&R around 12 April. I think it was a week or so prior to that.

Q. Well, what do you recall about who it was that came in to see General KOSTER?

A. Several of the brigade commanders and a lot of the others that I didn't know. I knew the brigade commanders, et cetera, I didn't know....

Q. Well, do you remember who the brigade commander or commanders were that were there? The one that you may have recognized on sight?

A. I'm horrible on names. I can't remember names.

Q. Do you remember anything peculiar about his condition?

A. No, sir.

Q. Do you remember a brigade commander coming to headquarters about this time with a cast on his leg?

A. I remember someone coming with a cast, but I don't remember if it was a brigade commander or not.

(At this point, LTG PEERS leaves the hearing room, time 1210.)

Q. What do you remember of that?

A. Nothing, sir. I can remember him coming in, but that is about it.

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

A. Yes, sir.

Q. Was he the man who had his leg in a cast?

A. I don't think I could really say, sir.

Q. Actually we've had testimony from others who were there in headquarters that Colonel HENDERSON did come in to the headquarters at that time. One way it was recalled, General KOSTER did a rather unusual thing of coming out of his office and sort of assisting him from his Jeep because he was laboring around with his cast on. Do you have any recollection of seeing that?

A. No, sir. I don't. And one reason could be that the carport was around to the side and my desk was up in front.

Q. So that the shortest walk into the CG's office would have been into the carport and the reasonable place for Colonel HENDERSON to arrive. You might not have seen that. But do you recall him there at that time in the company of others?

A. Not particularly, sir, no.

Q. Can you relate it in any way to this gathering that you seem to recall of General KOSTER with some officers from a brigade or others coming into headquarters?

A. No, sir, no specific time frame at all.

Q. Well, maybe I can help you on time frame. Colonel HENDERSON actually was wounded in the leg around 21 March, and it's our information that for the next 2 weeks, approximately 2 weeks, he had his leg in a cast. So that if you recall seeing him with his leg in a cast, it would be within the period 21-22 March to perhaps 7 April. Do you have any recollection of this, or is this something you think you just heard about Colonel HENDERSON?

A. I specifically remember seeing him with the cast, sir, but that's about it.

Q. And seeing him around the headquarters building? Along about this time do you have any recollection of seeing a rather brief report possibly signed by Colonel HENDERSON,

perhaps not signed, reporting upon an incident that was the subject of complaint by a helicopter pilot? There may have been a reference to the indiscriminate shooting of civilians or of a confrontation between the helicopter pilot and his crew and U.S. ground forces on the ground. There may also have been a reference to a captain shooting a woman, that these matters had been looked into and found without substance? Did you ever recall seeing such papers?

A. No, I don't, and one possible reason why not: a lot of reports, et cetera like this were hand-carried in, given to the general. He would read these and give them back to the people. I would never see them. They would never be logged in.

Q. Do you ever have a recollection of hearing about such papers or talk among the officers?

A. No, sir.

Q. Do you ever recall seeing the aviation officer? Do you remember his name?

A. His office was three or four buildings away from there and I can't remember his name at that time.

Q. Colonel HOLLADAY?

A. Yes, sir.

Q. You knew Colonel HOLLADAY?

A. Yes, sir.

Q. Do you recall Colonel HOLLADAY coming into the office on a Sunday morning in March somewhat possibly excited, concerned, shall we say, accompanied by a major from the 123rd Aviation Battalion.

A. Not specifically, no, sir.

Q. Do you know Major WATKE, ever remember seeing Major WATKE?

A. No, sir.

Q. Do you have any recollection of them coming in and seeking an appointment with one of the generals and any talk at that time around headquarters about some concern of something that had gone on in the 123d Aviation Battalion?

A. No, nothing specifically. If they had come in, of course they wouldn't have stopped by me for an appointment anyway. They would have gone on to the general's clerk or aide, whichever one was there.

Q. I realize that, but there might have been a little special attention to this particular incident in the way that it happened. I wondered if you have any recollection as such?

A. No, sir.

Q. Now, you did indicate that there was some flap or a little excitement that does ring a bell with you about a gathering early in April. Can you relate it to anything that you knew was going on at that time? I'm sure there would be a certain curiosity among the part of those that weren't actually in on the meetings. These curiosities tend to get exchanged, "I guess it relates to this or that"?

A. No. We were usually pretty good at, shall we say, grilling particularly the G2 and G3 people who came in to brief the generals, but we were never really able to get much out of them and find out what was going on. They were pretty closed-mouth about everything.

Q. Do you remember Colonel ANISTRANSKI, the G5, as part of this group?

A. No, I don't, sir. All the G staff of course was in there two or three times a day. Whether he was with this larger bunch or not, I don't know.

Q. You indicate you were on R&R beginning around 10 April?

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A. 9th. I was gone the entire week before and up through and including Easter.

Q. Well, let's see. Easter that year was Sunday the 14th. Would that move your R&R date a little earlier?

A. I think I left around Monday or Tuesday and got back the following Monday or Tuesday.

Q. So you would have left around the 7th or 8th and came back the 15th or 16th?

A. Right, sir.

Q. So that this meeting that you recall would be sometime prior to 7 April.

A. Right, sir.

Q. Now, upon your return from R&R, do you have any recollection of there being something going on with the people down in Quang Ngai Province headquarters, communications and messages going back and forth to the province advisor, the deputy province advisor? To help you fix it, can you recall who was the province advisor at that time? A big man with a moustache? Remember Mr. James MAY?

A. Yes, Mr. MAY.

Q. And then his deputy was a lieutenant colonel?

A. As I said before, I'm awful at names.

Q. Do you remember Lieutenant Colonel GUINN?

A. The name sounds familiar, but the exact connection, no. I can't place the face with it.

Q. At or about this time, do you remember Colonel PARSON in their company, possibly accompanying Mr. MAY coming in and out of headquarters?

A. Yes, sir.

Q. You do?

A. I seem to remember them coming in at least once and Colonel PARSON meeting with them. If I remember right, none of the generals were around when they arrived.

Q. Well, where would you fix this in time?

A. I would say it was after I came back from R&R but that's about all I can say really.

Q. Do you remember seeing at any time any communications going back and forth between headquarters and the province advisory teams? Would that be the kind of thing that would come across your desk from time to time?

A. This would usually be, if I remember right, in the form of TWX's which were of course in the reading file daily.

Q. Well we have reason to think that along about this time in the middle of April 1968 a Vietnamese document which looked like this, which is Exhibit M-36 or a part of Exhibit M-36, came into the headquarters of the Americal Division. It might have actually been hand delivered down in Quang Ngai to General KOSTER, but thereafter it would have been around Division Headquarters. An English translation would have been with it. I show you an English translation and see if you ever recall seeing a document like that or any discussion of such document.

A. I can remember receiving several Vietnamese documents with attached translations. This particular one, specifically remember seeing it? No, sir.

Q. Well, I think if you had seen that, in view of its contents, you might well recollect it.

A. All right, sir. But as I said before a lot of this kind of thing was carried in particular by the G2 and G3 and hand-delivered without it ever going through the chief of staff.

Q. You have indicated that from time to time you did see some Vietnamese documents with translations. I'd like you to look at these additional pages of Exhibit M-36, the Vietnamese text of two pages and the English translation of those pages. I'd like you to look at the whole document. There is some general information on the first two pages, and it becomes a little more specific at the top of the second page. See if that rings any bell of recollection for you?

A. No, sir. It doesn't sound particularly familiar.

Q. Well, I'd like to show you another piece of VC propaganda, Exhibit M-35. Here again there's a copy of the Vietnamese text and English translation on top. This is a notice dated 28 March 1968.

A. I can remember something coming across with a large heading such as this, but I couldn't specifically say whether it was this one or not.

Q. Well, read into it a bit and see if that rings any bell? Do you ever recall seeing a translation of a piece of VC propaganda along those lines? That particular translation has recently been prepared, so if you saw it, it would have been a different translation, but I would assume essentially the same.

A. I can remember seeing stuff like this.

Q. What makes you recall it? What do you recall about what you saw that is similar to this?

A. As I remember, one that I saw was fairly short, but it did mention some killings, et cetera, that weren't merely part of a war. But at the time I think I remember thinking this was just propaganda and while a little bit of it could have been happening I didn't think too much about it being a large problem.

Q. Well do you recall anything accompanying this or being said about it around the headquarters?

A. I believe there was a note attached to it from Colonel ANISTRANSKI just bring it to the CG's attention, but saying that he needn't put too much store in it as correct information.

Q. I'd like to show you a statement dated 14 April 1968, which is part of Exhibit R-5, and ask you if you ever recall seeing a document like that?

A. I don't specifically recognize this. However in the report of investigation I see the name of Captain MEDINA. I recognize the name, but that's about it.

Q. Well, I just want you for the moment to look at the statement. I want to come in a moment to the report of investigation. As far as that statement is concerned.

A. No, sir. I don't recognize it.

Q. You indicated that this piece of VC propaganda you seem to recall being sent to the commanding general with a note from Colonel ANISTRANSKI. What is your recollection as to what he said about the VC propaganda?

A. What Colonel ANISTRANSKI said?

Q. Yes.

A. If I remember right, he just said this was a sample of the kind of thing they were putting out, and he didn't particularly think their information center was correct.

Q. Do you have any recollection of anything that accompanied that, any discussion about it?

A. No, sir.

Q. Where you saw the document?

A. If I remember right, it just came through in normal distribution.

Q. You didn't get a great deal of VC propaganda in headquarters, did you?

A. No, sir.

Q. It was somewhat unusual to have a sample of that in?

A. Right, sir.

Q. Do you recall a discussion in reference with respect to Exhibit M-35 to an identification of the 3d Brigade of the 82d Division and the fact that it was known in headquarters that that brigade was not at that time operating in the particular area? Any discussion of the obvious misinformation in that paragraph?

A. No, sir.

Q. That doesn't ring any bells?

A. No, sir.

Q. I'd like you to take a look at the report of investigation, R-5, and I show you a carbon copy of the document. If you were to have seen this in the headquarters of the Americal Division, you might have seen the carbon, but you might have also seen the original copy of the report of investigation. As you look at that do you have any recollection of seeing it, with or without inclosures? You might at the same time look at the documents that are attached.

A. I can remember having seen several reports of investigations of so-called incidents, specifically one that a Vietnamese woman had complained that she was raped.

Q. That was along around the time you were leaving, wasn't it?

A. Yes, sir. I think it was.

Q. I'm a little surprised that you would have heard about the incident of which we know, because it was either late in May or early June. And you left the division before the end of May?

A. Right. I arrived back in the States on the 28th, I believe it was.

Q. Do you recall when you left Chu Lai?

A. The 27th, Sunday. I arrived back in the States the morning of the 28th, Monday.

Q. I didn't mean to interrupt your train of thought by what you recalled on that report, but I wanted to see if you could fix it in time. Was it very late in your time there that you saw that report of investigation?

A. I would put it more than likely in May. Yes, sir. Exactly when, I'm not sure.

Q. Because I would have had some question as to whether this could have occurred and been reported upon before you left? Do you recall in what area this is alleged to have occurred?

A. In the southern part of the area. I think it's somewhere down around the Duc Pho area. I believe she claimed three or four men had raped her.

Q. This perhaps then is a different incident that you were recalling. Do you recall who was the investigating officer or where the report came from?

A. No, sir.

Q. Well you indicated that you recall other reports of investigation.

A. Yes, sir.

Q. Could you tell us about those?

A. No, sir. I remember having seen several, but in glancing at them. That was about it, not really reading them too much.

Q. Do you recall any that referred to Captain MEDINA? You said that his name was familiar to you. Is it familiar from that time?

A. I really can't place whether he was familiar from that time. I think I know where I remember the name, in which case it would not have been this man. When I came back to the States I was stationed here at Walter Reed Institute of Research and we had a Captain MEDINA. That's probably where I recognize the name.

Q. And you have no association of his name with any

report of investigation that you saw when you were there?

A. No, sir.

Q. Do you recall any other reports of investigation?

A. Other than just seeing them, as far as contents, no, sir.

Q. Do you remember seeing any and associating it with the name of Colonel HENDERSON, the commanding officer of the 11th Brigade?

A. No, sir.

Q. At any time while you were at the Americal Division, do you have any recollection of hearing about any investigation relating to a report from the Vietnamese about a large number of civilians being killed in Son My village area of Son Tinh district, Tu Cung, T-u C-u-n-g, Co Luy, C-o L-u-y. Anything like that strike a responsive chord?

A. No, sir.

COL ARMSTRONG: What was your reaction when you read about or heard about this incident on TV?

A. If I remember right, I didn't know whether to really believe it or not. It revolted me a little bit. I really didn't think that it could have actually happened. Since then I've begun to wonder that if it did happen, why it was so long in coming out.

Q. Did you realize it was in the Americal Division?

A. Yes, sir.

Q. The 11th Brigade?

A. Right, sir.

Q. During the period you were there?

A. Right.

Q. And your natural reaction was that, "I would have known about it"?

A. Right, sir.

MR MACCRATE: Do you have any recollection of hearing any rumors of any sort about something unusual having gone on down in the Son My Village area of Son Tinh District, down around Quang Ngai at or about this time?

A. I can remember Major BEASLEY having called down to Quang Ngai several times during this period, just before and after I came back from R&R but whether it was this matter or not, I don't know. He usually found a reason to call down there maybe once or twice a week.

Q. When he called there, with whom would he speak? Whom did you get for him on the telephone?

A. He usually placed all of his calls himself.

Q. I guess you had an idea of whom he was calling from time to time?

A. Yes, what was his name. I know he was quite friendly with this person. I think he had know him before or something, but exactly who it was or his name, I --

Q. (Interposing) Someone on the province staff or someone on the 2d ARVN Division advisory team?

A. That, I couldn't tell you.

Q. Let me just refresh your recollection very quickly as to the organization you had down in Quang Ngai at the headquarters of the 2d ARVN Division. Colonel TOAN, the commanding general. He has as his G2 a Major PHO. The American advisors were Colonel ULSAKER until 1 April, and then it was a Colonel HUTTER, who replaced Colonel ULSAKER just around 1 April 1968.

A. That name doesn't sound familiar. ULSAKER, yes.

Q. Then at province level you had the chief, who was Colonel KHIEN, and his advisor was Mr. MAY, who was the

province senior advisor, and his deputy was Lieutenant Colonel GUINN. Then, back over again in the ARVN Division was a Major EARLE. Does that ring any bell?

A. No, sir.

Q. Then back on the province side you had Major KEATING, a name DILLERY, or Colonel GREEN.

A. ULSAKER and MAY are about the only two I can remember.

Q. Do you remember Major GAVIN?

A. No.

Q. He was the senior district advisor at Son Tinh District.

A. No, sir.

Q. You can't place the individual on the province advisory team with whom Major BEASLEY dealt?

A. No, sir.

Q. If you saw a list of the province advisory personnel, do you think you could pick the name out?

A. I tend to doubt it.

Q. We do have such a list. It isn't in the room, but I would like you when you're finished in here, if you, just before you leave, take a look at that and see if you can fix the name for us. Do you have any other recollections regarding this interest in Quang Ngai, telephone calls, correspondence, anything that happened by way of follow up to such calls by Major BEASLEY?

A. No, sir.

Q. If anything comes to you in this respect, we would appreciate it if you would get in touch with us and give us a call and let us know about it. We're trying to get all the

information we can together. We've today examined more than 350 witnesses. We have assembled many documents, and we have a great deal of information. But we have little pieces here that we're still trying to put together and make sure that we have the complete picture. Quite frankly, one of the problems has been the dreadful state of the files from this period in the Americal Headquarters. Your headquarters files from this time period have been very difficult to locate anything in. Your logs are missing. I wonder if you have any explanation as to why we have encountered such problems.

A. No, I don't, sir. There were loose sheets just in a folder, not any notebook or anything. I signed them over to Sergeant SAIMONS 3 or 4 days before I left. He and I went through them, inventoried everything, and I signed them over to him. They were still in the drawer when I left, as far as I know.

Q. Do you have any recollection of the condition of that safe when you left it? Can you describe generally what you recalled of the arrangement at the time that you left? Do you recall how the papers were arranged in it?

A. They were just in piles. They weren't in folders or anything, particularly the permanent stuff down at the bottom. It was all stacked in numerical order according to our log, but just in piles.

Q. How about confidential papers? Where would they have been filed?

A. If I remember right, there was very little confidential in there. I believe there was some in the third drawer in the front and a little bit up in the top drawer. That was about it.

Q. Do you remember any folders with, for example, the name of the commanding general on them?

A. No, sir.

Q. An accordion folder?

A. No, sir.

Q. In which General KOSTER's papers were stored with a notation, "General KOSTER-Personal," or "Commanding General-Personal"?

A. No, sir.

Q. Everyone else seems to remember that folder. I'm suprised that you don't, if you used to go to that file regularly.

A. I was in the file four and five times a day. In fact, Major BEASLEY and I were the only two with the combination. Specialist HERRIS had it too in case the general came in sometime when we were out. The more I think about it, I do remember such a file as being in the top drawer, if I remember right. Of course I never looked into it. It was a very thin file, maybe about like that (indicating an inch).

Q. About an inch thick?

A. About an inch.

Q. Anything else you can tell us about the state of those files when you left?

A. Sergeant SAIMONS and I had straightened it up, straightened the files and all up, and we were inventorying it. Other than that, no.

Q. Well, if you have any flashes of recollection about that file, we would be interested in having the benefit of them. I want to give you an opportunity at this time to ask any questions or make any statement you would like for the record.

A. No, sir. I can't really think of anything.

Q. Well, I would like to remind you that these are confidential proceedings. In the case of military personnel, they are directed, and in the case of civilian personnel, requested to respect that confidentiality, and particularly not to talk about the proceedings here with other witnesses who may have been or in the future appear before the board. I should point out that any request for restraint

in this respect is not applicable to any request you may receive, for example, to testify before an administrative, legislative, or judicial body. Legislative might conceivably be the investigating subcommittee of the House Armed Services Committee. I have no idea whether or not you would be called, but I just want to make clear that any request that we make in this regard would not preclude you in any way from participating in such proceedings. We will recess at this time.

(The hearing recessed at 1225 hours, 12 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: ROBERTS, Daniel A. CPT

DATE OF TESTIMONY: 27, 28 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Major General KOSTER's Aide.

1. KNOWLEDGE OF THE 16 MARCH MY LAI OPERATION.

Captain ROBERTS had only general knowledge of the Task Force Barker 16 March operation (pgs. 7, 8). He recalled that on the three occasions that General KOSTER was briefed at LZ Dottie the briefing was always conducted by Lieutenant Colonel BARKER (pg. 8). The witness usually would talk with the task force S3 as it was difficult for him to listen to the briefing in the task force bunker (pgs. 8, 9). Because he could remember the two military-age males that Colonel HENDERSON brought in, ROBERTS recalled being at LZ Dottie on 16 March (pg. 9). However, he did not remember BARKER being there or anything particular about the body count (pgs. 10, 25). ROBERTS did not remember if they flew over the task force operational area when they departed the LZ (pg. 10). The witness did not recall picking up Lieutenant General DOLEMAN at LZ Bronco or BARKER briefing KOSTER and DOLEMAN at LZ Dottie at 1645 on 16 March (pgs. 11, 12). ROBERTS did not recall anything peculiar about the 16 March operation (pg. 25). He never heard any rumors of noncombatants being unnecessarily killed or of a confrontation between U.S. air and ground forces (pgs. 29-31).

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2. INQUIRIES OR REPORTS REGARDING THE 16 MARCH OPERATION.

Although the witness normally monitored the radios, he did not recall any radio transmissions regarding orders for C/1/20 to resweep My Lai (4), to count the bodies, to determine their age and sex, or to determine how they were killed (pgs. 5, 6, 13). He did not recall KOSTER countermanding the order for C/1/20 to resweep My Lai (pgs. 13, 14). The witness did not recall KOSTER giving him a 3x5 card containing data concerning casualties (pgs. 21, 22). KOSTER visited with Colonel TOAN once or twice a month. However, he was not privy to their meetings (pg. 23). ROBERTS recalled an envelope marked "eyes only" addressed to KOSTER. However, he did not recall how it was delivered or its contents (pgs. 23, 24). ROBERTS had never seen HENDERSON's 24 April 1968 report (pg. 24). He had no knowledge that KOSTER had ordered the Task Force Barker 16 March 1968 operation investigated (pg. 24). However, ROBERTS was not present at the morning staff briefings in KOSTER's conference room (pgs. 24, 25). Although he did not initially remember KOSTER discussing the disparity of weapons to bodies for the 16 March operation with YOUNG (pg. 26), he later recalled that he overheard such a discussion. YOUNG became annoyed and said he would determine what caused it (pg. 34). ROBERTS recalled HENDERSON visiting division headquarters one time accompanied by his sergeant major and a staff member whom ROBERTS thought might have been Lieutenant Colonel BLACKLEDGE (pgs. 20, 21, 25-28). Even though ROBERTS saw Chaplain LEWIS every night at dinner, LEWIS never mentioned civilians being unnecessarily killed (pgs. 29, 30).

3. OTHER INFORMATION.

a. Prior to testifying before the Peers Inquiry, ROBERTS had spoken with only one person from the Americal Division regarding the incident. He and Staff Sergeant BARNES related to each other that they had no knowledge of a massacre (pgs. 3, 4). KOSTER had not called ROBERTS, nor had any of the other aides since the incident broke into the news (pg. 4).

b. The witness did not recall DOLEMAN or DOLEMAN's visit on 16-17 March 1968 (pgs. 11, 12).

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c. Subsequent to 16 March 1968 KOSTER was chiefly concerned with the operation north of Tam Ky and west of Highway 1, and the 196th Infantry Brigade's move to defend Camp Evans north of Hue (pg. 17). However, they did visit LZ Dottie and KOSTER was briefed by BARKER two times after 16 March (pgs. 16, 17).

d. The witness did not maintain a log or journal of their movements and activities (pg. 18).

e. ROBERTS was not privy to conversations between KOSTER and YOUNG (pg. 19).

f. He did not monitor telephone conversations between KOSTER and Colonel HENDERSON (pg. 20).

g. ROBERTS' reaction to the newspaper reports were: (1) he could not believe that this occurred; and (2) he found it shocking that Specialist HAEBERLE and Specialist ROBERTS did not report what they had seen since they must have known it was wrong (pg. 29).

h. Normally, ROBERTS listened to the briefings when KOSTER and he visited a fire base. However, he excluded himself when there was a crowd (pgs. 4, 5).

i. KOSTER's visits with Vietnamese allies were always prearranged (pg. 7).

j. ROBERTS was KOSTER's sole aide (pg. 11).



(The hearing reconvened at 1445 hours, 27 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 Captain Daniel A. ROBERTS.

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

Captain ROBERTS, for the record, will you please state your full name, grade, Social Security number, organization and station.

A. Daniel A. ROBERTS, Captain, Headquarters and Headquarters Battery, 2d Battalion, 18th Artillery, Fort Lewis, Washington.

RCDR: Thank you.

IO: What is your battery assignment at the present time?

A. Headquarters and Headquarters Battery, sir.

Q. Of the 8th?

A. 18th Artillery, 2d Battalion.

Q. 2d of the 18th?

A. Yes, sir.

Q. Have you read the instructions?

A. Yes, sir, I have.

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

A. No, sir, I have no questions.

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Q. On my left, Captain ROBERTS, is Mr. MACCRATE. Mr. MACCRATE is a civilian attorney who has volunteered his services to Secretary RESOR to assist in this investigation and to provide legal counsel to me and other individuals on the inquiry team. On my right is Colonel ARMSTRONG, an Army colonel, who has been designated as an assistant in the investigation by the Office of the Chief of Staff, General WESTMORELAND. There are other groups such as this that are taking testimony from other individuals. I will have the task, of course, of pulling the report together and weighing the evidence and determining the findings and the recommendations. As a military officer, you are directed not to discuss your testimony in this investigation with others, including other witnesses for this investigation, except as may be necessary in the performance of official duties, or as you may be required to do so before a competent administrative, judicial, or legislative body. With respect to the latter, it may be that you will be required to testify before one of the Congressional committees. Specifically, it is possible that you will be required to testify before the investigations subcommittee of the House Armed Services Committee, in which event your testimony here today and your appearance here would in no way preclude you testifying before such a body. To my knowledge, you have not been questioned or cited by the military judge in the general court-martial case of the United States v. Calley. Is that correct?

A. I have had no dealings with this.

Q. Right. I see no reason why you should be so cited, but in the event that you are, your appearance here would in no way change either the effect or the applicability of such an order either by that military judge or by the military judge in any of the court-martial cases which may possibly develop out of the My Lai incident.

A. Yes, sir.

Q. We'll take a short recess.

(The hearing recessed at 1448 hours, 27 January 1970.)

(The hearing reconvened at 1449 hours, 27 January 1970.)

IO: The hearing will come to order.

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

IO: Captain ROBERTS, would you indicate your duty assignment in the Americal Division, any reassignments you may have had, and the initiation dates and the termination dates and so forth.

A. Sir, I deployed with the 16th Artillery, where I was assigned as a forward observer, and I stayed generally as a forward observer for the 16th Artillery until about 23 September 1967.

Q. When did the 16th deploy?

A. The 16th deployed in June 1967. At that time I was transferred to General KOSTER's office as his aide, his only aide. I stayed at that job until 9 May 1968. I was transferred back to the United States and I was assigned to the 212th Field Artillery Group. I've moved within the group, but I've not been reassigned outside the 212th Artillery Group since I've been back.

Q. The so-called My Lai incident of 16 March 1968 became a matter of public knowledge about 4 or 5 months ago, toward the end of September or the first part of October 1969. Since that time, and here I mean of course by newspapers or radio, television, and the like, have you had any discussions with anybody from the Americal Division concerning the My Lai incident itself, the reporting of it, or any investigations which may have taken place regarding the incident?

A. I've of course read the newspaper stories and the like. I did have a discussion with a Staff Sergeant BARNES and he was not able to tell me anything.

Q. Who was he?

A. Staff Sergeant BARNES at that time was the acting first sergeant of the 105 firing battery that supported LZ Uptight. He said he didn't know anything about it, and I said I didn't know anything about it, and that was the end of the discussion. We discussed about whether it could have happened or not, but it was speculation as two civilians would speculate.

Q. Have you talked to anybody else?

A. No, sir.

Q. General KOSTER ever call you?

A. No, sir.

Q. Any of the other aides ever call you?

A. No, sir.

Q. Did you ever talk to anybody else in the division headquarters?

A. No, sir, to the best of my knowledge, I haven't discussed it with anyone.

Q. All right. Now, I know generally how aides function and what they're supposed to do, but I think each general officer has a certain personal relationship with an aide. As a consequence they tend to function differently, one from the other. As a consequence, I would ask you to describe in brief how you functioned with General KOSTER?

A. Our days were generally routine, unless something different was happening. He'd have breakfast in the Americal Division mess and then from breakfast, we would go down to the office about 0700. And he'd work at his desk. Everyday he went down to the Americal reception station, where a new group of soldiers were coming in. He'd speak to them. We'd go back up to the division headquarters where the staff was waiting to brief him. When the briefing was finished and his morning paperwork was completed, he'd get in the helicopter and normally go to the area where there was the most contact during the previous day or the previous night. While he was in the helicopter, he would decide where he was going. So I

had no advance knowledge of where the general was going. He'd stop in at a fire base. He would get a briefing from either the battalion commander or the exec or the 3, whoever was present. And then he'd ask them about their problems and go on. I listened in on all these briefings because I thought that I should know everything that he knows. I would exclude myself from these briefings when the general was talking alone with another officer or when there was more than five officers so that, I made it a crowd. But generally when he was speaking with two officers and getting a tactical briefing, I would listen in. I can remember going down to LZ Dottie with him on three occasions. But I can't remember exactly the dates in relationship to the beginning of this operation.

Q. Let me ask you to get back to the question I addressed to you about the relationship if I may. We'll get you back to Dottie a little later.

A. All right.

Q. Who operated the radios on the helicopter?

A. I operated the radio, sir.

Q. And what channels did you normally monitor?

A. He would give me channels to monitor. He'd say I want to listen to Colonel so-and-so. Let me hear this or that battalion. Or sometimes he'd use the frequency. If he didn't give me one to monitor, and on many occasions he didn't, then I would select one from the morning briefing and the information that I'd gotten in the TOC after breakfast. I would put on the unit that had the most contact. He'd lift off and he'd say, "Let's go north along the highway," or "Let's go south along the highway." Then I'd start searching the bands to find out what interesting things were happening. I only had infantry and artillery frequencies with me. He never listened to any other frequencies.

Q. Did you have a division SOI with you?

A. No, I did not carry them.

Q. Why not?

A. It wasn't necessary. He didn't require it.

Q. Then how in the hell are you going to talk to all these people if you don't have the SOI's?

A. We made an extract of the SOI.

Q. Yes.

A. And I carried artillery battalion frequencies and infantry battalion frequencies. There was never an occasion when I didn't have a frequency he wanted.

Q. Yes. Did you carry frequencies of province advisory groups?

A. No, sir. Wait a minute.

Q. Did you carry CIDG camps, for example?

A. Wait a minute. I had the province advisories, and I had the CIDG camps. And I had the infantry battalions and the artillery battalions.

Q. Well you also had the armored cav, and did you have any of the helicopter frequencies?

A. No, sir. Most of the helicopter traffic was on UHF, and I'd ask the pilot for those frequencies. The pilot cleared us for artillery.

Q. That's part of their responsibility unless they get stopped, in which event it becomes your responsibility, right?

A. Yes, sir.

Q. Now, if he wanted to go down and see the province chief of Quang Ngai, or he wanted to go see General TOAN, would he just show up there all of a sudden, or would he tell you, "I want to go down and see them people. You go ahead and make the arrangements"?

A. Normally he would just show up to an American, but to the allies he would call in advance. He would either have me call and make the arrangements or if there was something special or peculiar, then he would call the senior province advisor himself. He'd say get me so-and-so on the phone, and I'd get him. Then between the two Americans they would make the arrangements. There was never a case when he dropped in unexpectedly on the province advisors, either one of them, either Quang Ngai or at Tam Ky.

Q. Are we talking about the province advisor, or are we talking about the province chief?

A. There was never a time when he dropped in on either the province advisor or the province chief.

Q. I see. And would the same be true of the advisory group with the 2d ARVN Division and then Colonel TOAN?

A. Yes, sir, the same is true.

Q. In other words, the people that were not beneath him, his subordinates, he would then get it laid on ahead of time?

A. Yes, sir.

Q. All right.

A. Normally we'd have about an hour's advance notice. On the other hand, his direct subordinates, he'd just appear. He'd give them maybe 5 minutes warning.

Q. Now, were you familiar with this operation that took place in the eastern part of Son Tinh District and into Son My village? People now refer to it as the My Lai area, which started on 16 March.

A. I'm generally familiar with it, although I'm not as familiar with it as I wish I now were. As I was reading in the newspaper, I remembered that this operation happened. I remembered generally what they were trying to do, and the objectives of the operation.

Q. Do you remember going down to LZ Dottie fairly early in the morning on the 16th after these two combat assaults had occurred? If you look to the map to your rear, which is a blowup actually (directing witness' attention to MAP-1), where you see C/1/20 there being air assaulted into an area generally west of My Lai (4) to the north of Hill 85 there, can you see that?

A. Yes, sir. I can see where they landed and they're moving towards that objective.

Q. Yes. Then Bravo Company was air assaulted shortly thereafter to the east of there and to move north generally into about the same objective area. A/3/1 was in a blocking position north of the Diem Diem River shown there in a chart-reuse color.

A. Yes, I remember now. The swift boats came in during the night. They had not been there the previous day. We must have gone down there the first day. It's hard to remember after 2 years, but I remember the description that you're giving me as being a description of the operation. On the times that we went down to Task Force Barker, the building was in a bunker. It was not convenient or easy for me to stand unobserved and watch Colonel BARKER brief General KOSTER. So I went over and would talk to the 3, just because of the layout of their particular TOC. We must have been down there the first day. But on the occasions that we were in the TOC, General KOSTER and Colonel BARKER talked together.

Q. Well, to put you at LZ Dottie, maybe I can tell you a little about what transpired there that morning. As a matter of fact, I have here the log of Task Force Barker for 16 March (referring to Exhibit M-16), which indicates that at 0935, "CG Americal Division arrived this location." This is LZ Dottie. We do not have a departure time for General KOSTER. So we know that General KOSTER was there, and I would assume that at that time very likely General KOSTER received a briefing of some kind concerning this operation.

A. Yes, sir.

Q. I'm not sure whether Colonel BARKER was there at that moment or not or whether it was just Major CALHOUN, the

operation officer who was there briefing General KOSTER on what had been transpiring. Do you remember that now?

A. I can remember three different times we landed there, and I can't ever remember Major CALHOUN briefing General KOSTER.

Q. Well, do you remember a situation such as this, that either while you were there or just before you arrived, that Colonel HENDERSON had picked up a couple of what he considered VC down in the My Lai area?

A. There were two military-age males. Is this the one that they're referring to?

Q. That's right.

A. All right, then I was there. There were two military-age males, and they had been walking down what I assume must have been this road (pointing to Highway 521), but it may have been one of these (pointing to side roads). They had said that they were RF/PF's or civilian irregulars of some sort. And that they had been captured by the Viet Cong and just recently released, and that we had picked them up. There was some speculation as to whether they were friendly or not. And I think the conclusion was that they were non-friendlies with a very good story.

Q. Well, you've got the right situation, but as we would understand it from all the people, these were two PF's who had been captured by the Viet Cong. When the people started coming out of the village, they came out with them. Actually there were three of them. They broke away from the column. At that time, one of the aircraft separated them away from the people and held them in position while Colonel HENDERSON went down and picked them up. But they were picked up as being VC suspects. They were brought back and there was some joshing and so forth, "Let's get these interrogated right away so we can find out whether they've got any information concerning who the enemy is out there!" Then when they ended up being PF's, Colonel HENDERSON got his leg pulled a little bit. But that's the same thing, so that puts us there that morning. Do you remember anything about that morning aside

from that? Do you remember Colonel BARKER coming in at any time, seeing him there that morning?

A. No, sir. To the best of my knowledge, I don't remember Colonel BARKER coming into the division headquarters that day.

Q. Not division, into LZ Dottie!

A. Into LZ Dottie. No. The most outstanding thing that sticks in my mind is those two PF's being picked up.

Q. Yes. Was there any question concerning the body count up to this time? Up to this time, they had had a body count of about 84, 1, 14, and 69.

A. I honestly can say. I don't remember anything about the body count. I wish I could, but I can't.

Q. Well, quite obviously you departed from there some-time during the day.

A. We normally stayed in an area, unless there's hot contact, a fight going on, he wouldn't stay. He wouldn't stay. He would normally stay about half an hour, and never longer than an hour, unless there was a fight going on right then.

Q. Well this was a pretty big fight going on out there. It'd seem to me that if they'd clobbered 84 within the first hour, that's pretty damned heavy as far as I'm concerned, and I was there for a long time.

A. Well, again I say I don't remember about the body count, sir, and I don't remember that. I don't remember, at the time that we were there, that there was a significant amount of contact.

Q. Did you fly out over the area at all?

A. I don't think so. Normally, if there was heavy contact, we would have, but we didn't, or I don't remember that we did. I see the PF's are involved in this. And I don't know whether this was a joint operation or not.

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Q. Where's the PF?

A. Right here. Would they be a blocking force?

Q. They played no part in the operation.

A. All right.

Q. Do you recall later on in the day having gone down to LZ Bronco to pick up General DOLEMAN?

A. No, I don't. I don't even know who General DOLEMAN was, sir.

Q. Well he was a three-star general and came from Hawaii, where he had been Chief of Staff, USARPAC. He retired from the Army. Then he had a special job to which he was called back on active duty to look into.

A. I don't remember General DOLEMAN.

Q. Well, let me refresh your memory again (referring to Exhibit M-16). 1645, here I'm up at Dottie again, "Lieutenant General DOLEMAN, Major General KOSTER visited LZ Dottie and was briefed by Lieutenant Colonel BARKER; departed at 1715."

A. No, sir, Lieutenant General DOLEMAN didn't make much of an impression on me, I'm afraid.

Q. Did General KOSTER have an assistant aide?

A. No, sir.

Q. You were the only one?

A. I was the only one, and if General KOSTER was there, then I would have been there also, because we were never separated.

Q. Before this, you had evidently been at LZ Bronco because it indicates here (referring to Exhibit M-46) you arrived, "CG Americal Division arrived at LZ Bronco at 1510, departed 1535." So about an hour before this you were down at Bronco and then came on up to Dottie. We know that

General DOLEMAN had been at Bronco, and we know from this that he was briefed at Dottie. Now, do you remember that briefing at all?

A. No, sir. I don't.

Q. Do you remember him staying with General KOSTER that night, the 16th? That's a Saturday night.

A. No, sir.

Q. And the 17th is Sunday. Do you remember him being briefed, perhaps the following morning, at division?

A. Well he must have been there. I think there were three occasions when someone else was in General KOSTER's house overnight, three or four. I just don't remember General DOLEMAN even coming through the area, sir. I was trying to think, if he came in, he must have gone out, but I can't remember where he went out or how he left.

Q. Well the first thing we must do as far as you're concerned, we must get him in.

A. I'm afraid I don't remember him, sir.

Q. You don't remember any briefing up at LZ Dottie in which they were reporting about 128 enemy KIA, 2 US KIA? 11 U.S. wounded, 3 weapons captured?

A. Was General DOLEMAN working on the M-16 rifles?

Q. No. General DOLEMAN had been in the intelligence business, and also connected with communication electronics. He was the Chief of Staff and Deputy Commander of U.S. Army Forces, Pacific, USARPAC it's called. And then he'd retired and they put him on the job to analyze all of these communications, what they call STRATCOM, Strategic Communications.

A. No, sir, it doesn't ring a bell.

Q. You monitored all radios and so forth. Along about half way between LZ Bronco and Dottie, do you remember a

conversation on the radio in which General KOSTER was involved? This was a conversation between Task Force Barker TOC at LZ Dottie and the company commander of C/1/20 concerning the 1/20 going back into My Lai to make a body count, to count the number of bodies, to determine their sex, to determine their age, and to determine how they were killed.

A. Oh, my God! No, I don't sir! I don't remember a conversation like that. And certainly I would have been listening in to it.

Q. General KOSTER remembers it and other people remember it, so there's no question about it taking place. I just wonder where you were, that's what I've been trying to figure out. There was some discussion that ensued between Coyote Charlie 6 and Coyote 65 to the effect that he was about 2 to 3 kilometers east of this, and it was getting late in the afternoon. By the time he'd get back to this area and get back to the laager site, he wouldn't have time to get his defenses prepared. Furthermore, many of these bodies had been blown to pieces, so how could he tell how they were killed? Now, does this start bringing things to mind?

A. I'm sorry, sir, it doesn't. Honest to God, I don't remember a conversation like that. I don't doubt that it took place, and I may have been listening to it at the time, but it's lost now. I'm not able to recall it.

Q. Do you remember General KOSTER intervening and telling Charlie not to go back into the area?

A. No, sir.

Q. Who normally flew with you on these flights?

A. The general, myself, the sergeant major, and the helicopter crew. The sergeant major--

Q. (Interposing) Sergeant Major ROGERS?

A. Right, yes, sir. And he normally had a set of phones.

Q. And you normally listened on the same frequency, didn't you?

A. Yes, sir.

IO: Mr. MACCRATE?

MR MACCRATE: Do you recall being given any message to deliver to Colonel HENDERSON's headquarters, over the radio at this time, anything about General KOSTER having intervened in a situation in the 11th Brigade and giving instructions, Colonel HENDERSON not being available, so he sent a message to be given to Colonel HENDERSON upon his return to his headquarters at Duc Pho?

A. Was this a radio transmission?

Q. Presumably a radio transmission that you would have been asked to communicate to Duc Pho. Did you audit General KOSTER making such a communication to Duc Pho?

A. I'm going to have to say, sir, that if he intervened, it was without the brigade commander's knowledge or permission. He normally could have done this thing, but I don't remember him calling. I mean this would have been standard procedure for him to call the TOC and to leave a message which you've described.

Q. Would you be the one to give that message?

A. No, sir, he would do it himself. I want to remember these things, and I don't want to remember them because you're telling them to me, but because they're from my memory. I'm afraid that it just doesn't come back.

Q. Let's see if we can put a little more of this together by going to the three occasions that you had in mind when you came in here and you wanted to tell us about when you had been to LZ Dottie. I think you've told us about one when you remember these two Vietnamese coming in and the question as to their proper identification. Now what were the other two occasions you recall at LZ Dottie?

A. These were also tactical briefings that were later in sequence. They would have to come after the first one I mentioned. As you faced it, the map of the briefing area was on the right, and then the radios were over to

the left. So I would go over to the radio and talk to the S3. It was standard procedure in both cases that I would get a separate briefing.

Q. This would be with Major CALHOUN that you would speak?

A. Yes, sir.

Q. Well, you have recollection of two such occasions. Could you tell us about each of those?

A. On one of them Colonel BARKER was there to meet us. On the other, we'd come in and finished up and were starting to leave when someone came in with further information. I can't remember who it was or what the further information was. Doesn't help much, does it?

Q. Well, to me, quite frankly, it doesn't sound like anything that would stick out in your mind that Colonel BARKER came to meet you because presumably if he had even 5 minutes warning he'd be out to greet General KOSTER when he arrived. There's nothing in what you've told us to the moment that would take this event out of any other event that you would see day-in, day-out anywhere.

A. I think that's what I'm saying. I don't remember anything unusual about this operation.

Q. Well, we're not talking about this operation. We're talking about you having a recollection that you went to LZ Dottie on three occasions. And all you can tell us about one occasion is that Colonel BARKER came to meet you; and the other occasion was about some new information as you were starting to leave. You haven't given us any idea what that information was about or why that sticks in your mind.

A. On the second or third time, we were flying down the highway when he gave me the warning that we were going down to BARKER. He made the decision so late that when I had called for someone to come out to meet us, there was not time. When we got on the ground there was no jeep there, and he said, "Well, where is everybody?" I said, "They'll

be along shortly." Pretty soon someone from the TOC came up with a jeep. The general and I and the sergeant major went down to the TOC and got a briefing. As we were coming out of the TOC, someone came from the landing zone, and there was a discussion out there in the open for maybe 10 or 15 minutes. Then General KOSTER and the sergeant major left. I can't remember whether it was Colonel BARKER that came, but it could very well have been.

Q. Well can you place it at the time when Task Force Barker was still operating out of LZ Dottie?

A. Yes, sir, the three times that I remember visiting them, Task Force Barker was operating out of LZ Dottie.

Q. Can you recall when Task Force Barker was disbanded?

A. No, sir, I can't. I have looked through my letters that I've written home and I've tried to remember when it was disbanded.

Q. If we were to give you the date it was disbanded, would it help you to fix the date of these calls?

A. Perhaps it would.

Q. Well, Task Force Barker only remained in existence for about 3 weeks after the operation in question. You've indicated that you think these other occasions you recall were after the 16th or after the day when these two Vietnamese with their story arrived at the fire base. Does that help you to fix it in time?

A. Well, our second and third trips that I remember would probably be separated by 3 days each, give or take 1 day. I'm sure that we didn't go down there everyday, but I don't remember the distance between the days.

IO: Well this is presenting a little bit different picture, actually, because during this period I was under the impression from talking to people that General KOSTER was focusing his attention mostly on the activities up toward the DMZ and along with provisional corps that had been

organized there. He was spending most of his time up there, practically everyday. It would be quite rare that he would be down in the southern area during this period. Now if he visited LZ Dottie about every 2 or 3 days, that makes a different picture entirely. Do you remember going up north?

A. Yes, sir, quite a bit.

Q. What were you doing up there? Where were your units? What units were up there?

A. The 196th was up there, sir.

Q. Where were you going to?

A. The 196th was with the 1st Cav Division at Camp Evans, which was north of Hue. We'd been up there twice.

Q. Who were you seeing up there, General TOLSON mostly?

A. Yes, sir. And he spoke with the two assistant division commanders and the brigade commander who I believe was Colonel GALLOWAY? I've forgotten exactly his name. He spent a good deal of his time on Baldy. We were up there almost everyday. The 2d Division, 2d NVA Division had been down in the Khe Sanh Valley, and he was concerned about clearing that area out and pushing them back. We'd established fire bases on the pass, covering the pass to the west, which must have been fire base Rider. Now I don't remember whether fire base Rider was established before March, at this time, or after that. The 11th was moved up north to compensate for the ROK's going out and to compensate for the other general shipment of all of our units up to the north. His general interest was west of the highway, and north of Tam Ky.

Q. Who was taking care of this area then?

A. Colonel HENDERSON had this area to himself, sir.

Q. Well there were other brigade commanders who commanded brigades, too.

A. Yes, sir, but he spent the majority of his time to the north. He would spend maybe an hour or 2 hours in his

office in the morning. He'd stay out for lunch, and then he would come in about 4:30 for the 5 o'clock briefing, then come back and work in his office at night. So the majority of our time was spent out in the AO. It's possible for us to have gone down to Dottie and then gone up north with his method of operation.

Q. Do you remember doing that?

A. Not specifically. He hopped around a lot.

Q. Did you ever keep a log or anything of what you were doing?

A. No, sir. The general didn't require it, and I didn't see any need to.

Q. Now let's come back to Dottie again and let's talk about BARKER. You say you were sure it was Task Force Barker. I'm not sure you're correct, because Task Force Barker was disbanded on 9 April. However, Colonel BARKER did come back to the brigade that took over LZ Dottie. He came back to command a battalion, which he did around 1 June. Now, do you remember all that?

A. No, sir.

Q. The 4/3. When did you leave?

A. I left 9 May, sir.

Q. Oh, you left in May.

A. Yes, sir.

Q. So it would have to have been before you could have seen him then? He didn't take over until the end of May or the first part of June.

A. I don't remember Colonel BARKER as a battalion commander.

Q. All right. Could it also have been before the 16th? This outfit was at Dottie you know for, well nearly two and a half months.

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A. Task Force Barker?

Q. Yes. Through the month of February and March.

A. I remember it as being organized for quite a while, but it didn't seem like--

Q. (Interposing) Well, they were organized to fill the void that was left by the departure of the ROK Marine Brigade. I'm sure you remember that?

A. I do.

Q. Why do you remember it?

A. The ROK's leaving was a significant event in our life. In the first place, we were greatly upset with the Korean Marines because they wouldn't clear their mine fields, and so we were stuck with all their mines. Then after we discovered that, we discovered that the Vietnamese Communists were moving the mines and that the general shifting of the earth was moving the mines, and so this was a mine area. When everything moved up north, we were now down to two brigades and we still had the same area to cover. So it was a problem as to how to solve this. One of the problems was organizing Task Force Barker with a provisional staff at headquarters company and then one company from each of the maneuver battalions of the brigade.

Q. Well, now we've been talking about the 16th. That was a Saturday.

A. Yes, sir.

Q. Now, do you remember on Sunday the 17th, General YOUNG and General KOSTER talking around about noontime?

A. I'm afraid I don't, sir.

Q. Yes, the 17th, and maybe they talked for half, maybe three-quarters of an hour or more, about something.

A. Generally that was one of the conversations that I wasn't privy to. I sort of stayed away from them.

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A. All right, I understand that. Now, who arranged for telephone calls if somebody called in to General KOSTER from the 11th Brigade. Let's say Colonel HENDERSON called in?

A. (Interposing) Well, Colonel HENDERSON would call our office, I'd answer it.

Q. (Interposing) Did you ever monitor those conversations?

A. No, sir.

Q. You never monitored them?

A. No. I was never given any instructions one way or another, and so I felt that perhaps I shouldn't.

Q. Well, do you remember Colonel HENDERSON requesting an audience with General KOSTER on about the evening of the 20th, about 4 days after this?

A. I remember Colonel HENDERSON coming up sometime in the afternoon, but I can't place it in relationship to the 20th or to the 19th or the 16th. It would be rare for Colonel HENDERSON to come up to our division headquarters, very rare. It was rare for any of the brigade commanders to come up.

Q. Are you sure about that? I've talked to several of the brigade commanders, and I didn't get the impression it was so damn rare for these guys to come in. As a matter of fact, it seemed to me they were in there more frequently than I would have expected them, had I been commanding a division, like when I commanded the 4th Infantry Division. If I wanted to see anybody, I'd go out to see them, or I'd let them know very positively I wanted to see them, unless they came in to check on something in their brigade area. I got the impression that these fellows were in, I wouldn't say extremely frequently, but they were quite a ways from Chu Lai, and they were housed quite a ways from there. It wasn't like the whole division was based at Chu Lai, because they weren't.

A. Yes, sir.

Q. The 11th Brigade, for example, had a pretty

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comfortable home down there at Duc Pho, yet I get the impression that Colonel HENDERSON was in there relatively frequently. I've talked to the 196th commander and he was in periodically. It wasn't unusual to see a brigade commander around that place. But that's neither here nor there. I'm still talking about this visit about the 20th.

A. No, sir. I don't remember him being up there particularly on the 20th.

Q. If you can just get yourself sort of focused in on the middle, toward the end of March, did General KOSTER ever give you a 3-by-5 card, tell you to take care of this, put it away, or did you see one in his out-box?

A. I used 3-by-5 cards almost exclusively for my own notes. A lot of them were typed. His in-and-out boxes, both of them, were generally full.

Q. But you didn't leave papers there overnight, now. Official business you didn't let that lay on the desk overnight, did you?

A. Myself? No, sir.

Q. Who took care of it?

A. Major BEASLEY was the staff secretary. Every evening when the general and I went up finally for the end of the evening, Major BEASLEY would come in and pick up all the boxes and carry them into the safe. In the morning, he'd distribute them back out again.

Q. You had nothing to do with this? You didn't see anything?

A. No, sir.

Q. You didn't see any 3-by-5 cards at anytime or one of yours that had some data concerning casualties on it? Who typed General KOSTER's personal correspondence? I'm talking about his correspondence that he would write to one of the brigade commanders and so on.

A. A specialist named HERRIS, sir.

Q. Is he still in the service, do you know?

A. No, sir. He separated from the service and went back to college.

Q. Where does he live?

A. It's along the east coast. He had planned to stop by my house when he went through Fort Lewis, but he didn't. I remember that he was going to the east coast. He had extended so that he could get a short discharge. He came through in July or August 1968.

Q. You were back by that time?

A. I was back by that time and was established at Fort Lewis. We'd set up a bed for him and a place to stay if he decided to stay overnight. He didn't, so he went straight on through.

Q. Was he a pretty good clerk steno?

A. Yes, sir. He was very good. He could not take shorthand. He was a good typist.

Q. Well who took the shorthand?

A. There was no shorthand. We didn't have a shorthand capability. The general would write things out in long hand, and then he'd type them from that.

Q. But he was a good typist, then?

A. Yes, sir.

Q. I'm sure we can find him. Do you recall going with General KOSTER down to see Colonel TOAN along about somewhere in the time period, maybe 10 to 15 April?

A. It's difficult to get the date, sir. We went to see Colonel TOAN about once a month. Towards the spring we were going down more often, maybe twice a month. I wouldn't remember a particular date.

Q. Did you sit in on any discussions with Colonel TOAN?

A. No, sir.

Q. Do you remember who the senior division advisor was at that time?

A. There were two of them. There was a changeover in the spring.

Q. Yes, it was Colonel ULSAKER, and he left about April, and Colonel HUTTER took over. H-U-T-T-E-R.

A. Yes, sir.

Q. Do you remember him?

A. Yes, sir.

Q. Do you remember making any arrangements through him for a visit of General KOSTER?

A. I can remember making arrangements with him. I also made arrangements with both of them, sir.

Q. Do you remember General KOSTER coming away from there one time and indicating that, "We're going to have to look into some things?"

A. No, sir.

Q. Were you ever aware of some papers that came in to General KOSTER in a sealed envelope marked personal, confidential, addressed to the commanding general, to be opened only by the commanding general, or the addressee?

A. I believe they said eyes only.

Q. Yes. You remember that?

A. Yes, sir.

Q. Who delivered it?

A. I can't remember, sir. I can remember that that was the first time that I'd ever seen the designation of eyes only, and I was surprised. But I can't remember who delivered it.

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Q. Did you ever get to see the contents?

A. No, sir.

Q. Did you ever see this paper (Exhibit R-1)?

A. No, sir, to the best of my knowledge, I've never seen this. No portion of it looks familiar.

Q. No portion of it?

A. No, sir.

Q. But on the basis that papers were handled, you wouldn't have been expected to have seen it anyhow, is that correct? The things that were in the out-basket, you probably picked them up and--

A. (Interposing) Yes, and carried them out and distributed them throughout the office to make sure that everybody got them. The routine matters that went in came in through me so that I would have read normally everything that went in and then everything that went out. When the chief of staff would have something like a special paper, he might carry it in to the general. He'd hand it to the general. The general would read and then then he'd put it in his hold-box, and then later as I was going through there, I would see this, and I would say, "Well, now how on earth did that get in without me seeing it?" And I'd track it down and find that it was the chief of staff. But routine matters came through me.

Q. At anytime, were you ever aware of General KOSTER indicating that he wanted something investigated, he wanted all the details, or something that may have transpired in this eastern area of Son Tinh District in the area of My Lai, Pinkville, and had to do with Task Force Barker?

A. To the best of my knowledge, I was not aware of this. Perhaps I could elaborate on the operations within the division headquarters. When he would talk to people in his office, I would be on the outside, naturally, and it was these conversations that I was not privy to. Each morning he would bring his staff in and have a staff briefing inside

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his conference room. The chief of staff would be there, the five principal staff officers and anyone that he wanted especially. These conferences I was not privy to. When he went to see the province supervisor at Quang Ngai, I was not allowed in there. There were also quite a few conferences. However, at Tam Ky, I listened to most of all of those conferences. I listened in to the conferences and the briefings that were held at Baldy and generally whichever brigade was across the CLDC from Chu Lai, I would listen in to those because they had a large briefing room and there was plenty of room for me. I don't remember a particularly heavy body count. I don't remember anything peculiar about the operation. I wish I did because I would like to help.

Q. Get me the Americal News Sheet for 17 March (Exhibit M-23). I take it the general's office was on distribution for a copy of that? Does that do anything at all to refresh your memory?

A. I read these every night when they came in. I read them at the briefing there, and I must have read this one.

Q. Do you remember anything about that?

A. I'm sure I must have remarked to myself that the weapons to body ratio is out of proportion.

Q. Where do you find the weapons?

(Witness reads from Exhibit M-23. Pertinent information on page 1, paragraph 4.)

Did General KOSTER ever talk about that disparity in the weapons versus the body count?

A. This is one of the things he was always interested in, the number of weapons that were captured and the ratio of weapons to body count indicated the kind of unit that we were fighting. If it was way out of proportion, as it has a tendency to be with the ARVN, then there's some raised eyebrows.

Q. Was there any questions raised on this one with anybody that you know of? This isn't ARVN, you remember.

A. I know it's not ARVN.

Q. Did you ever hear General YOUNG talk to General KOSTER about this, this situation, as they were leaving the briefing and going up to the messhall or anything like that? Going up to their quarters?

A. I can honestly recall that I do not.

Q. I think the one thing that you probably recognize here is this. We know generally what's transpired. There are a few little gaps around, but there are not many gaps. As a consequence, when we're addressing these things, we're doing things to try to refresh your memory.

A. Yes, sir. I want to remember, and I'm not trying to hide anything.

IO: Mr. MACCRATE?

MR MACCRATE: I believe you did remember Colonel HENDERSON coming to visit at Chu Lai. Could you tell us about that visit, what you recall about it?

A. I remember Colonel HENDERSON coming there, and he brought someone with him, two other people including the sergeant major went over to our sergeant major's office. When the meeting was over, they all got in their helicopter and left from the VIP helipad. Colonel HENDERSON, I believe, asked me to go round up the sergeant major when he came out. And I did that. I don't remember whether it was an announced or an unannounced visit.

Q. Now, do you have any recollection of who accompanied him other than the sergeant major? Was this a lieutenant colonel? One of his staff?

A. It would be members of his staff, sir. I would imagine that it would be the 3 and the XO.

Q. His XO was Colonel BARKER and Colonel BARKER--

A. (Interposing) Was a part of Task Force Barker at the time?

Q. No, he was detached during that period.

MR MACCRATE: Do you recall a Major MCKNIGHT?

A. I remember that there was a MCKNIGHT, and it seemed like he was working in the TOC, but I could be wrong.

Q. He was the S3 at brigade. Was he the one who was with Colonel BARKER, or could it have been Lieutenant Colonel BLACKLEDGE, who was the S2?

IO: Well, let's try a different combination. Let's try BARKER and CALHOUN.

A. I don't remember.

Q. We know some people who made some visits, and we're trying to help various people with their recollections. It's only by having your best recollection as to who accompanied Colonel HENDERSON on this visit that you quite clearly recall. Another possibility, it was Colonel GUINN, who was the deputy province advisor at Quang Ngai. Would the photographs of these individuals help you?

A. Perhaps they might.

Q. There's Colonel BLACKLEDGE. On the other side you find Major MCKNIGHT. Here's Colonel GUINN.

A. I can't say if there were two or three people. I know there was someone from his staff with him. I had the feeling that there were two. It seems to me that one of them was a lieutenant colonel and one of them was a major.

Q. You will notice that Major CALHOUN is also--

A. (Interposing) His picture's also there. I recognized him. Major MCKNIGHT was the 3?

IO: He was the 3 of brigade.

A. Brigade?

Q. BLACKLEDGE was the 2.

A. Yes. It may have been Colonel BLACKLEDGE. It may have been because I remember that he was a bigger man. I have

the feeling that one of them, the colonel, was a bigger man, a heavier man. I can't remember the other, and I can't remember any conversations that we had there.

Q. Did they go in with Colonel HENDERSON or did Colonel HENDERSON just go in himself?

A. Yes, sir, they did. Yes, sir, to the best of my knowledge they went in with him.

COL ARMSTRONG: Did the general ever send you on errands for more than 24 hours?

A. No, sir. No, sir. I was never further away from him than say our hootches.

Q. You never went on a pass or on an errand to Saigon or up to the 24th Corps?

A. There was one time that I had to move some helicopters that belonged to the Navy. He went out to some fire base out yonder, and I met him at Baldy.

Q. (Interposing) You're talking a couple of hours there.

A. I'm talking a couple of hours. From the time I joined him until he went on R&R to Hawaii, I was there with him.

Q. You never went to the hospital or anything?

A. Neither of us were hospitalized. No, sir.

Q. When you read in the newspaper about this, what was your reaction?

A. I didn't believe it happened. I found it not credible. I began reading the stories, of course, because it happened while I was there. As I was reading, there was no time that I could find anything that contradicted with my experience. I had an overlying feeling that any person who was there could have stopped it. If what allegedly happened,

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did happen, that anyone of the soldiers could have said, "Don't do this! This is wrong! If you do this, I will report you." When I read the Life magazine article about the Army photographers who were taking photos, I was shocked that those people with as much time in Vietnam as they had and with as little combat experience as they had, must have realized that what Life was saying. What allegedly happened was wrong. These people should have immediately gone back and reported this to their superiors. I was surprised that they didn't. I was surprised that nobody at the time said that this was wrong. So I still find it not credible.

Q. See if you can recall anything that was said? Did you ever hear of a report that was being passed around or a short comment, statement, loose information concerning one of the helicopter pilots that had submitted a report to the effect that he had seen some noncombatants or women and children killed unnecessarily?

A. To the best of my knowledge I didn't.

Q. Did you ever hear of a confrontation between air and ground units?

A. No.

Q. Where people in fact had machineguns trained on others, let's say?

A. You mean Americans to Americans?

Q. Yes.

A. No, I didn't, sir. If this happened, this would have happened on the company's command push.

Q. I'm not saying whether it was on any push. I'm just asking whether you heard any rumor or anything about it?

A. No, sir, I didn't.

Q. Did you ever hear of a chaplain that might have complained about civilians being killed unnecessarily?

A. No, sir.

Q. Did you remember the chaplain at that time, Colonel LEWIS?

A. Yes, sir, I normally, or frequently ate across the dinner table from Chaplain LEWIS. We talked about every night or every other night. He never mentioned it to me.

Q. Did you have any acquaintances over in the 123d Aviation Battalion?

A. It would only be the aviation officer, Colonel HOLLADAY, and WITHAM, Mr. WITHAM, who was our pilot at that time.

Q. Did you know Major WATKE?

A. No, sir.

Q. Did you ever go down and have a drink down in the 123d Aviation Battalion?

A. Only once.

Q. Did you ever hear anything down there?

A. No, sir. The time that I went down there was when Mr. HOWE was leaving and he had recommended Mr. WITHAM to be his successor. I went down to interview Mr. WITHAM so that I could make a recommendation. That was the only time that I was down there.

Q. You didn't get over to have a drink at the club and hear the boys talking together?

A. Only on the one occasion when I interviewed Mr. WITHAM prior to Mr. HOWE's departure.

Q. Was that in the club?

A. That was in the club, yes, sir. This is when we were changing pilots. It was before this. There was no time after that that I went down there.

Q. You never had any call to suspect that something unusual happened down in this area about the middle of March?

A. No, sir.

MR MACCRATE: Do you remember when General KOSTER received word that he was going back to the United States to the Military Academy? When did you first learn about that?

A. I first learned about it when I was back in the States by reading it in the newspapers, sir.

Q. You having left there the 9th of May. Was he back from his R&R before you left?

A. I left the day he came back from his R&R. I went down to Saigon and met him and brought him back up, and then I departed that day.

IO: Who took over as his aide after that?

A. DICKENS, sir.

Q. DICKENS?

A. Yes, sir, Lieutenant DICKENS, to the best of my knowledge. He was the one who was slated to be the aide after I left, but I can't say that I know he did.

MR MACCRATE: You indicated that Specialist HERRIS typed the general's correspondence. Would you be involved in that process or would the general write it out and hand it directly to Specialist HERRIS?

A. It depended on the nature of the correspondence. If it was personal, to his family, the general would, or personal to his friends, the general would write it out and give it to HERRIS. HERRIS would type it, I'd proof read it, and then it would go back in to the general. If it was official business that wanted the attention of the chief of staff, then after I finished it, it would go to the staff secretary or the SGS, and then to the chief of staff, and then in to the general. In that way it went directly from the chief of staff's desk to the general's desk.

Q. Well I understand that when Sergeant HERRIS typed an official communication of some sort for the general that it would come to you and then you would take it to the chief of staff?

A. The assistant chief of staff, so that he would know what was going on also.

Q. The assistant chief of staff. So that you would, in normal course, see anything that Specialist HERRIS typed?

A. Yes, sir.

Q. Let me get one other mechanical matter straightened out. How about filing for the general? Who handled that?

A. Specialist HERRIS did. We had a staff sergeant at division headquarter and when things needed to be put away, Specialist HERRIS would put them away in a central filing area out near the door.

Q. Did the general have any special files that you were acquainted with?

A. No. If he had special files or things that were special to him they'd stay in the desk or they'd be in his in and out-boxes.

Q. Did you handle any of that special filing for him?

A. Yes, sir. I checked through the in and out-boxes. I liked to do it once a day to see if anything had been changed or if anything had gotten in without me knowing about it, so that I could keep abreast. But as for something that would be special or secretive of this nature, it might go from the general to the chief of staff. The building was set up so that you could walk from the general's office through the chief of staff's office to the staff secretary's office, and then into the safes, so we had a front channel and a back channel. If there was something special or secretive, it may have gone directly to the safes.

Q. (Interposing) Who took it in there?

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A. The general would hand carry that or the chief of staff would come in and he would give it to him and the chief of staff would hand carry it.

Q. And to whom would it go?

A. Then it would go to Major BEASLEY. There was no question about my going through the in and out-boxes, but Major BEASLEY wouldn't let me thumb through his safe. I think that there were some things in there that I didn't need to know. There must have been some things in there.

IO: Well, we appreciate your coming in, Captain ROBERTS. As a result of today, you may have some additional information that will come to mind, and if you do have any of these bits and pieces that are germane to what we're looking into, the inquiry into the investigation, we'd like you to get in touch with this office so that we can take advantage of such information. In addition, if you have any documents of any variety, such as memoranda, notes, maps, aerial photos, photos and the like that you feel would be of assistance to us, we'd like very much to have those as well. Now I'll give you an opportunity to ask any question that you would like or if you'd like to enter a statement into the record.

A. The only statement I could make would be that to the best of my knowledge, I know nothing about the incident or the investigation.

IO: All right, fine. This hearing will recess at this time.

(The hearing recessed at 1620 hours, 27 January 1970.)

(The hearing reconvened at 1140 hours, 28 January 1970.)

COL ARMSTRONG: The hearing will come to order.

RCDR: The following named person is present: COL ARMSTRONG and MAJ LYNN.

COL ARMSTRONG: Captain ROBERTS, you say you would like to make an additional comment to your testimony of yesterday.

A. Yes, sir.

Q. Would you please do so?

A. Yesterday, I remember reading in the American News Sheet in which there were 3 weapons captured and 128 bodies. This was during the period in which there was a great deal of concern of inflated body counts. We'd had many people come down investigating this thing, so that's the background. I remember in the briefing, I looked at that, and I heard the briefing and I said to myself this is wrong, there is something out of order here, because that's too few weapons and too many bodies. Then as we left the briefing General KOSTER and General YOUNG were walking up, and I was walking behind them across the parade field, and General KOSTER made some-- there must have been some comment made by General KOSTER about the disparity and General YOUNG was very annoyed. General YOUNG said he was going to find out, he was going to continue to research the problem and determine what caused this disparity. It was my impression at the time that the 11th Brigade had lied about their body count, that the weapons were correct, but the body count was inflated. As I went back over this. This was the sort of things that the ARVN would do. I mentioned this yesterday. The ARVN would run their body counts way up so it would look like they were killing a lot of people. I dismissed it as being the 11th lying about their body count. There wasn't as many people killed as they said there was. I have nothing further to add, sir.

Q. Let me ask you a question about this. You stated you had been investigated, or I believe you stated that you had been investigated on several previous occasions about inflated body counts, what did you mean by this?

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A. Well, at one time I remember a briefing in which General WESTMORELAND came down and he was talking to all the commanders. He said in effect that by counting bodies it's the only way we have of judging our success or failures here. We had received a great deal of criticism from the press for inflating our body counts in order to show a greater success. He laid down the law in no uncertain terms that when you turn in a body you have to either be able to touch it, you know, to walk over and touch it, or to be able to see it and to walk over it if you wanted to. It wasn't the sort of thing where you shot a man and he fell in the weeds and that's a body. You had to be able to see it lying on the ground and be physically able to walk over and touch it. Then General KOSTER put this out to his people, to brigade commanders, and to his battalion commanders. He was scrupulous about making sure that our counts were not inflated.

Q. So you had never had an investigating officer from higher headquarters come into division to investigate, that you recall. Your statement left me with the impression that this had happened on several occasions to you.

A. There was a lieutenant colonel who came through talking about body counts. He went out to the battalions.

Q. (Interposing) He did not make a specific investigation of a specific incident?

A. No, sir. He was talking about body counts in general. I don't remember whether this occurred before My Lai or after My Lai or before Tet or after Tet.

Q. Okay, think back a little.

A. There was a lieutenant colonel and he came from USARV. Why he came from USARV; I can't remember. He was coming through and he spent the night in the mess hall, or he spent the evening there with us eating dinner. I know that he went out to the battalions and he had been going around to all the divisions. He was checking all the divisions and making sure that they didn't have inflated body counts.

Q. He was making a survey or a survey check?

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A. Some sort of survey.

Q. But he was not investigating, to your knowledge, a specific incident?

A. No, sir, no sir. What he was trying to do was make a survey and determine in what manner the platoon leaders and company commanders assessed bodies so that he could then go back to USARV and say, "Well, I think they are inflated by such and such a percent, or I think they are honest."

Q. Do you have any further testimony?

A. No, sir, I have nothing else.

Q. Thank you for coming in. I'm sure that this will not be a subject of discussion between General PEERS, Mr. MACCRATE and you, but had you planned to leave particularly early.

A. I plan to leave at 6 o'clock tonight from Dulles.

COL ARMSTRONG: All right we'll give you a number to get in touch with us if you have any further information. Thank you very much.

This hearing will recess.

(The hearing recessed at 1146 hours 28 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: ROGERS, James D. CSM

DATE OF TESTIMONY: 21 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Command Sergeant Major, Americal Division.

1. DUTIES AND RESPONSIBILITIES OF THE WITNESS.

The witness testified that he did very little paper work and accompanied General KOSTER in the field on his daily flights (pgs. 3-5). The general was usually accompanied on these flights by the witness and the general's aide who handled communications for the general (pg. 4).

2. RECALL OF THE OPERATION.

a. Recall in particular.

The witness did not recall being at Task Force Barker on 14 or 15 March (pg. 6). He recalled the 16 March operation of Task Force Barker but nothing particular about it (pg. 7). He remembered being at LZ Dottie when some prisoners were brought in, but he could not connect this with the 16 March operation (pgs. 21, 22).

b. Radio transmissions concerning body count.

(1) Ground to ground transmissions overheard.

The witness recalled flying in the command ship one time and hearing a transmission referring to civilians having been killed by artillery. He noted there was nothing

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leading him to believe that something out of the ordinary had happened (pgs. 8, 9). The witness believed that the transmission overheard was between ground elements and their CP on the ground (pgs. 9, 10). He further remembered a transmission asking for a report of how people were killed. The answer returned saying, "How the hell can you tell how they were killed since they've been blown all apart?" (pgs. 9, 11, 24). He could recall nothing more in particular about this conversation (pgs. 12, 30). He opined that everyone in the ship could hear these transmissions (pg. 10).

(2) KOSTER's countermand.

After overhearing this transmission concerning the determination of the cause of death of civilians in the area, he recalled hearing one of the parties direct the other to "get the count of men, women, and children" (pg. 24). The recipient of this directive replied as noted above. The witness stated that at this juncture General KOSTER got on the radio and contradicted the order to determine the cause of death, because he did not want the troops to return through the area at that time of day (pgs. 14, 15, 24, 25). The witness noted that his own interpretation was that the specific body count could be conducted, but the commander did not want it attempted that late in the day (pg. 26).

3. REPORT OF THE INCIDENT.

The witness had no personal knowledge of anything unusual concerning Task Force Barker and the 16 March operation (pg. 12). He asserted that he had heard nothing from his contacts with noncommissioned officers or from any other channels about the unnecessary killing of civilians (pgs. 12, 13). The witness asserted that he heard no rumors or reports from any sergeants major, first sergeants, other enlisted personnel, personnel in the 123d Aviation Battalion, or from Chaplain LEWIS concerning unnecessary killing or anything else unusual associated with the 16 March operation (pgs. 12, 13, 20, 27, 29). The witness was incredulous about any extensive rumors circulating which he had not heard (pgs. 28, 29).

4. KNOWLEDGE OF AN INVESTIGATION.

The witness stated that he recalled absolutely nothing about any investigation (pg. 13). He felt that had there been any orders cut, he would have known of it (pgs. 13, 14).

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5. OTHER INFORMATION.

a. Use of marijuana.

The witness recalled no particular marijuana problem in the Americal Division (pgs. 16-19).

b. General KOSTER's attitude toward the ARVNS.

The witness opined that General KOSTER's attitude toward the Vietnamese troops was that we were there to support them, not to command them (pg. 19).

c. General KOSTER's personal papers.

The witness stated that he returned to CONUS with General KOSTER upon his DEROS; therefore, he knew nothing of what might have happened to any personal papers that the general might have left behind (pgs. 31, 32).

d. Exhibits.

Exhibits shown to the witness are listed below.



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(The hearing reconvened at 1425 hours, 21 January 1970.)

COL WILSON: The hearing will come to order.

RCDR: The following named persons are present: COL WILSON, MR WALSH, LTC NOLL, and MAJ THOMAS.

The next witness is Command Sergeant Major James D. ROGERS.

(CSM ROGERS was called as a witness, was sworn, and testified as follows:)

Please state your full name, grade and Social Security number?

A. James D. ROGERS, Command Sergeant Major, Social Security is

RCDR: Please state your branch of service, organization and duty station?

A. U.S. Army, Headquarters, First United States Army, Fort George G. Meade, Maryland.

COL WILSON: Sergeant Major, before we proceed with any questions, I would like to inform you of a couple of matters.

This investigation was directed by the Secretary of the Army and the Chief of Staff of the Army, for the purpose of determining facts and making findings and recommendations on two matters:

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

(2) the possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this particular incident. Two matters--previous investigations or inquiries and suppression of information are primarily what we're after.

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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 just stated.

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 this report will be confidential, it is possible that the testimony may become a matter of public knowledge. Do you have any questions?

A. No, sir.

Q. What was your assignment on 15 March 1968?

A. I was the division sergeant major, sir, of the Americal Division.

Q. And how long were you with the Americal Division?

A. I got into the division, sir, approximately the 22d of January.

Q. Of 1968?

A. Yes, sir.

Q. You joined the division after it arrived in Vietnam?

A. Yes, sir.

Q. And how long did you occupy that job?

A. I was sergeant major in the division, sir, until December 1968, sir.

Q. Sergeant major, a man in your position would normally receive a lot of information sometimes that wouldn't come directly to the division staff officers.

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I want to make one thing clear, I didn't get to mention. Mr. WALSH, on my right, is a civilian attorney who has volunteered his services to the Secretary of the Army to assist General PEERS in his investigation. Lieutenant Colonel NOLL is a member of General PEERS' Inquiry and so am I. This is Interview Team C. We are interviewing witnesses to assist General PEERS. He and he alone is the one who makes the final recommendation on this matter. We do not have that authority. If other people walk in here, that are members of the board, they will also have the authority to question you. Now in your position as the command sergeant major did you have any previous knowledge of the operation conducted by Task Force Barker on 16, 17, 18, 19 March?

A. Oh, I knew of the operation, sir. I knew of course of the Task Force Barker, yes, sir.

Q. Did you think there was anything unusual about this operation prior to it's inception or during it conduct?

A. No, sir, I didn't.

Q. Were you involved in any way with the planning of this operation?

A. No, sir.

Q. Did you work very closely with the chief of staff's office or were you working in the chief of staff's office?

A. Well, my office, sir, was right next door to the division CP, but my daily work was not really with the chief of staff. It was with the commanding general, sir. I stayed with him.

Q. You stayed with the commander?

A. Yes, sir.

Q. Well, which particular staff section did you work the closest with beside from the commanding general?

A. Well, none in particular, sir. Really my association was really with the commanding generals after their daily contact with the chief of staff and any other section,

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sir. Whenever I would come back out of the field my daily contact was with the commanding general. I was with him day in and day out.

Q. What type of staff did you have?

A. None, sir.

Q. Well, who did you rely on for your clerical assistance?

A. This was done--well, sir, during my tenure over there, sir, my paperwork for the job was nil. I spent my time taking off daily with the general, sir, and coming back in the evenings and I had very minimal paperwork, sir. When I did have any need for clerical assistance I would get it out of the chief of staff's office which was already in the CP.

Q. Did you normally accompany the commanding general on his daily flights?

A. Yes, sir.

Q. Did General KOSTER normally have a communicator along with him? Who would go with him besides yourself?

A. Normally, sir, there were exceptions to this, but normally the daily trend would be General KOSTER, the aide, and myself. The aide would operate the radio.

Q. Did General KOSTER go out every day?

A. I would say every day, sir. I can't really think of a day that he didn't go out.

Q. Did he have a normal schedule?

A. What do you mean by a normal schedule, sir?

Q. I mean did he follow the same schedule every day or was each day different as far as his observations of the division area was concerned?

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A. Well, if you're referring to his leaving every day approximately the same time and coming back, yes, sir, he had a fairly normal schedule sir.

Q. And what was that schedule?

A. Well, I wouldn't want to quote it to a time sir, but approximately, as I recall, the general would leave there around 0730 or 0800 in the morning, then it would vary as what time we would come back. Sometime we would come back in at midday and go back out again, and sometime we wouldn't come back until evening. As I said, we always, say normally, we would be back in by 1700 hours at night. I recall that particular time, because that's when the evening briefing was, sir.

Q. It started at 1700?

A. As I recall it was 1700 hours, sir.

Q. What part of the commanding general's day did he actually spend in the division area away from the headquarters?

A. You mean outside of the headquarters, sir?

Q. Normally.

A. The greatest percentage of the day was outside of the headquarters.

Q. Well, when you didn't come back at noon you would normally eat with one of the units?

A. Whatever unit we happened to be--

Q. (Interposing) Whichever unit you happen to be at at the time. Did you ever accompany General YOUNG at any time when he was out in the area?

A. No, sir, I did not accompany him. I had a ride with him once in a while--no, sir, but my daily trip, sir, was with the CG.

Q. Well now when the CG would go into a fire base who did you normally contact?

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A. The sergeant major of that particular unit, sir, first sergeants.

Q. Sergeant major I'm referring to the Task Force Barker log, 14-18 March 1968, Exhibit M-16 to try to see if I can fix this time period. The log of the 14th of March indicates that General KOSTER arrived at fire base Dottie at 1420 and departed at 1430. Earlier that morning General YOUNG had been there and he arrived at 0935 and 0950. It was a very short period. Is there anything that you can recall on that day, 14 March 1968?

A. No, sir, I can't. In all probability I was there you can say, but to say anything particular about that day I can't sir.

Q. On the 15th of March it says, "General YOUNG came in at 1130 and left at 1135". This is one you may recall in the log of the 16th of March, "Lieutenant General DOLEMAN and Major General KOSTER visited LZ Dottie, were briefed by Lieutenant Colonel BARKER and they arrived at 1645 and departed at 1715", do you recall this?

A. Who was the general, sir?

Q. Lieutenant General DOLEMAN?

A. It doesn't stick in my mind any particular date during that time, sir. Not saying we weren't there, but I don't recall it, sir.

Q. Would you have been with General KOSTER in--

A. (Interposing) In all probability I was there.

Q. Do you remember during this time frame a three star general--

A. (Interposing) That is what I was saying sir, I just don't remember one being there that time. Not saying that he wasn't. He could have been. They used to come in there quite frequently, but I recall at that particular night--

Q. (Interposing) Apparently this briefing concerned an operation that was being conducted I would imagine. You don't recall that?

A. No, I don't, sir.

Q. Do you recall anything regarding an operation, specifically regarding an operation which was conducted by Task Force Barker in the 2d ARVN Division area, 15, 16, 17 March 1968?

A. Well, as I said, sir, of course I knew of the operation going on in there, and whether we were there at that particular date I couldn't say, sir. Until all this popped up in the papers it just didn't ring a bell with me at all, not anything in particular.

Q. Who was the NCO you principally contacted at Task Force Barker headquarters when you went there?

A. As I recall sir, it was a master sergeant by the name of JOHNSON. The battalion sergeant major wasn't there with BARKER. He was, as a matter of fact, I think they were up on Ross at that time.

Q. Up on what?

A. On LZ Ross, sir, 1/20 as I remember. They didn't have a sergeant major down there at Task Force Barker, sir. He was more or less the NCOIC. I do know, of course I recall the battalion sergeant major 1/20 very well, and I know he wasn't there, Sergeant Major LEE.

Q. So, your principal contact at Dottie and Task Force Barker headquarters was Master Sergeant JOHNSON?

A. Master Sergeant JOHNSON, sir.

Q. On the days that you went down there, and you probably went down there several times during this period, did you receive any indication at all that there was anything unusual about the operation that was being conducted in the 2d ARVN Division area or the My Lai (4) area or the Son My Village?

A. The only thing that I can recall, sir, in any size shape or form--it may be a little out of the ordinary maybe and again, sir, I can't quote the dates, because I may be wrong. I just don't remember it that well to say it happened on the 15th, 16th, or any given period. During that particular period, sir, I do remember in the Charlie-Charlie ship that we were in a transmission reference to civilians having been killed and there was some transmissions about it being by artillery and at that time it was nothing that would lead anybody or to me at least, or anybody else I would assume it was nothing really out of the ordinary, but I do recall this on the air, sir. Now, the exact date I wouldn't say, sir. I don't recall that of course.

Q. Do you recall the location?

A. This was down in Task Force Barker's area, sir.

Q. You mean it was in an area Task Force Barker was operating in?

A. Yes, sir.

Q. Realizing that this area was really not in Task Force Barker AO--

A. (Interposing) No, when I say Task Force Barker I'm talking about the My Lai area.

Q. You say you recall hearing a radio transmission about civilians being killed by artillery where they were operating?

A. Yes, sir.

Q. Do you remember the approximate date that you heard this transmission?

A. I do know, sir, that it was around the middle of March, to pin it right down to the 14th or 15th I couldn't say, sir. It was just nothing at that time.

Q. Now what do you recall about this transmission? Anything specific?

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A. Just the fact, sir, that some civilians had been killed and as I recall, sir, it was dealing with body count and there was something said, by whom I don't know, sir, that evidently within the body count that was being conducted there was some transmission to reference as to how these civilians had been killed and to the best of my knowledge and what I remember of it, sir, was the fact that something was said in reference to the bodies were blown so bad how are you going to determine how they were killed.

Q. Well, who was the transmission from?

A. We were monitoring, sir. Of course we were in the Charlie-Charlie ship.

Q. Was this a communication between the Charlie-Charlie and the ground or was this something--

A. (Interposing) Well, this I'm sure, sir, was something between the ground elements and the CP there. We were in that area and normally we would monitor that particular area.

Q. You changed frequencies when you went to a different brigade or task force?

A. Yes, sir. Whatever area we happen to go into, sir, that's the frequency that we would go on.

Q. Now what happened when General KOSTER heard this, did he do anything in particular.

A. Not to my knowledge, sir.

Q. Was there any comment on this transmission?

A. No, sir.

Q. From General KOSTER or the aide or--

A. (Interposing) Not that I can recall.

Q. Was everybody in the shop, General KOSTER, the aide, and you in a position where you could hear the radio transmissions?

A. Yes, sir.

Q. Were you monitoring over the console?

A. Yes, sir. The aide, the general, and I had ear-phones.

Q. Were you all on the same frequency? Was General KOSTER--did he normally communicate with the ground elements as he was over the area?

A. No, sir.

Q. Just monitoring?

A. Monitoring, when I say communicate with him, sir, as far as breaking in on the transmission, no, sir.

Q. Would it be unusual for him to--if he heard a thing like this to get on the radio and say, "What's this all about?"

A. Well, as it was coming over, sir, when I say civilians killed it was nothing about a great number of civilians. It was just--my interpretation as I recalled it, sir, was that a few civilians had been killed, and that was it, which I say, just wasn't anything really out of the ordinary.

Q. Did you hear these type of things on the radio very often?

A. Oh, I've heard them, yes, sir. Let's say about civilians being killed, yes, sir, not frequently, but I have heard it on the radio.

Q. Do you know whether this was a discussion between the ground elements or was it another C&C ship talking to the ground or where was this communication coming from?

A. I think it was coming from the ground elements, sir, but I couldn't say. It could have been with another ship, sir.

Q. Did you hear General KOSTER get on the radio at anytime during this time frame and rescind a brigade commander's

orders? I think I'll explain to you what the instructions were and see if this brings it back to mind. A Task Force Barker element was directed to go back through a village, a company-sized element, directed to go back through a village and make a body count to determine the validity of the body count and so forth. There was some question in the communication about going back through the village the danger that it would develop, the distance and the booby traps and the mines and things like this and it's alleged that General KOSTER rescinded the order and told the unit not to go back through the village, do you recall anything like that?

A. Well during this particular transmission I'm referring to, sir, which I would assume was the same one that the colonel is referring to, as I recall during the transmission--was about the body count and how were these civilians killed. There was a transmission as to, "We can't determine, because they were blown apart," and to my knowledge, sir, General KOSTER did say on the air, I'm just trying to think of his exact words sir, or close to it, about what it really boils down to, sir, is not messing with that particular body count as far as trying to make a determination how this individual was killed.

Q. General KOSTER, you think, did get on the radio?

A. Yes, sir. Now, whether we're talking about the same incident, sir, I don't know. I think--

Q. (Interposing) Well, let me say this, if you have an indication that 69 was a body count based on artillery preparation would you consider this an abnormal figure?

A. 69 of body count of what, civilians, sir?

Q. Anything?

A. In my opinion I might--I might guess, sir. I don't recall any figures.

Q. Artillery being--

A. (Interposing) Yes, sir.

Q. What we're talking about is two--actually two 3 minute concentrations.

A. 105's?

Q. Well, if you had heard the figure--this will come later, but the figure of 69 possibly came up about the same time that these transmissions were going on as being a body count, an approximate body count. I don't know whether you normally hear these in your transmissions or not, figures such as that.

A. I don't recall a figure of any 69. As a matter of fact on this particular transmission I don't even recall any figures being mentioned.

Q. No numbers mentioned?

A. No numbers mentioned. At that particular time, sir, it sounded to me as though a few civilians had been killed and when I say a few I'm just formulating in my own mind what I interpreted as at the time, 3 or 4 civilians being killed.

Q. Did this ever come up again at a later time? Did you hear anything more of this?

A. Never to me, sir. Never again, the first I ever heard anything on this, sir, was when I read this in the papers.

Q. Did there appear to be peculiar activities around Task Force Barker or LZ Dottie during this period? People going down there and asking questions?

A. No, sir.

Q. Did you ever hear anything from Master Sergeant JOHNSON or any of the other NCO's in that area that something was wrong? How about the aviation people, did you ever have any contact with the 174th or the 123d?

A. Yes, sir. I had almost a daily contact with the 123d, because they were right down the road from us and, of

course, it was part of us, but through the NCO channels or any other channels I never heard a word about it.

Q. You didn't hear anything from any of the aviators down there or--

A. (Interposing) No, sir.

Q. Nothing regarding the unnecessary killing of civilians?

A. Not a word, sir. Not a word.

Q. Did you ever hear General KOSTER or General YOUNG or any of the general officers telling anybody to make an investigation of this operation?

A. No, I did not.

Q. Did you ever hear of an investigation?

A. I did not, sir.

Q. Did you ever see investigations which were made on operations of various activities such as this particular one?

A. I never seen one, no, sir.

Q. Did you have any relations with the investigative elements of the staff such as the inspector general or the judge advocate or the provost marshal, with these people or with their senior NCO's so these things would normally come to your attention?

A. Sir, I've seen for example, the SJA's office, the G2, all of them, sir, as far as enlisted people were concerned and all these sergeants major in these sections I had daily contact with, and I lived with them.

Q. Now if there was an investigation of any magnitude it would have been designated by the division headquarters. Would this have gone down on special orders with this investigation--

A. (Interposing) I'm sure that it would have, sir.

Q. There would have been a special order cut on it if it was something directed by the division?

(No response.)

MR WALSH: Sergeant major, what was the name of the aide who was flying with you on the--

A. (Interposing) Sir, I can't--if you mention the name to me I could tell you, but when I got the call here I-- I'm trying to think of peoples names and I'll be darned if I can. I can tell you exactly what he looks like and everything else, but I doubt that I can tell you his name, sir. If his name is mentioned to me I can tell you, sir.

COL WILSON: How about a Captain James A. DICKENS? Do you recall him?

A. Yes, sir, yes, sir, but Captain DICKENS wasn't the aide at that time sir. Captain DICKENS was the aide, as I recall that time of general--one of the other generals, he was not General KOSTER's aide at the time sir, he later was, but not at that time.

MR WALSH: Do you remember the names of the helicopter pilots that were in the aircraft that day?

A. Again, sir, if you mention their name I could tell you if that's them.

Q. I might mention some names later for you, but to go back to that incident, do you recall about the discussions about civilians killed by artillery? Do you remember hearing some argument between the Task Force Barker element and the company commander on the ground, as to whether the company should go back to make a body count?

A. As I stated, sir, I heard this discussion, again I'm formulating in my own mind what was said and in some aspects the way I interpreted the message, sir, that somebody had give the order and as I understood at the time to get this body count. They were also to make the determination of those that were civilians and how they were killed.

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There was some discussion as to--the reason right behind it, sir, I couldn't tell you--as to whether they should do it or they shouldn't do it. This was based from the way I understood the transmission, sir, was that the bodies that they had seen there, was no number mentioned to my knowledge, that the transmission was going over the air then that the ones that they had gotten up to and I'm speaking of the bodies were blown apart and a conversation--"How in the hell can you determine what did kill 'em?"

Q. Do you recall the person giving the order to go back and make the body count and asked for a breakdown by men, women, and children and how they were killed, each one?

A. I think it was mentioned, sir, men, women, and children, yes, sir.

Q. And the commander on the ground objected to this on the basis that you couldn't tell?

A. Right, sir.

Q. And then General KOSTER got on the radio?

A. Right, sir.

Q. I wonder if you could restate for us exactly what you can remember General KOSTER having said?

A. Well, in my own, sir, his exact words, sir, I begin with.

Q. We understand that it's been a long time again.

A. As I recall it, sir, it was to the effect that at that particular moment, because I was getting--number one, it was almost impossible to determine how they were killed because of the condition of the bodies, second, that I interpreted at that time that there was still small fire going on and my interpretation of his message at that time, sir, was, don't bother with it at that moment. This is the way that I interpreted it sir.

Q. I see. That is the extent of your recollection on it?

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A. Yes, sir.

Q. And you never--you don't recall ever having heard anything further about that operation?

A. No, sir, and I was down there--of course many, many times after that, the sergeant majors, first sergeants, the TOC's, and the daily contacts with the G2, G3, sergeant major at division level and at the battalion and brigade level and I never heard a word on this.

COL WILSON: How about Captain Daniel A. ROBERTS?

A. That's him, sir.

Q. Was he the one that normally talked to you in the aircraft?

A. Yes, sir, yes, sir.

LTC NOLL: You recall any touch downs you might have this day?

A. That day, sir, we did not touch down at Task Force Barker on the date of this transmission. Now, what this particular date was I don't know. We had a touch down that day, yes, sir.

MR WALSH: Do you remember if you were on your way from Duc Pho back up to Chu Lai?

A. Yes, sir, as I recall we had been to Duc Pho and back on our way to Chu Lai.

Q. You remember whether you might possibly have delivered Lieutenant General DOLEMAN down at Duc Pho?

A. That particular date, sir?

Q. That particular day.

A. Gee, I don't think so, sir.

COL WILSON: Sergeant, do you know whether there was ever a problem with marijuana in the 11th Brigade or Task Force Barker?

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- A. You mean specifically in Task Force Barker, sir?
- Q. Yes, any more so than any other units of the division?
- A. No, sir.
- Q. How about the division itself?
- A. No more than anybody else, sir, no problems.
- Q. Any problems of it being used prior to or on the operation?
- A. No, sir.
- Q. There were discussions concerning operations with the senior NCO's--I'm primarily interested in the 11th Brigade and Task Force Barker. Were there ever any discussions which attempted to improve operations from their standpoint based on what they observed, whether there was too much restraint or not enough restraint on the troops?
- A. No, sir.
- Q. The discussions of operations that you had with these senior NCO's, what did that take? What were the comments?
- A. Are you referring to this Task Force Barker stuff, sir?
- Q. Task Force Barker and the 11th Brigade.
- A. I don't recall any discussion, sir, in reference to restraint in any particular unit.
- Q. No problem in operations? What were the problems on operations that the senior NCO's discussed, any?
- A. Well, as far as the tactics of it, no, sir. I'd say--problems--there were lots of problems of individual soldiers and thing of this nature, but I don't recall any

big discussion about any problems within the 11th Brigade in reference to the tactics or anything of this nature, sir. I don't recall any big discussion about any problems within the 11th Brigade in reference to the tactics or anything of this nature.

Q. There was one other thing that might fix this closer in your mind. Do you recall General LIPSCOMB?

A. Yes, sir.

Q. General LIPSCOMB turned over the brigade to Colonel HENDERSON on the 15th of March. That would have been the day before the operation?

A. I think we were down at the change of command that day, sir.

Q. I don't know whether there was a change of command ceremony or not, I don't have a record of it, but--

A. (Interposing) I was just trying to think, sir, because there were so many changes.

Q. This was the date--the formal or the official, of the change. Now, the ceremony that led into this--unless you can recall when it was or the exact details on it--I don't have it available to me here, but I was trying to fix this in your mind as to the time frame?

A. Well, as I say, sir, as I stated, I'm sure this was within that time frame around the 15th or 16th, but to pin point it down, I couldn't exactly.

Q. Have you ever heard any of the troops or NCO's say anything about the use of National Police in combat operations, District Police, Field Force Police? I'm speaking primarily of Vietnamese.

A. You mean on a joint operation, sir?

Q. I mean accompany U.S. forces on operations. Have you heard of any Vietnamese Police, with U.S. forces, mistreating Vietnamese noncombatants?

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(No response.)

Q. Did you ever have any contact with either the district or the province headquarters? Did General KOSTER go into these headquarters very often?

A. Yes, sir.

Q. Were you acquainted with the people in these areas?

A. Yes, sir, within the province headquarters.

Q. Did General KOSTER's attitude towards these people seem to be liaison or support, command ah--

A. (Interposing) I would say more in support, sir, than in command.

Q. And his stopping in there was normally a coordination thing?

A. Yes, sir.

Q. Were you ever requested to provide any support to these type units in the headquarters, to assist in support from any of the NCO's, did they ask for anything from division?

A. Oh, no, sir.

Q. Do you know who worked in the chief of staff's office beside Colonel PARSON and Major BEASLEY?

A. You're referring to back in March, in this period, sir?

Q. Yes, back in that time or after that?

A. No, sir. Officer wise you're referring to, sir?

Q. No, officers or enlisted men?

A. Major BEASLEY and of course Colonel PARSON and a couple of clerks there and that's about it, sir.

Q. Do you remember who they were?

A. Well, I'm trying to think sir, namewise--no, I couldn't tell you name, sir. Again if I heard them I would probably recognize them, but offhand I couldn't tell you. There was a Specialist HERNDON. Now, he actually was General KOSTER's steno, but he worked there near the chief of staff.

Q. Specialist what?

A. HERNDON, sir. H-E-R-N-D-O-N.

Q. What grade?

A. At that time a specialist five, sir.

LTC NOLL: In the execution of your office you stated that one of your primary responsibilities with General KOSTER was knowing what the talk was among the enlisted men?

A. Among the enlisted men, yes, sir.

Q. At any time did anybody ever bring up--any of your first sergeants, any of your command sergeants major bring up perhaps that there was unnecessary killings?

A. Never, sir. Never a one and this is beyond the--even say sergeants major and first sergeants. Many times we've landed at any given unit out there. I talked to the platoon sergeant, people in the platoon and everything and it was never even mentioned to me, sir, never.

Q. Do you recall the visiting of any elements of Task Force Barker, say in late March, well after--

A. (Interposing) I'm sure I was there, yes, sir. I'm sure that I was.

LTC NOLL: I don't have anything further.

COL WILSON: Before we terminate here I want to hold you here until I have had a chance to talk to General PEERS? Before we schedule you back out, before we release you. Do you have any further testimony or anything that might assist us in this investigation recognizing points that we are interested in investigations, inquiries?

A. No, sir.

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

A. Yes, sir.

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

A. No, sir.

COL WILSON: I think we'll go on downstairs and I would like for the sergeant major to wait down there in that reception room downstairs. Thank you very much. The hearing will recess.

(The hearing recessed at 1526 hours, 21 January 1970.)

(The hearing reconvened at 1541 hours, 21 January 1970. Only the IO and the witness are present.)

IO: The hearing will come to order.

(The witnesses was reminded that he was still under oath and he testified as follows:)

IO: I know for example, General KOSTER came into LZ Dottie at 0930 and he had a conversation with Colonel HENDERSON, who had come in. Colonel HENDERSON had a couple of prisoners. Do you remember anything about that?

(No response.)

Q. And there was a little joshing going on which I might imagine saying, "Alright I would like to get those prisoners interrogated right away to find out who they were and find out what unit they belong to," and I can imagine what he said.

A. I can recall, sir, an incident at Dottie where a prisoner was brought in while we were there.

Q. Yes?

A. But to say it was the 16th I couldn't say, sir. It very possibly was.

Q. Do you recall any of the conversation that went on about that time?

A. No, sir, as I recall, sir, it was two or three prisoners that came in on the chopper there. I do know that they were going to be interrogated, but beyond that I didn't know what happened to them.

Q. Well, it turned out to be sort of a joke between General KOSTER and Colonel HENDERSON. At that time they were real anxious to get these prisoners interrogated. When they did finally interrogate them, some of the interpreters, they found out they weren't prisoners that they were PF's that had been captured by the VC and were being held in this village. So General KOSTER razed him a bit I might say?

A. I don't recall it, sir. It could very well be, it may be the day I'm thinking of, it may be the day, a different day with the prisoner, sir, but I don't remember that particular incident.

Q. Do you remember Colonel HENDERSON, at that time, telling General KOSTER anything about seeing any dead civilians?

A. No, sir.

Q. I think General KOSTER took off on his normal duties and places and thing which I would understand, he didn't get down in the southern area too often as it stands?

A. Not too often, sir.

Q. Am I correct in what I have heard that you had a brigade or so up north?

A. Yes, sir.

Q. And as a consequence General Koster and also the provisional corps was just getting organized about that time?

A. Yes, sir.

Q. So as a consequence General KOSTER had to spend more than an ordinary amount of time up there?

A. In the northern section, yes, sir.

Q. So it was somewhat unusual for him to be in the southern section to the extent that he was that day?

A. Well, didn't consider it unusual, sir, but as you say, sir, we generally headed north rather than south at any given period of time.

Q. Do you remember going into LZ Bronco in the afternoon sometime along about, I would say, maybe about 3 o'clock or so to pick up General DOLEMAN?

A. No, I don't sir.

Q. Do you know General DOLEMAN?

A. No, I don't, sir.

Q. Well, General DOLEMAN is a general about your size, probably wouldn't be wearing a lot of gear at that time, because, if you recall and maybe you heard something of this on the airplane, General DOLEMAN had actually retired from the Army. He had been retained on active duty to do a signal study for all of South Vietnam. I know earlier that day he had been visiting me down in Nha Trang. I didn't know where he was going, but he did, either that day or the next day come on up north to your area. He stopped at Bronco and there General KOSTER evidently picked him up and departing from there about 1530 in the afternoon. The next time I find General KOSTER is at LZ Dottie where he was at about 1630 and stayed there for about half an hour at which time they were briefed about Task Force Barker.

A. In all honesty, sir, I can't remember this general. I don't remember him at all, sir.

Q. Yes, well, he was there. I'm sure he was there, because all the evidence would indicate that. Now he may not have in fact ridden up on the airplane with you. He may have gone with Colonel HENDERSON, conceivably?

A. I think this might have been because as I think in my own mind I would know if he was on the ship with us, sir.

Q. But I think you were all back together again later at LZ Dottie?

A. Well, this could be, sir.

(MR WALSH and COL WILSON entered the hearing.)

Q. Well, you necessarily, I know your position as a command sergeant major, because whenever I could I took my command sergeant major with me, although in broad terms you know what's going on you don't know all the details unless I were to tell you or ask you to check into something. Now when you were on the airplane that afternoon in the time frame of about 3:30 to 4 o'clock, did you hear that radio transmission that went on between General KOSTER and Task Force Barker headquarters with Captain MEDINA?

A. Sir, I heard a transmission, I assumed it was Task Force Barker, I don't recall, Captain MEDINA by name, sir.

Q. Well, you wouldn't hear the name. What did MEDINA go by?

COL WILSON: Coyote Charlie 6.

A. I do recall a transmission, sir. As to who the commander was at that time--

Q. (Interposing) Well, just tell me what you think you heard between, what did Task Force Barker say to Coyote 3, say to Coyote Charlie 6?

A. As I recall sir, and from what I can remember that I heard on the radio that particular day and I assumed that was the 16th, I'm not even sure of that, there was a transmission, sir, in reference to a body count that was mentioned of civilians being killed. There was mentioned to get the count of men, women, and children, there was some transmission there, sir, that evidently when they were to get this body count of men, women, and children that they were to determine as to how they were killed. As I recall, sir, there was a transmission on there to the effect that, "How in the hell do you determine how they were killed when they blown apart," or words to the effect.

Q. I understand.

A. And at that time I was just assuming, sir, the way I interpreted this, the particular transmission at that time that's possibly they were still under small arms fire down there and to me, I know General KOSTER did get on the radio at that time and to the best of my memory, sir, he contradicted this order of giving a particular body count in making a determination as to how they were killed at that particular moment. That's about the extent of it, sir, as I can recall.

Q. Well, was there any reference there to the effect, "I don't want this outfit this late in the day back into the minefields and through that business?"

A. It may have been, sir, I'm trying to think. It's been so long ago and at the time it didn't mean anything to me really. I think there might or was some mentioning of him not wanting them to go back at that time of day, sir. Now whether or not there were minefields, I can't recall.

Q. What did they see about this time of day, do you recall?

A. No, I don't sir, it's just something about this time of the day and he didn't want them to go back in there.

Q. The sector was 2 or 3 clicks?

A. I think there was something mentioned about distance.

Q. Was there any thought about getting back in doing this and then getting back in this laager position for night defensive positions, it's almost impossible?

A. Yes, sir. Yes, sir, it was.

Q. Did you hear anything say about, "I want you to make sure this word is passed on to the brigade commander?"

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A. I don't recall those words, sir.

Q. What was the call sign for the brigade commander?

COL WILSON: Saber 6.

IO: General KOSTER's call sign, I believe, at that time was Saber 6?

A. Saber 6, sir.

Q. Was there any mention about just hold it up now and go in later, but don't go in at the present time?

A. Well, this is my interpretation, sir, as I recalled it the general didn't want them to go in that particular moment, sir.

Q. Did you hear anything about, to the effect be sure and pass this word on the Rawhide or Rawhide 6?

A. I don't recall it, sir.

Q. When you were hearing this conversation was there a lot of argumentation against going back in on the part of Coyote Charlie 6, saying, "We talked about it, it's a long way back there," and this, that and the other?

A. I wouldn't say a lot of argumentation, sir. It sounded like he wasn't too happy about making this body count at that particular moment. That was the impression I got, sir.

Q. You have a degree of rapport, Sergeant Major ROGERS, with the noncoms around the division and I'm sure that General KOSTER asked you to keep a vision to find out if there were any rumors in the place?

A. Yes, sir.

Q. Did you ever hear something to the effect that one of the aero-scout pilots had reported something?

A. Never, sir, and I was down -- as a matter of fact, sir, many times down at the 123d area and I never heard a word of it.

Q. Do you know Warrant Officer THOMPSON?

A. I hate to say, sir--

Q. (Interposing) There is no particular reason why you shouldn't frankly?

A. I don't recall the name, sir, I might know him. I knew quiet a few of the pilots down there and I did visit the 123d quite frequently.

Q. Did you know Major WATKE?

A. Major whom, sir?

Q. Major WATKE?

A. The name doesn't ring a bell with me.

Q. Who was the first sergeant?

A. You mean the sergeant major? Well, at that time they had a first sergeant down there filling the slot as a sergeant major.

Q. Well, in the company instead of the--

A. (Interposing) In which company, the aero scouts sir?

Q. In the aero-scouts?

A. In the aero-scouts sir, I know his name if I could think of it.

Q. You see here is a dilemma that we are put in, Sergeant Major ROGERS. We know that this was general knowledge in the aero-scout company, later B Company 123d. We know it's pretty much general knowledge in Alpha Company. Not only the officers, but practically all the enlisted personnel, there were lots of wild rumors being spread around in addition.

A. Honestly, sir-- I'm just surprised, sir. I didn't know about this on the enlisted side.

Q. Well, this is why I'm asking, who in your

judgement would have a good grasp of the situation? We know for example, that it was bandied around in the bars and so on. We also know at one time the men had to be quieted down about talking and told that this thing was being investigated. So we know a great deal of the story, and it's not that we don't know it, but I'm wondering why this thing didn't get out of Bravo Company and Alpha Company and the 123d?

A. Well, honestly, General, I can't say, because one of the first sergeants that later got killed was an outstanding infantry soldier?

Q. He got killed you say?

A. Yes, sir. He was the first sergeant down in the 123d, yes, sir. He had the headquarters down there.

Q. Do we have a roster of headquarters company?

COL WILSON: We may have, sir.

A. I just bring this out, sir, that I had a very close relationship with him. We arrived in country, as a matter of fact, the same time--been over there with the Big Red 1 before. On many occasions I had an opportunity to talk to him down there and I heard ironically, sir, a lot of rumor on the enlisted side of the fence in the 123d, but nothing in reference to the My Lai situation. I am just talking about their own personal problems.

Q. Well, these people were unhappy. They were unhappy because they knew what was going on around and the division was claiming for the brigade and for the task force a body count that they knew wasn't correct. So when someone would come down and tell something like this they almost hoop and holler. I mean this is the kind of situation that we run into, why this doesn't get out of there it just defies belief?

A. Well, it does to me, sir, particular into the enlisted channels, how all this being said down there without me hearing about it.

Q. I also heard that it was well known among the enlisted personnel in the division headquarters?

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A. No, sir.

Q. Well, I was told this to the degree where it was a topical conversation by people on the streets and in the messhalls, it became so loud that they could hear it in the staff office's mess?

A. Well, sir, I would disagree with this, because I ate in that messhall every day. I assure you sir, there was nothing said in that messhall when I was in there. The sergeants major for example, the G2, the G3, and all these staff people up there, as a matter of fact we lived right there. If all this was being passed around by words, it's unbelievable to me that I wouldn't hear it, sir.

Q. Does E-7 Sidney M. CHEEK mean anything?

A. Yes, sir, he was--yes, sir, I know him.

Q. Is he still alive?

A. To my knowledge he is, yes, sir.

Q. Well, we'd better plan on getting him. Did he ever talk to the chaplain? Did he talked to you?

A. Oh, yes, sir.

Q. Did he ever tell you what they heard?

A. Yes, sir.

Q. Did he ever tell you about--you knew Chaplain LEWIS for example?

A. I knew him very well.

Q. Did he ever ask you if you heard anything about something happening down there?

A. No, sir. As a matter of fact I had a very close relationship with Chaplain LEWIS, sir, when we had any type of problems on the enlisted side of the fence, when Chaplain LEWIS came down I was the first one that he would come to see.

MR WALSH: Sergeant major, in the discussion that you overheard between Task Force Barker and the ground element or the

unit in Task Force Barker with respect to getting a count of the casualties, do you recall whether there was any discussion about the terms or the time required to do this, whether there was a lift out of troops laid on for a certain period of time, that they wouldn't have time to get back to make it?

A. No, I do not.

IO: Well, I am sure that this afternoon here, Sergeant Major ROGERS, we have probably told you some things, that you might not have even known before, but if these things along what you have stored back here (indicating the back of the witness's head), but we're trying to take you back 22 months and I hope nobody ever ask me what I did 22 months ago.

A. It's hard to do, sir.

Q. I think it's remarkable that you remembered as much as you did about that conversation which was on the radio, because generally in general terms that's about the way we understand it.

A. Well, sir, the reason I--that that particular transmission stuck in my mind, as I mentioned, sir, I was with General KOSTER every day and I can only think of maybe two instances when he was the division commander, sir, and I was the sergeant major, that he ever got on the radio in reference to ground action and that was one of them.

Q. And that's exactly the reason I asked you one question, Sergeant Major ROGERS, whether he said anything about making sure now that you pass this word on, what I've done to Rawhide 6?

A. No, honestly, sir, I can't say.

Q. All right, okay, that's all I want, I'm not putting words in your mouth at all, but if you do remember anything and some of these things might come to life, if you do remember anything I would ask you to please get in touch with us, give us anything that you might have heard. You might have heard something that just didn't at that moment, didn't seem to amount to a tinker's damn at division headquarters, but it might tie into this as you now recollect it. So, if you do remember any of those things please get in touch with us so we can make this a matter of record. Also, if you have any maps or photos, memos, or anything that would bear upon this we'd like to have those too.

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A. All right, sir.

IO: This hearing is recessed.

(The hearing recessed at 1603 hours, 21 January 1970.)

(The hearing reconvened at 0930 hours, 7 February 1970.)

IO: The hearing will come to order.

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

Sir, the hearing recalls Command Sergeant Major James D. ROGERS. (CSM ROGERS was recalled and testified as follows:)

Sergeant Major ROGERS, I remind you that you remain under oath before this hearing.

IO: Sergeant Major ROGERS, we are very sorry to have to call you back in again, but we did have one point we felt that you might know something about from what we have heard from other witnesses, and we thought it would be worthwhile to have you come in and talk with us.

We are concerned with what happened to General KOSTER's personal papers when he departed in June. I believe it was on 3 June 1968. The indications are that possibly you handled them.

A. No, sir. I did come back to the States with General KOSTER on that day. No, sir, I never had no papers of General KOSTER's none whatsoever.

Q. He had some personal papers in his safe there that he kept with HERRIS?

A. Yes, sir.

Q. And I understand he also had a folder that was in the safe with the SGS.

A. I don't know, sir, he may have had this. I never saw them, sir.

Q. Who arranged for the shipment of all of his--

A. (Interposing) His aide I assume, sir. Either the aide or the SGS, sir.

Q. How much notification had General KOSTER had of his appointment as the superintendent?

A. Very short, sir. I wouldn't pin it right down to the day, but just estimating, I would say just 4 or 5 days. I know it was a very short notice, very short.

Q. Did you pick up any paper for him from Colonel PARSON? Did he carry a briefcase with him, for example?

A. I think he did, sir. I did not pick any papers up for him, but as a matter of fact, Colonel PARSON accompanied us from Chu Lai down south to where we got aboard the aircraft. I'm just trying to think; I wouldn't even swear to that. I do think the general had a briefcase.

Q. Where did you depart from, Cam Ranh?

A. No, sir, Tan Son Nhut. As a matter of fact, we weren't late, but the plane had been moved up, and we got right out of our ship right into the terminal and wasn't there 10 or 15 minutes and we were gone.

Q. You don't recall anything that you had to do with --

A. (Interposing) I had no paperwork. If anything at all, sir he may have handed it to me there in the terminal, his ticket to board the plane. As far as any briefcase --

Q. (Interposing) I'm thinking on what arrangement you might have had for settling these papers.

A. No, sir. I didn't handle that at all, sir.

Q. Who do you suppose would have handled it?

A. I would assume his aide. I say this, sir, because some of his personal items that was being packed up and everything. I know that his aide was handling that, and I just assumed that he was probably handling his papers too, sir.

Q. Well, a couple of other questions. What was the name of the young chap who was General YOUNG's enlisted aide?

A. General YOUNG, sir?

Q. Evidently, this man did everything for him, including doing his work up in his house. He also was in the office, and he flew with him in the helicopter and did practically everything for him. I'm under the impression that General YOUNG didn't utilize an officer aide.

A. No, sir, General YOUNG had an officer aide. As far as the enlisted aide he had down there I can't recall his name. If I heard it, I would probably recognize it but right offhand, I can't recall his name. If I saw a list of the names of those people, I would probably recognize it. As I recall, General YOUNG had an officer aide. There may have been a period in there that he might have been without an aide, but I'm sure he had an officer aide, sir.

Q. Well, we know that in the office, that Specialist HILL, who worked for Colonel PARSON, did some work for--

A. (Interposing) Yes, sir, he did. As I recall, HILL sat right outside of Colonel PARSON's office, and General YOUNG was right across the hall. I was just trying to think. I'm speaking of enlisted personnel, sir. I can't recall his name.

Q. What was Sergeant RITCHIE's full name?

A. Sergeant whom, sir?

Q. RITCHIE?

A. I don't --

Q. (Interposing) He was the administrative NCO as you go in the door right next to the SGS.

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A. Definitely, sir.

Q. Do you remember going with General KOSTER into Quang Ngai City and visiting both General TOAN, probably then Colonel TOAN, and Colonel KHIEN?

A. You mean during this particular--

Q. (Interposing) No, not then. It's a separate subject entirely.

A. Oh, I had been down there. I'm just trying to think if it was during the time of General KOSTER's command. Yes, sir, I was there.

Q. Do you remember about the time that it took place? I'm sure you probably went in more than once.

A. Yes, sir. That's what I'm trying to think. I have been in there quite a few times down there. No, honestly I couldn't give a time element.

Q. Do you have the time when you may have gone in to discuss some VC propaganda or a report from a village chief or district chief?

A. No, sir, I don't recall that one. The general may have discussed it with him down there, but not in my presence, sir.

Q. Do you mean on probably the same trip, going in and talking to the province chief, Colonel KHIEN?

A. I don't think I was in there, sir. I don't recall it, being in there at the discussion. I may have been, but I don't recall it.

Q. Did Mr. MAY, who is the province senior advisor, or Colonel GUINN visit the headquarters up at Chu Lai very often?

A. Not to my knowledge, no, sir. I remember seeing them down there, but I don't recall ever seeing them up at our headquarters. They may have been there, sir, but I don't recall seeing them.

IO: Well, we thank you for coming in. I would like to again remind you that you are cautioned not to talk about your testimony with others.

A. Yes, sir.

(The hearing recessed at 0944 hours, 7 February  
1970.)

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SUMMARY OF TESTIMONY

WITNESS: SAFERSTEIN, Thornton S. MAJ

DATE OF TESTIMONY: 30 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: Assistant Inspector General, 15 August 1968 until 2 August 1969, Americal Division,

1. KNOWLEDGE OF THE OPERATION.

SAFERSTEIN joined the Americal Division in August of 1968 (pg. 14). He heard nothing concerning the unnecessary killing of women and children by Task Force Barker in March of 1968 (pg. 14). He heard nothing about an aviator's report (pg. 14). He did not know that a chaplain was checking into the indiscriminate killing of women and children (pg. 14). He never heard anything which caused him to be suspicious that something unusual had occurred in the Son My area (pg. 14).

2. IG SEARCH FOR RECORDS OF THE INCIDENT IN 1969.

a. Initiation of the search.

In the spring of 1969 the Americal Division's inspector general, Lieutenant Colonel Eli HOWARD, received a message from the office of the USARV inspector general that they had received a garbled message from DA or JCS requesting information about Task Force Barker (pgs. 2, 3). The Americal IG office went to the DTOC and found some records or references to Task Force Barker (pgs. 3, 4). At this time they did no more than determine that there had been a Task Force Barker (pg. 4). A Colonel WHITAKER came from the USARV Inspector General's office on the matter and they attempted to locate persons who had been in

(SAFERSTEIN)

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Task Force Barker (pgs. 4, 5). The AG, G1 and G3 looked for combat after action reports (pg. 5). SAFERSTEIN was certain that the 11th Brigade files were checked, but he did not know by whom this was done (pgs. 5, 6).

b. Document found in HENDERSON's safe.

After WHITAKER left they discovered a letter from Colonel HENDERSON relative to an investigation (pg. 6). They had gotten word from MACV or USARV that there was such a report (pg. 8). This was a carbon copy of a report, but he was not certain that it was a true copy of the report of investigation (pgs. 7, 8). He thought it was found in a safe (pg. 11). While the carbon copy of HENDERSON's 24 April 1968 report appeared to be the same type report he saw, he did not believe it was the document he read (pgs. 9, 10). This was because the form was different (pg. 10). SAFERSTEIN was certain that the report he saw was in Chu Lai and not Duc Pho (pg. 10). He did not recall that the document was classified (pg. 11). When the report was found the inclosures were attached to it (pgs. 12, 13). A search was made for the original after the carbon copy was found (pgs. 15, 16). He did not know the result of the search (pg. 16).

3. OTHER INFORMATION.

He has had no conversations with anyone concerning what may have happened at My Lai or the investigation that followed since the matter came to public attention (pg. 2).



(The hearing reconvened at 1155 hours, 30 January 1970.)

IO: The hearing will come to order.

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

The next witness is Major Thorton SAFERSTEIN.

(MAJ SAFERSTEIN was called as a witness, was sworn, and testified as follows:)

Major SAFERSTEIN, for the record would you please state your full name, grade, Social Security number, organization, and station.

A. Thornton Samuel SAFERSTEIN, Major, United States Army, General Staff. My organization is U.S. Army Advanced Ballistic Missile Defense Agency, OCRD, Department of the Army. My Social Security number is

IO: Major SAFERSTEIN, have you had an opportunity to read the instructions, Exhibit M-57?

A. I have, sir.

Q. Do you have any questions concerning them?

A. None whatsoever, sir.

Q. On my right here is Colonel ARMSTRONG who has been designated by the Office of the Chief of Staff as an assistant in this investigation. In addition to myself he may also direct questions to you this morning. We have other groups comparable to this who are receiving testimony from other individuals. Of course, it will be my task to assemble the report, to weigh the evidence, and to determine the findings and recommendations. Do you have any further questions at this time?

A. I have not, sir.

IO: We'll take a short break.

(The hearing recessed at 1158 hours, 30 January 1970.)

(The hearing reconvened at 1159 hours, 30 January 1970.)

IO: The hearing will come to order.

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

IO: Major SAFERSTEIN, would you indicate your duty assignment with the Americal Division, when you joined the division, any change of assignment you may have had, and when you terminated your service with the division?

A. Yes, sir. I was assigned to the Americal Division. I departed the United States 11 August 1968 and was assigned to the inspector general's office as an assistant inspector general on 15 August 1968. I remained in that capacity as assistant inspector general until my departure on 2 August 1969, less 2 days. Two days later I was assigned to the HAWK battalion returning to the United States.

Q. The so called My Lai incident of 16 March 1968 became a matter of public knowledge about 4 or 5 months ago. Since that time have you had any discussions with anybody from the Americal Division concerning what the incident may have been, concerning the reporting of such an incident or the investigation of such an incident?

A. To my knowledge, no, sir. I don't recall discussing it. Certainly it's been discussed in the office and socially. The fact that I was in the Americal Division is well known.

Q. Well, you indicated you arrived overseas in August 1968?

A. I did, sir.

Q. This would be roughly 5 months after the event. When you were in the office of the inspector general was the operation of Task Force Barker into Quang Ngai in an operation known as Muscatine ever called to your attention?

A. Yes, sir, it was. In the spring of 1969 we received by telephone from the USARV inspector general, I

believe it was, either the USARV or the MACV inspector general, that they had received some sort of a garbled message from Department of the Army or Joint Chiefs of Staff, one of the two. I never saw the telegram. It had in it Task Force Barker. They wanted to know if we could identify some unit and it came out with something like 1st Battalion, 70th Infantry, as I recall. The closest thing we had was 1/20 in the Americal. So we reported that. I didn't know anything about Task Force Barker at the time, but they wanted us to try to gather all the information we could about Task Force Barker, still not knowing what it was all about. The inspector general at the time, who I believe was the late Lieutenant Colonel Eli HOWARD, got a little bit more insight into it.

Q. Did HOWARD replace SWAIN?

A. He replaced Lieutenant Colonel Carrol SWAIN, yes, sir.

Q. As the IG?

A. As the IG. And at any rate we went over and tried--

Q. (Interposing) Went over to where?

A. To the operations center, to the DTOC to see if we could find out information on Task Force Barker, what units were in there. I called around to find out what units were in there. We did discover that it was: three units. I think there was an Alpha, Bravo, Charlie Company from each one of the battalions, less 4/21, which I don't believe had anything in it.

Q. A/3/1, B/4/3, and C/1/20.

A. I'm sure you're better aware of it.

Q. I'm reading it right off the map in back of you.

A. Be that as it may, I gathered that information and--

Q. (Interposing) Now what information specifically did you gather?

A. Just the fact of who was there and whether there was daily staff reports or operations reports in the journals

with regard to Task Force Barker. I identified that there were some records or some references to Task Force Barker. At that point that was all I had to do was just kind of gathering information.

Q. So what did you do at that particular time? This was in what period?

A. Well, it was in the springtime. I don't recall the dates.

Q. That would be perhaps April then?

A. I believe it was in April, sir. As I recall, Colonel HOWARD had arrived. I may be off base, but it appears as far as my memory is concerned that Colonel HOWARD was present at the time. Colonel SWAIN, I believe, left about 2 April.

Q. So all you did then was just to determine the fact that there was such a thing as Barker?

A. Yes, sir. And try to put the pieces together for whoever had called the inspector general.

Q. Yes. Did you also assemble some papers?

A. I believe we did assemble and I don't recall what papers we did assemble, sir. As I say, I was more or less a messenger at the time and researcher. As far as the assembling of papers at that time, I don't believe I did. At a later time a colonel from the inspector general's office at USARV came and actually set up office right there in our inspector general's office.

Q. Do you remember his name?

A. Colonel WHITAKER stands in my mind, but I'm not positive of it. As I recall he took over Colonel HOWARD's office, and HOWARD took mine. I moved into one of the back rooms. At that time we were trying to gather together names of individuals who might still be around whom they could interview. As I recall they got the chief of staff involved, the general certainly, and the adjutant general and what have you to look into the matter from a number of aspects. Although I didn't get involved. I really didn't know what it

was about other than they gave me an assignment to try to find out the people who were in the 1/20 during the period. I don't recall the dates. We came up with two names, I believe, of people who were still in the Americal Division who were in Task Force Barker during that period of time. One, as I recall, was a sergeant and another one was a private. I also recall my message to the 1/20. It was to hold them or stand by, pull them in out of the field if they were in the field. I don't believe either one of them was interviewed at that time, but they--

Q. (Interposing) Were you also looking for combat action reports, any after action reports, any reports, combat action reports of any kind?

A. Yes, sir. Well this was being done largely by the AG, G1 and G3. We were just kind of filling in on that, sir.

Q. At that time you were sort of sitting on the periphery?

A. Yes, sir.

Q. WHITAKER, was he dealing with them directly?

A. He was dealing with the primary staff and the special staff almost directly and the inspector general was assisting him. Colonel HOWARD was, I should say. I was in the other office, if you will, actually a separate building attached to it taking care of complaints and other inspector general actions. However, when Colonel WHITAKER was about to wind up his part up at Chu Lai, I gathered information from Colonel HOWARD and summarized it into a memo for record that, I believe, Colonel HOWARD signed telling about disposition of personnel and of records. One copy was, I'm sure, kept in our inspector general's files there at Chu Lai.

(MR MACCRATE is now present in the hearing room.)

Q. Now with respect to the 11th Brigade, did anybody go down there to check into the files of the 11th Brigade and see what they had with respect to Task Force Barker?

A. Yes, sir. I'm sure that this was done. In fact, as far as going down there, I don't know whether I did or not.

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I honestly don't remember, sir. I do know that we called down there. Certainly we checked in with their TOC and worked through their adjutant who was the acting inspector general and had them make a search of their files to find out what information they could find out about Task Force Barker, information; it was a pretty well a blanket-type check.

Q. What did you get from them?

A. I don't recall that we got anything initially. It was after some period of time, when they found in a safe--I believe it was in the 11th Brigade--a letter from Colonel HENDERSON--I believe that's his name--who was the brigade commander at the time, to the commanding general, relative to an investigation of an incident in the Pinkville or in the Quang Ngai Province during Task Force Barker.

Q. Was this memorandum or letter or whatever you're talking about located while Colonel WHITAKER was there?

A. I don't believe it was, sir. When the letter was discovered we either had it sent up to us or we went down and picked it up, brought it back up, had the copies made of it with one of the adjutant general's copy machines, I believe it was, and brought it to the attention of either the chief of staff or the general.

Q. Are you saying that you're sure that this is the way it happened or assuming this is the way it happened?

A. Well, the reason I felt that because I recall we made a call down to Saigon informing them that we were sending a copy of the letter to, I believe it was the MACV inspector general. We were sending it through the USARV IG office so he could provide it to him. That's what I say I recall that incident. Perhaps Colonel WHITAKER knew of this investigation beforehand. However, I didn't have any knowledge of it at the time. It's when they discovered the letter and we had copies made of it and sent copies on up to the higher headquarters, to our next higher headquarters, and that's the part I'm reporting on.

Q. Well, I wish you'd try to think back as to whether or not in fact somebody from the Americal Division did go to Duc Pho to LZ Bronco to pick up the report and brought it back to the Americal Division for reproduction or whether the reproduction or whatever it was was done by the 11th Brigade.

A. I'm not certain, sir. I thought that we had done it.

Q. You knew that you received one or more copies of the report?

A. Yes, sir. I read the report myself. That was the first time I had found out anything about what any of this was about. It was practically the only time, for that matter.

Q. Do you remember about what time that was?

A. When we received it?

Q. You indicated Colonel WHITAKER came up once and worked with you. How many days did Colonel WHITAKER remain, do you recall?

A. It was 2 or 3 days, I believe, sir.

Q. To your knowledge did he go down to Duc Pho?

A. I don't recall what his itinerary was, sir, while he was there. He was escorted most everywhere by Colonel HOWARD. But at the time we didn't really keep tabs on him. It was an independent investigation. My understanding was that we were to keep hands off except where they wanted our services. Ours, meaning myself, other officers, and enlisted men.

Q. I wish you'd think back to this copy that you read of a memo or whatever it is. Was this one of the duplicated copies or was this an original copy or was this--

A. (Interposing) Carbon, I believe, sir. As I recall it was a carbon copy.

MR MACCRATE: Of a true copy or a carbon copy of the original report of investigation?

A. I'm not certain, sir. I really don't know whether I saw an actual signature on it or not. I can recall there was a concern because our duplicating instruments there in Chu Lai were not of the highest quality. I recall that we were concerned whether it would come out. Whether it was a true copy or not I--at the time, these little parts that you're

asking about, sir, were not really imprinted well into my mind as to importance of it.

Q. Do you have any recollection of what preceded the finding of this copy at Duc Pho?

A. It seems to me, sir, and I recall now that there was something about the colonel saying, Colonel HENDERSON saying that he had made a report and that they, USARV or someone had contacted him. He was in Hawaii at the time, and he had said that he had looked into it and investigated it and written a report on it or memorandum on it. I believe we got a negative report initially. Maybe it wasn't USARV. It may have been MACV that found out from Colonel HENDERSON.

Q. Did you get the negative report from the 11th Brigade before or after--

A. (Interposing) They discovered it?

Q. No, before or after you had the information from Colonel HENDERSON?

A. We got negative reports on checking out of files, looking for reports, or anything showing of this particular incident that they were looking for. We got that initially. A negative report or negative other than the fact that there was a Task Force Barker.

Q. Do you have any recollection of how the information came in from Colonel HENDERSON?

A. No, sir. I believe that we either got it from MACV or from USARV saying that there was such a report. I think that they looked through the files although I was not present when they were looking through the file. I recall that the letter came up, but how it got discovered, I really don't have that knowledge.

IO: When Colonel WHITAKER came up, was he looking for a report at that time?

A. I don't know, sir.

Q. Well, do you remember him mentioning it to you or HOWARD?

A. No, sir. I do not recall any mention of report by the brigade commander.

Q. You were dealing with the 1 -- I say you, the inspector general was dealing with the S1 at the brigade?

A. Yes, sir. I was, too, at certain times. We were always normally in fairly close communication with our counterparts in the brigades.

Q. Do you recall the name of the S1 at that time in the brigade?

A. No, sir. I don't.

Q. Were you also working with the executive officer of the--

A. (Interposing) Not I, no, sir. I very rarely dealt with executive officers of the brigades. Normally I did it with their S staffs, but not with the executive officers.

Q. You indicated that you'd read this report?

A. Yes, sir.

Q. Is this the form that you read the report in (referring to Exhibit R-5)?

A. It appears to be the same type of report.

MR MACCRATE: The same type or the--

A. (Interposing) I don't know if it's the exact report.

Q. Do you recall the green sheet?

A. Yes, sir. I seem to remember that part as well, sir. When I saw the general with this in his hand just a few moments ago, I was really kind of looking for this part about the quote from the Viet Cong; their type of so-called news release on what had occurred.

IO: We have here another copy of this report (referring to Exhibit R-1).

A. Yes, sir.

Q. Now you'll notice that that is a true copy.

A. Yes, sir. (Witness reads exhibit.) I don't believe this is the one I read. I recognize the type of end product that comes out and trying to copy it, but I don't recall it being in this form when I read it, sir.

Q. During this time did you go to Duc Pho?

A. Yes, sir. I went to Duc Pho quite often, not just for this purpose though not for this purpose. I did not go to Duc Pho. We tried to hold complaint sessions and take care of our informal investigations as close to the source as we could. People lost a lot of time coming up to Chu Lai or a lot of time was lost in bringing them up and taking them back.

Q. Well, my question--

A. (Interposing) As far as this is concerned I don't recall on my picking up, no, sir. Nor going down there as regards to this inquiry of Colonel WHITAKER.

Q. But you do think that this is the form you saw this report in?

A. I believe it was, sir.

Q. Do you recall these initials in the right-hand corner?

A. No, sir. I don't recall.

MR MACCRATE: Do you recall where you first saw it, at Chu Lai or Duc Pho?

A. Chu Lai. I did not see this report in Duc Pho.

Q. Have you any explanation how it would have gotten back from Chu Lai to Duc Pho?

A. How it was returned to Duc Pho? I didn't know that it was returned to Duc Pho, sir. I don't recall that it was.

Q. Do you have any recollection of any information about its downgrading, confidential document?

A. No, sir. I don't quite honestly even recall that it was classified confidential.

Q. Well, the document that you have just examined was found recently in Duc Pho, not at Chu Lai.

A. I see, sir.

Q. It was found in a file that indicates a downgrading in classification. We have seen a record indicating that it was downgraded in October 1969, which would have been after its finding in May 1969.

A. Yes, sir.

Q. We are interested to ascertain precisely the condition in which it was originally found. The file in which we found it in early January 1970 is apparently a new file in which it was placed. So we would like you to think as hard as you can as to anything you heard regarding the circumstances in which the document was found--in an envelope, in a particular file, in a desk, in a safe.

A. As I said before, sir, I believe it was prior to your coming in. I believe it was reported to have been found in a safe that they had not looked for such a report to be in. Whether it's a regular file safe or whether it's something like a company safe where you would keep money, whether it was in the S1 or the S2, or 3, or 4, or 5, I don't know. I thought that it had been found in one of the S1's, the adjutant's safe. As I recall in Duc Pho, he had both types: the file-type of safe and the door-type of company safe, they call it, where you would keep money and funds and some records.

Q. Do you have any knowledge of any request being made for true copies?

A. No, sir. As I reported to General PEERS, I thought we had been concerned about getting this duplicated so that we could send it forward to USARV and that they could forward it to MACV. I thought that we were concerned about it. I believe we were concerned about using the duplicating machines. Perhaps the final decision was to come up with a true copy, but I don't recall. I do recall that we sent out a copy, one for the inspector general at USARV, and one for him hopefully to forward to the MACV inspector general.

Q. Well, I'll show you Exhibit R-1. I'll also show you the document obtained from the files in Duc Pho. You'll observe that it is not in fact a true copy although it has been so certified to be. You'll notice that the heading does not appear.

A. The office symbol is different.

Q. There's no indication of the file and initial in the upper left hand corner and the purported true copy indicates a signature that does not appear on the document. Have you any explanation of those deficiencies in the true copy?

A. No, I don't, sir. I can sympathize with this problem, sir. I know what the problem is, clerical, of the individual trying to improve upon a document but this is a problem and I realize--

Q. But here it's a lot more serious than that.

A. Yes, sir. I understand that.

Q. Because here is a report that was prepared in four copies and in your search at the Americal Division you located no copies. At Duc Pho we find a copy and we see a purported true copy of that copy which is not in fact a true copy. If you can shed any light on these curious circumstances, we would appreciate it.

A. Yes, sir, I wish I could shed light on it. All I can do is look into the psychology of the people who sign true copies, and that I'm sure is no help to you, sir. Individuals who sign for true copies generally will look to see whether the subject matter is as it should be and will oftentimes miss something like the first thing I noticed was not lack of "Department of the Army" at the heading, but the change of the office symbol. But that was just how I would personally look at it.

Q. Did you, when you examined the document, find the inclosures stapled to the two-page report?

A. I don't recall, sir, whether they were stapled or held by a paper clip.

Q. But they were all together?

A. Yes, sir.

Q. If a request came in directly from Colonel HENDERSON to the 11th Brigade--

A. (Interposing) To look for a document you mean?

Q. Yes, to look for a document. Would that have been reported to you in the circumstances?

A. It may have been. It might have been if it was felt to be of IG interest. In other words, if there was received a TWX or a call or something of this sort it might have been if they thought it relevant to the inspector general. If he was communicating with the 11th Brigade looking for something directly from them, I seriously doubt whether we would have heard.

Q. Did General DONALDSON speak with you about this at that time?

A. Colonel DONALDSON? I didn't know he was a general.

Q. He is now, General DONALDSON, Colonel DONALDSON at that time, yes.

A. He did not speak with me directly. No, sir.

IO: He was chief of staff if I'm not mistaken, was he not, at the time?

A. No, sir. At that time he was the brigade commander. Well, now wait, lets go back to what time we're talking about. You're right, he probably was. Colonel DONALDSON probably was chief of staff.

Q. Until March 1969 Colonel DONALDSON had command of the brigade. In March 1969, toward the end of it, he became the chief of staff.

A. Yes, sir.

Q. So that would put him in the proper context as far as the question which Mr. MACCRATE addressed to you.

A. Yes, sir. Well, I did not discuss the matter with

the chief of staff. Most communications with the chief of staff in fact almost all of them, unless he was absent, was done by the inspector general himself, Colonel HOWARD. This was the relationship that we had.

Q. Now, moving away from this document. You were still there in the time frame of August, starting in August of 1968?

A. Yes, sir.

Q. Now, in that period, from then up to this time, was there any talking around the division headquarters at all, that you heard, either on an official basis between the staff officers or between the commanders or was there some comments that might have been passed on in an informal basis in your mess or anything of this nature concerning perhaps an unnecessary number of women and children being killed in this area by Task Force Barker in March 1968?

A. No, sir, there was not.

Q. Did you ever at all hear of a report which had been made by an aviator?

A. No, sir. I did not.

Q. Did you ever hear of something that the chaplain was checking into concerning the indiscriminate killing of women and children?

A. Not in that area, no, sir.

Q. Did you hear anything from anybody that may have caused you to suspect that something unusual occurred in this eastern part of Son Tinh District of Quang Ngai in the Son My or Pinkville area, which people of the Americal generally refer to this area, which may have caused you to suspect something?

A. No, sir, there was not.

MR MACCRATE: Subsequent to the investigation by Colonel WHITAKER in April 1969, was there any further attempt made at the Americal Division to locate any of these documents?

For example, after this report of investigation was found at LZ Bronco at Duc Pho was there any further attempt to locate copies of it at Chu Lai?

A. Not that I recall, sir. We received telephone calls or I should say, when I say we, someone with in our office had received a number of calls from MACV headquarters or from USARV headquarters in regard to Task Force Barker in some context. In every case that I know of we reported whatever had occurred or the fact that there was a call or was a communication in our daily staff journal which we kept fairly complete I believe. We received a number of calls, different people did within the office.

Q. Well, I'm not talking about the calls coming in. I'm talking about what you did and what was done at Chu Lai by any of the base personnel of which you were aware.

A. No, sir. Just to put us in the context here, sir, we were not directing the investigation. The investigation or inquiry was being performed by USARV headquarters.

Q. I understand that. If you had been, you had assumed the task to assist in April?

A. Yes, sir.

Q. And you had made a search and it was actually division personnel who had made the search in April?

A. Yes, sir.

Q. They failed in April. Along in May a document is found at the 11th Brigade that right on its face indicates that it had come originally to the division, that this found at the brigade was a copy of what had come into the division. My question was, did this lead anyone at that time on the division staff to look at division for the original of that report of investigation?

A. Yes, sir, I think it did. I think what occurred at the time was they found--may I see that top one there--was it not addressed to the commanding general? Yes, it was, and I believe--

Q. That's my point (referring to Exhibit R-5).

A. Yes, sir. At the time, I believe, Colonel HOWARD discussed the matter with the chief of staff about going over the division headquarters building, going through the various containers over there to try to find the original that would have gone to, at the time I guess it was General KOSTER. In April 1968, yes, it probably would have been General KOSTER.

Q. General KOSTER was the commanding general at that time but what was this that was done now in May or June 1969?

A. As I recall there was something of contacting the headquarters, chief of staff's office, whether it was the chief of staff himself or it was one of his administrative assistants, of going through the files and records to see if they could come up with the original document that went to the commanding general, General KOSTER.

Q. What was the result of that investigation?

A. I don't know what the result of that investigation was, sir.

Q. Well, did you have any part in that search?

A. No, sir. I didn't. I did not make any of the search. I think we ended up by making copies from whatever means, but we made copies and sent them down to MACV and USARV headquarters of a non-original, other than the original.

IO: Major SAFERSTEIN, based upon what we've been talking about here, trying to get the documents straightened out primarily, I'm sure that this will cause you to do some extra thinking. If this does bring to light any changes or additions or any additional information concerning this document, the handling of it, the location of it, the reproduction of it, we'd like very much to know about it.

A. Yes, sir.

Q. And any other information that may relate to this incident. If you can think of any other document which may be helpful to us in the conduct of this investigation, we'd like very much to have knowledge of that or those. You should know that we are going into this in sufficient depth that we are trying not to leave a single stone unturned; we have a complete story of this incident from start to finish. So any

little bit or piece of information that may seem insignificant to you, but may be highly important to us, we would like to know about it.

A. Sir, do you have copies of our daily staff journals from Chu Lai? Maybe that would give you the dates and how we made copies of these various things, or perhaps you already know that information. You see that I haven't pulled together because I don't know what you have done, sir.

Q. Yes.

A. But we did insist while I was there that we keep records of all of our transactions for historical purposes of our daily staff journals. We also made memoranda for record when we felt there was something significant occurred. They were in our files, sir.

Q. Well, for your information, what we found as far as the division was concerned is that the records of a comparatively recent date appear to be in reasonably good order. But to go back to the time we're interested in, to say chaotic would be putting it mildly.

A. Yes, sir.

Q. There's almost a total lack of logs, registers, any documents which we would be interested in, with the exception of directives or policy statements or something of this nature. So it's made our task extremely difficult to try to find pertinent documents that relate to this incident. As Mr. MACCRATE indicated, here is a document (referring to Exhibit R-5) that is addressed to the commanding general of the Americal Division. We find no copies of it in the division headquarters. We find sort of a back handed copy in the brigade headquarters and wonder about reproduction of it. That's the sort of thing we're running into. That's the reason why any little bit or piece to put this thing together might be helpful to us.

A. Yes, sir. I ran into this same difficulty trying to find information about Task Force Barker, particularly since Colonel BARKER had been killed in June. Then, of course you couldn't find him. We didn't know where to start. That's why we went to the DTOC in the field, originally. They, as you reported, were very sparse in information. I do recall

we went and requested information from the 11th Brigade because they usually keep more detailed journals of their operation.

Q. Well, at this time I'll give you an opportunity to ask any questions you'd like to ask, or if you'd care to, to enter a statement into the record.

A. No, sir. I have nothing further.

Q. Well, before we recess, I'd like to again caution you regarding discussing your testimony here with others, including the other witnesses in this investigation, except as you may be required to do so before a judicial or legislative body.

A. Yes, sir.

IO: Fine, the hearing will be recessed at this time.

(The hearing recessed at 1255 hours, 30 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: SAIMONS, Nick E. SFC

DATES OF TESTIMONY: 5 and 7 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: 17 May 1968 - 1 October 1968, Administrative NCO, Americal Division; 1 October 1968 - May 1969, worked for Colonel PARSON who had been reassigned to MACV CORDS.

1. FILING PROCEDURES FOR CLASSIFIED DOCUMENTS.

a. General filing procedures.

(1) Control of documents.

SAIMONS replaced Staff Sergeant RITCHIE as administrative NCO (pg. 5). An inventory of documents was made at that time (pg. 19). When SAIMONS went to work, General KOSTER was the CG, General YOUNG was ADC, and Colonel PARSON was chief of staff (pg. 6). The witness logged in secret material which came into headquarters on the documents control log and gave it to the chief of staff who routed it back to SAIMONS to be put into the safe (pg.11). Confidential material was not logged and was controlled only by being put in the classified safe (pgs. 12, 55, 86). He did not maintain an unofficial ledger for confidential documents (pg. 55). No top secret documents were kept at headquarters (pg. 20). The files were kept at headquarters (pg. 20). The files were kept in accordance with the functional filing system as outlined in paragraphs of AR 345-210 or AR 345-215 (pgs. 82, 86). Routing slips were torn off and thrown away when a document was returned to the files thus making it impossible to tell through whose hands a document had passed (pgs.13,14).

(SAIMONS)

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(2) Arrangement of the file.

At the time SAIMONS took over, the files were not in very good shape (pg. 85). He maintained the classified log in a folder in the front of the safe (pgs. 13, 20, 82). Completed sheets for the classified log were kept in the rear of the log (pg. 83). Certificates of destruction were kept behind the confidential documents (pg. 97). The documents were arranged by putting secret documents in the front of the top drawer and confidential documents in the rear of the top drawer (pg. 81). Miscellaneous correspondence was kept in the second drawer along with files for the ADC's and the chief of staff (pgs. 81, 85). The third drawer contained miscellaneous operation plans (pgs. 81, 85). At first the bottom drawer contained a flight helmet and briefcase (pgs. 81, 85). However, when the tendency of the second drawer to stick was noticed by SAIMONS the documents in that drawer were transferred to the third drawer and the flight helmet and briefcase were transferred to the second drawer (pg. 95). Though the second drawer was frozen closed for a while, the witness thought it became unstuck before he left and it was empty at that time (pgs. 92, 99).

(3) Use of documents.

Documents were handled in such a way that at times the general did not see them for four to five days (pg. 15). All documents in the general's in box at the end of the day would be hand-carried to the witness who would lock them in the safe for the night (pg. 16). Many times outgoing documents would be brought from the general's box directly to the witness who would take them to the secretary of the general staff who would make the proper disposition (pg. 16). No classified documents were kept in filing cabinets (pg. 16). When the witness left, the files and the logs were turned over to Sergeant LOFTIS after an inventory (pgs. 18, 19). No classified documents were destroyed or retired either when he took over from RITCHIE or at the time of the IG inspection which took place between 7 and 14 July (pgs. 51, 52, 86).

b. Eyes only documents.

All correspondence that came through distribution into headquarters passed over SAIMON's desk, but he would have seen "Eyes Only" documents only if the general wanted them filed (pgs. 21, 22). "Eyes Only" documents were kept in SAIMON's safe for each of the general officers and PARSON (pgs. 21, 22). At the time he left KOSTER picked up his "Eyes Only" folder (pg. 22). The witness looked through these files and did not see secret material in any of the "Eyes Only" folders (pg. 22). However, it was possible that these folders might have contained confidential material (pg. 23). SAIMONS opined that the documents KOSTER maintained in SAIMON's safe were of a more official nature than those the general kept in his filing cabinet (pg. 25). YOUNG's folder remained in the safe after YOUNG departed and the witness did not forward it to him (pg. 43).

c. Access to the safe.

Major POWELL, Lieutenant CAMPBELL and the witness all had access to the safe (pg. 26). Since the container was not in the room where the witness sat, many persons asked POWELL or CAMPBELL to get documents for them (pg.26). The witness thus was not always sure of what was coming and going (pg. 26). However, he always got back all classified documents (pg. 27).

2. KNOWLEDGE OF THE OPERATION.

The witness first became aware of the My Lai operation through an article he read in the Stars and Stripes sometime between the 10th and 31st of May (pgs. 27, 28). This article had several pictures of rifleman moving across a rice paddy (pg. 28). Exhibit M-88 was not the article he saw (pg. 83). He recalled no conversation around headquarters centering on My Lai or Son My (pg. 70).

3. KNOWLEDGE OF REPORTS ABOUT THE OPERATION.

a. General knowledge.

The witness did not recall having seen HENDERSON's 24 April report (pgs. 29, 31). He did not think he saw the VC propaganda leaflet which was attached to HENDERSON's report (pgs. 78, 79). SAIMONS thought he had seen the VC

propaganda statement which was attached to Major PHO's letter to Colonel TOAN (Exhibit M-36) (pgs. 32-34). He did not see a letter from KOSTER to Colonel HENDERSON requesting an investigation of a Vietnamese allegation that Americans had unnecessarily killed a large number of women and children in Son My Village in mid-March (pgs. 34, 35). The witness opined that a copy of such a letter would have been kept in the steno's file for the general (pg. 35). It was possible that the clerk could have stamped the document confidential and disposed of it through normal channels without going through the witness (pgs. 35, 36). He did not recollect RODRIGUEZ' statement (Exhibit M-30) (pg. 54). He saw the VC propaganda leaflet (Exhibit M-35), but he did not know what became of it after he hand-carried it to Major POWELL (pgs. 53, 64). He did not remember ANISTRANSKI being involved in any investigation in May or June 1968 (pg. 63).

b. Report of investigation with statements.

He vaguely recalled seeing a five page report of investigation signed by BARKER which had 15 to 25 statements attached (pg. 38). He did not believe he logged this document (pg. 38). He thought he gave this to POWELL (pg. 38). He did not know what the report was about and he did not remember seeing it again (pg. 39). He did not recall seeing this document in KOSTER's personal folder (pg. 39). It was possible that this document could have concerned another investigation (pgs. 38, 39). Possibly it concerned the incident where two VC' nurses were raped or the Kham Duc investigation (pgs. 40, 41).

c. Aviator's allegation.

SAIMONS vaguely remembered seeing a paper in the files which was approximately three quarters of a page long (pg. 43). The document was in response to an allegation made by a helicopter pilot that women and children had been killed by ground troops firing into a village on 16 March (pgs. 43, 44, 73). He did not remember what it said, who signed it, or if it had any attachments (pgs. 44-47, 73). There was no indication that the investigator spoke to anyone (pg. 47). It had no classification that he could recall (pgs. 57, 75). He recollected a portion of the letter

(SAIMONS)

saying something about a captain killing a woman (pg. 46). He thought he saw this prior to the IG inspection at a time when it had been given to him to file (pgs. 48, 57). He did not remember it containing anything about a confrontation between air and ground personnel (pg. 52). There was a sign off on the document indicating that an investigation had been conducted and that the allegations of the pilot were found to be completely untrue (pgs. 52, 57, 73). SAIMONS believed this was written by the brigade commander who stated that the noncombatants had been moved to a safe haven by the ground troops (pg. 73). He recalled no mention of Co Lay or Navy Swift Boats in the document (pgs. 73, 74). He could not say whether he filed this document or threw it away (pgs. 59, 60). However, he would not have discarded it without the prior approval of Major POWELL (pg. 60). He recalled no inquiries about the paper and did not know what happened to it (pgs. 60, 61).

4. OTHER INFORMATION.

a. Departure of KOSTER.

SAIMONS did not assist in clearing out KOSTER's office when KOSTER was replaced by General GETTYS (pg. 9). However, he knew that KOSTER's desk was emptied and that a new console and maps were put into the office (pg. 9). Command Sergeant Major ROGERS, Captain DICKENS and HERRIS took care of KOSTER's personal office material (pg. 10). All KOSTER's personal or classified papers were maintained in a separate filing cabinet located in KOSTER's office (pgs. 10, 11). He did not remember a safe in KOSTER's office (pg. 82). KOSTER picked up his "Eyes Only" file from SAIMONS' safe (pg. 22). He later found a folder with KOSTER's name on it which he gave to Major POWELL for transmission to KOSTER (pgs. 36,37). He did not read this file (pg. 36).

b. Conversations since the incident became public.

The witness has had no conversations with anyone concerning the My Lai incident since the matter came to the public's attention (pg. 11).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-30	RODRIGUEZ' statement	Wit had not seen before.	54
M-33	Transcript of VC propaganda tape	Wit vaguely remembered prop.	64,77
M-35	VC propaganda leaflet	Witness had seen before.	53
M-36	Memo for CG, 2d ARVN Div, 12 Apr 68	Wit thought he had seen before.	32
M-44	Papers for award for THOMPSON	Wit vaguely remembered paper.	66,68
M-88	Extract, Stars and Stripes, 18 Mar 68	This was not the article the wit had seen.	83
O-7	Drawing of command building, Americal Div.	Reviewed and marked by witness.	4,5
R-1	True copy of HENDERSON's Report	The wit had never seen before.	29,64

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(The hearing reconvened at 0935 hours, 5 February 1970.)

COL ARMSTRONG: The hearing will come to order.

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

Sir, the next witness is Sergeant First Class Nick E. SAIMONS.

(SFC SAIMONS was called as a witness, was sworn, and testified as follows:)

Q. State your full name, grade, Social Security number, branch of service, organization, and station.

A. Nick E. SAIMONS, Sergeant First Class, United States Army, Headquarters and Headquarters Company, U. S. Army Garrison, Fort Wainwright, Alaska.

COL ARMSTRONG: Sergeant SAIMONS, have you read the preliminary instructions?

A. Yes, sir.

Q. Do you have any questions?

A. No, sir.

Q. Do you understand them?

A. Yes, sir.

Q. On my left is Mr. MACCRATE, who is a civilian attorney. He graciously offered his services to the Secretary of the Army to be a part of this investigation and to provide legal counsel and assistance to General PEERS, who is conducting the investigation.

I have been designated by the Chief of Staff's Office to be an assistant to General PEERS. You should know there are other such groups taking testimony from other witnesses. However, General PEERS himself is the only one who will evaluate the testimony, who will then draw the conclusions from it, and who will make the recommendations to the Secretary of the Army. During this period, General PEERS may come in

and sit in. If he does, he, of course, will ask questions. You will certainly have Mr. MACCRATE and myself asking questions. Do you have any questions?

A. No, sir.

Q. Mr. MACCRATE will conduct the questions primarily?

MR MACCRATE: Sergeant SAIMONS, would you give us the dates of your duty assignment in the Americal Division and the different duties that you had during the period of your assignment?

A. Yes, sir. I was assigned to the division around 12 May 1968. I went through the Americal Combat Center and then was interviewed by the chief of staff, Colonel PARSON, and Sergeant Major ROGERS, who was the division sergeant major, for the job as the administrative NCO to the chief of staff of the Americal Division. On or about 17 May 1968, I assumed the duties as the administrative NCO to the chief of staff. My duties involved the handling of all the administrative functions of the division headquarters itself, from the commanding general, the two ADC's, chief of staff, and assistant chief of staff, plus supervision of all the enlisted personnel working in division headquarters.

Q. What was that day in May that you assumed the job?

A. I believe it was 17 May, sir.

Q. And for what period did you remain in that position?

A. From 17 May until sometime around the 1 October.

Q. Then what did you do?

A. I was reassigned from the division to MACV, CORDS where I went to work for Colonel PARSON. Colonel PARSON was the chief of staff of the Americal Division when he was reassigned to MACV, CORDS, and arrangements were made for me to go down there with him as soon as he could find a position down there for me. He found a position, and that's where I went.

Q. For what period of time did you serve there with Colonel PARSON?

A. I was there from October until May 1969. I finished out my tour in Vietnam there.

Q. When you arrived in the headquarters on or about 17 May, could you describe for us the personnel in headquarters and where they were located? We have here an exhibit, O-7, which is a rendering of the command building in the Americal Division. You will find that it isn't completely to scale, but does it in general conform to the layout of the command building in May 1968?

(The witness reviews Exhibit O-7.)

To orient you, the South China Sea is out here and the parade ground is here (indicating on Exhibit O-7).

A. This has been changed considerably from the time I was there. However, you want me to write on this or just explain it to you?

Q. I think if you would write right on there and indicate any changes that you would make to have it better conformed with the command building at that time, that would be helpful to us.

COL ARMSTRONG: Those sections were supposed to really mean a shelf, not a wall; the ones that you marked on.

MR MACCRATE: As you enter from the parade ground, the area immediately ahead of you, it would appear to be a wall on this drawing but that is a counter or divider.

A. Yes, sir.

(The witness reviews Exhibit O-7 and marks it.)

If I could hear the aides' names, I could put them where they belong.

Q. Captain THOMAS was whose aide?

A. General GETTYS.

Q. And who preceded him as General KOSTER's aide? Do you recall that?

A. Yes.

Q. Do you remember a Captain or Lieutenant DICKENS?

A. Yes, that was him.

COL ARMSTRONG: Do you remember a Captain ROBERTS?

A. I believe he was General KOSTER's aide, ROBERTS.

MR MACCRATE: Captain ROBERTS left just about the time you arrived, I believe.

A. Right, and DICKENS took it over, and then THOMAS took it over.

Q. Do you remember a man by the name of HILL?

A. Specialist HILL? He was a steno.

Q. General YOUNG's and also the chief of staff's?

A. Well, we had a man by the name of JOHNSON and a man by the name of HILL.

Q. They were in that area in the center of the building?

A. No, there was one man. There was a desk here and a desk here, right outside of the chief of staff's office. Normally we only had only one person in that office at any one time. VAN ABLE was the clerk to General GETTYS, the general's steno.

Q. And preceding VAN ABLE?

A. HILL.

Q. HILL, is that the same HILL that also worked for the chief of staff?

A. Yes. They switched these people around so much. One day when the general was out they might be out here working, or they would be someplace else.

Q. What about HERRIS? We understand that General KOSTER's, so to speak, private secretary was a man by the name of HERRIS. Does that coincide with your recollection?

A. There was a man by the name of HERRIS. Now I

remember. General YOUNG's steno was also his driver and also his aide, an enlisted aide. He didn't have an officer at that particular time. I remember General COOKSEY came in and they made Captain FROST--

Q. (Interposing) This was at what time period?

A. It was after General YOUNG left.

Q. Well, focus if you will on the May to June 1968 period when you arrived.

A. General YOUNG was there during May and June, I know.

Q. And General YOUNG, you will recall, became the acting CG.

A. Between General KOSTER's--

Q. (Interposing) And the arrival of General GETTYS?

A. Yes, sir.

Q. And what we would like to have is your recollection of the assignments of people within the office just prior to the departure of General KOSTER.

A. Okay.

Q. Sergeant SAIMONS, you have now indicated on Exhibit O-7 the identification of the individuals who occupied positions in the command building in the period or during the period that you were assigned there. The individual who was the administrative NCO at the time of your arrival and whom you replaced was who?

A. Staff Sergeant RITCHIE.

Q. He had his desk in the enclosed area just to the right of the front door as you came in?

A. Yes, sir. When I came in, there was no enclosure at all there. It was just a large room. The desk was sitting towards the SGS' office. At that time, of course, there was one other clerk in there. During the period of our transition, my assuming duties and his leaving, we moved the clerk out of there

(IO enters the hearing at 1010 hours.)

Q. In the corner room were Major BEASLEY and Lieutenant CAMPBELL?

A. Yes, sir. CAMPBELL.

Q. And Lieutenant CAMPBELL was an assistant aide to General KOSTER at that time?

A. Yes, sir.

IO: It is called a junior aide.

MR MACCRATE: And Colonel PARSON was the chief of staff?

A. At that time, yes, sir.

Q. And General KOSTER was the commanding general?

A. Yes, sir.

Q. And the aide to General KOSTER was Captain DICKENS?

A. Yes, sir.

IO: Were you there at all when Captain ROBERTS was there?

A. For a short time, yes, sir. He was there.

Q. He left I think.

A. I vaguely remember him.

MR MACCRATE: The steno to General KOSTER was Specialist HERRIS?

A. Yes, sir.

Q. Do you happen to recall HERRIS' first name?

A. No, sir. I don't.

IO: Dieter HERRIS?

MR MACCRATE: No.

A. No, that doesn't ring a bell.

Q. You say that you can't recall that General YOUNG had an aide at that time?

A. No, sir, he didn't have an aide at that time. He had an enlisted aide, but I don't recall his name.

Q. What functions did the enlisted aide perform for him?

A. Everything. He was his clerk, his personal aide, took care of his quarters for him, and just acted in the duties as an officer would.

IO: Well, do you remember that before Captain ROBERTS departed that DICKENS was also the aide to General GALLOWAY?

A. No, sir.

MR MACCRATE: That would have been before Sergeant SAIMONS arrival.

IO: When did you arrive?

A. On 17 May, approximately.

Q. That's correct. During that time, Captain DICKENS was probably sitting down for the greater part of the time in this room before he became the aids?

A. If I recall correctly, he was in there with Major BEASLEY for a very short period of time. Then this Lieutenant CAMPBELL came in.

Q. He was waiting until ROBERTS left; then he took over. I'm not sure, but during that period he may have--ROBERTS, 11 March to 3 June, aide to CG. No, those dates aren't right--

A. (Interposing) I do remember Captain ROBERTS, though. He was getting ready to leave when I got there.

Q. Do you remember a Lieutenant WHITE?

A. No, sir. I vaguely remember the name. But as far as the position goes, I don't recall him.

Q. Well, according to our records, he was the aide to General YOUNG.

MR MACCRATE: But only until 22 May, which would have been 5 days after the arrival of Sergeant SAIMONS.

IO: It was during this period, I think, until such time as ROBERTS, let's see....

A. I know that during the period that I was there, General YOUNG didn't have an aide from the time I was there until the time he left. I don't recall exactly when he left.

Q. When General KOSTER departed and before General GETTYS arrived, and General YOUNG was acting as the CG, did DICKENS serve as his aide during that time?

A. I believe he did.

Q. That's the sequence really. He said he was working for him, so he was undoubtedly working for him when General KOSTER left. I believe it was 3 weeks until General GETTYS arrived on the scene. General YOUNG served as CG, and DICKENS worked for him.

A. During that period.

MR MACCRATE: Before you arrived, General PEERS, Sergeant SAIMONS indicated that he remained in this position until October 1968, when he left to join Colonel PARSON at CORDS, MACV. As soon as Colonel PARSON had found the proper position for him at CORDS, he went to Saigon.

IO: And LOFTIS followed you?

A. Yes, sir. LOFTIS took over the job when I left. Sergeant LOFTIS' desk was situated at that time right here (indicating on Exhibit O-7).

Q. LOFTIS worked a little while for General YOUNG, until you left. At that time he took over your place. That's the way we understand it.

A. He was working for General YOUNG as a clerk, enlisted aide. Each one of the generals had a clerk.

Q. Well, that is right, normally. I don't know how this division handled it.

MR MACCRATE: When General KOSTER left, did you assist in the clearing out of the commanding general's office at that time?

A. No, sir, I did not. That was handled by Sergeant Major ROGERS and the clerks.

Q. I had understood you to say that, when General KOSTER left, General YOUNG remained, while acting CG, in his own office, and he used the commanding general's office for briefings only?

A. Right. The situation maps were located in the commanding general's office, and he used those maps to conduct the briefings. However, he mainly stayed in his own office. General KOSTER's desk was completely emptied out. Everything was taken off the walls. All the trophies and plaques and things like that were moved out. Also during this time, there was a lot of work going on in the general's office, putting in the console and all new maps, I believe.

IO: Did they remove a safe to put in that secure phone? I'm not talking about an upright safe, I'm talking about a field safe. You know the kind I'm referring to, about 14 inches across and 20 inches long and about 18 inches deep. It lifts up at the top.

A. I don't believe so. He put the console just to the right of his desk.

MR MACCRATE: Who placed the console there? Who is he?

A. I don't know. There were a bunch of civilians in there.

Q. I thought you were referring to the general as having done this.

A. No, no.

IO: Frankly, they had no choice. This was done by direction of COMUSMACV.

MR MACCRATE: I was just interested in the time frame.

A. This was done after General KOSTER left. It was not put in while General KOSTER was there. It was during the interim period, between General KOSTER and General GETTYS.

There was also another aide who took over from Captain FROST, but I can't remember his name. He came in about the time I was leaving.

IO: The aide to General YOUNG?

A. No, sir.

Q. For whom was Captain FROST aide to?

A. Captain FROST was aide to General COOKSEY.

Q. And when did General COOKSEY arrive?

A. I don't remember the date, sir.

Q. He arrived about mid-June.

A. About the same time that General YOUNG left?

Q. Yes. We have General YOUNG departing on 22 June, and General COOKSEY arrived on 10 June.

A. There wasn't much of an overlap.

Q. Yes. And General GETTYS arrived shortly thereafter?

A. Yes, sir.

Q. On General KOSTER's departure, you say that Command Sergeant Major ROGERS and Captain DICKENS and HERRIS were the ones that took care of his personal office materials?

A. Yes, sir.

Q. Fine. Did he have any papers that were under your jurisdiction that he obtained?

A. No, sir. No, he didn't. Everything that was maintained in the safe in the SGS office was, at that time, my responsibility. His personal papers were maintained by the stenos in a separate filing cabinet located in this office right here (referring to Exhibit O-7).

Q. We understand that, but I'm thinking in terms of perhaps some classified or official papers.

A. No, sir. No, he didn't. I mean, while I was there.

Q. Let me ask you some questions then. Evidently, we've gotten down to the period you served and so on?

A. Yes, sir.

Q. The so-called My Lai incident of 16 March 1968 became a matter of public knowledge through the radio, television, newspapers, magazines, and so on about 4 to 5 months ago, in the latter part of September or October of last year. Since that time, have you had any conversations with anybody from the Americal Division concerning the incident itself?

A. No, sir.

Q. The reporting of the incident or the investigation of the incident?

A. No, sir.

Q. You have had no telephone calls, no personal conversations, and no exchange of correspondence?

A. No, sir.

Q. You were called the administrative NCO?

A. Yes, sir.

Q. Sometimes referred to as the security and documents NCO?

A. Yes, sir.

Q. Would you explain what your duties actually amounted to in that capacity?

A. Yes, sir. All classified documents were brought to me and made a matter of record on the document control log. Numbers were affixed to the same, and then they were given to the chief of staff, to the assistant chief of staff, and routed through the chain of command back down to me, and I would lock them in a safe. The job actually entailed much more. Every piece of correspondence that came into the headquarters building came over my desk before it went anyplace else.

Q. Suppose it came in and was marked "Eyes Only, Personal, CG"?

A. I would not see it until after it had been given to the general officer, and he thought it was something that needed to be filed or to have research done on the information that he had received. He would give it to me at this time, and I would get the background on whatever he wanted it.

Q. What classification of papers did you log?

A. Secret, sir.

Q. Did you log any confidential papers?

A. I can't remember whether we maintained a confidential log or not. I know it wasn't required, and I believe the only thing we logged were secret papers, sir.

Q. What about the subject matter, did this have anything to do with it? Suppose it might be for official use only or confidential, but the subject matter would have a certain import. Would it then be logged?

A. No, sir.

Q. What means did you have to keep track of such papers?

A. The confidential papers, if not forwarded to one of the G sections, were put in the safe, just maintained in the safe.

Q. But you had no means of control of the documents?

A. No, other than being in the classified safe.

Q. Now, your log, what did the log look like that you maintained?

A. It was a regular DA Form 455; the log number, the date of receipt, the date of the document, the subject of the document, and the disposition instructions. That's about it.

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Q. Now, when you completed those files, what did you do with them?

A. They were maintained in the safe, in the classified safe. All of the classified log was maintained in the front. The secret documents were maintained in the top drawer of the safe. Confidential documents, for official use only documents, were maintained in the second drawer of the safe. Whenever we would get a document in, a secret document for example, which would be maintained within the command section itself rather than in one of the G sections, we would log this in on the logsheet and place the document in the file with the rest of the classified documents.

Q. When you turned your position over to Sergeant LOFTIS, did you have an inventory?

A. Yes, sir, a complete inventory was made before Sergeant LOFTIS signed for the documents.

Q. What did he sign for?

A. He signed for all the secret documents that were in the safe.

Q. He didn't have to sign for the confidential documents?

A. I'm trying to recall whether or not we logged those document. I don't believe we logged the confidential document, no, sir. I think it was just--

Q. (Interposing) What did you do with your routing slips?

A. Pink copies?

Q. Well, I don't know what kind of routing slips you used within the Americal Division. Each division usually makes up its own routing slip, interoffice routing slip?

A. We would just throw them away.

Q. You wouldn't keep them with the document to indicate who had seen the document.

Q. In the offices?

A. Yes, sir. The only thing, in division headquarters itself, it was not used. In other words, when a document came in to me, I took it in and gave it to the assistant chief of staff. It went right on its way. There was no signature placed on this thing. The only time the signature was put on it was when it left the building.

Q. Yes, I understand that. But you still had an internal routing slip of some kind, very likely the chief of staff used it, as to whether something should go to the commanding general, ADC's or--

A. (Interposing) We had a regular mimeograph paper we attached to the documents that went from the SGS to the chief of staff. Then the chief of staff marked it if it was to go any further. Many times in the headquarters, you would see documents all over, everyplace. There was just no--

Q. (Interposing) But this is one piece of paper that indicates, if it remains affixed to the paper, whether, for example, it had been sent to the commanding general or ADC's, or whether it had been seen by the chief of staff. They all initialed it?

A. The only thing is that when this document comes back to be filed, that was torn off and thrown away.

Q. It was not maintained with it?

A. No, sir.

Q. How would you know who had seen it at any given time?

A. You wouldn't. Once the internal routing slip was torn off and thrown away, you wouldn't.

Q. We used a different system, frankly, in our division. We kept the routing slip with the documents so that we would at all times know who had seen it and what action

they recommended on it. There was very often a space for comments and remarks, which, in fact, becomes a very pertinent part of the document itself.

A. Yes, sir. In these cases, so many times the documents would go to the chief of staff. He'd get 15 or 20 of the documents on his desk, and then he'd just walk around and hand one of the general officers this, and say: "You ought to see this." The documents went into the reading file, we had an ADC reading file and a commanding general reading file. The SGS screened all of the incoming messages. Outside of just isolated cases, when a message might come in, it would be hand-carried directly into the SGS. Like the G3, if they would get a message in, they would just walk it over and walk into the SGS and say, "Have you gotten this message? Maybe the General ought to see it right away." The SGS would then take it over to the chief of staff who would take it in to the general. That document might lay on his desk for 4 or 5 days. In the interim period, we would go to the general. The general would never get that message, because the chief of staff knows the G3 already hand-carried that message over 5 days ago and gave it to him. There is no point in bothering him with the same message again, so he sends it back out, and we put a log number on it and file it.

Q. If that happens, somebody ought to start looking into your message center to find out why a message comes in and they can't get a copy over to the office of the chief of staff before they get it to the 3 shop.

A. That happened constantly. That happened all the time. We would get messages in. You might think they were of some importance and take them back and give them to the SGS. He's never seen the document before, but when he takes it to the chief of staff he says, "Hell, the general saw that yesterday. The G3 brought it in." This happened constantly.

Q. When the papers were collected from the general's and the chief of staff's desk each evening, did somebody not take a check through these papers to find out what was in the in box and what was in the out box and what was in the hold box and so on?

A. Oh, yes. The clerks and the aide were the people that picked up the general's in box, the stuff that was in his in box, and they'd bring it to me. No, I take that back. They wouldn't bring it to me. The stuff that was in his in box would go in his safe.

Q. What if it is classified?

A. It would still go in the safe, in a locked safe.

Q. Did they have locked safes down there? We understood that--thus far, we have understood there was only one classified safe in the entire building, and you had it.

A. That is right.

Q. So if there was any classified documents in that headquarters--

A. (Interposing) The classified documents in the in-box, in the general's in-box, would be picked up and hand-carried down to me. I would lock them up in the safe until the next morning. At this time the aide would come in and pick up the documents down to me, and the rest of the stuff. In fact, they would bring all of that down to me. The things that I'm talking about that were put in their filing cabinet down there, items that were not classified.

Q. If they were outgoing, wouldn't they go to the chief of staff so he could see if anything was written on them before they come to you?

A. In many instances it didn't work that way. Most of the time they were brought down to me right out of the general's out-box. I would take it down and give it right to the SGS, and his disposition was made from there.

Q. But I'd like you to think on this a minute, as to whether or not any classified documents at all were held by the clerks or by the aides of the general in what they refer to as filing cabinets?

Q. As far as I can recall, the answer is no. The

reading files were distributed by the chief of staff on some occasions, and on some occasions were distributed by myself or the SGS. These were delivered, made up in the morning, early, on the general's desk by 7 o'clock or 7:30. That's it right there.

Q. That's the one you are referring to (indicating DA Form 455)?

A. Yes, sir. You might say this is a fallacy, but when you talk about the disposition of the document "routed to," this many times would only be the chief of staff.

Q. Well, he has to make the determination of who else sees it?

A. It depended on the number of copies. I can recall several instances on the document register where we put CG, ADC, and chief of staff. As far as I know, we never lost a document. When the inventory was made by Sergeant LOFTIS, when he took over the documents, the document register was complete, as were the documents.

Q. We are talking about secret and above?

A. Our biggest problem, General, was the fact that so many time these messages and items of correspondence were hand-carried from the different staff sections directly to the general officers or directly to the chief of staff, bypassing the administrative NCO, security chief, and security clerk.

Q. We understand that certain kinds of documents that came in which were unclassified were logged in. Here I am referring to efficiency reports and recommendations for awards and decorations that had come in from one of your three boards.

A. Just before I left, I started an OER log. We were having so much trouble with losing OER's that I maintained a log of these OER's. As far as establishing a log for anything else, I did not, not that I recall.

Q. Awards and decorations from boards?

A. No.

Q. How about action paper, to establish suspenses and so on?

A. Yes, sir. We maintained a snowflake file on that. It was purely from the standpoint of keeping up with suspense dates. Of course, this entailed all different kinds of actions.

Q. And you turned your documents over to LOFTIS?

A. Yes, sir.

Q. And he signed for them?

A. Yes, sir.

Q. Did you leave your logs behind?

A. Yes, sir.

Q. Can you tell me any reason why those logs are not in the headquarters today?

A. Yes. I could explain to you why they might not be there. It's possible that these documents have all been destroyed. If these documents had been destroyed, disposition, I believe, was probably retention for one year or transfer to the records center or something like that. It is possible that may be why they are not there. But as long as the document itself is in the headquarters and it is on this log, this log must be maintained. You don't get rid of this thing. If you transfer the document, you don't get rid of it.

Q. Would it not appear, if such be the case, that such records should be retired to the Suitland document center?

A. Over a period of a year there were several of those documents that couldn't possibly have been transferred. They were still pertinent to the operation of the division. If the logs are missing, it would seem to me there is an irregularity someplace.

Q. This is one of the things that concerns us. This is one of the reasons you're here right now.

A. I would definitely say that a certain amount of these logs definitely should be there.

Q. Or at least we should be able to find them in the files of the division if they were retired.

A. Yes, sir, that is right, absolutely. This is the only record there is, right here.

Q. You're sure that these logs were turned over to LOFTIS when you departed?

A. Yes, sir.

Q. Did you have a physical listing of documents which he signed for?

A. Yes, sir.

Q. And that should be in the retired file as well, right?

A. Definitely.

MR MACCRATE: Had you signed a similar inventory when you took over from Sergeant RITCHIE?

A. Yes, I did, sir.

IO: You took over from RITCHIE?

A. Yes, sir.

MR MACCRATE: What was Sergeant RITCHIE's first name?

A. I don't know, sir. He was there a very short time before he left.

Q. Did you know where he is today?

A. When he left there, he was getting out of the Service?

Q. Do you know where his home was?

A. No, sir. I have no idea.

IO: He was there for just a short time after you arrived. How long had he been there, do you know?

A. He had been there quite a while.

Q. Had you met a man there by the name of ALVIS?

A. The name is not familiar at all.

MR MACCRATE: How were the copies of the logs stored? Were they in looseleaf notebooks?

A. No, sir. These were maintained in a folder in the safe at all times, classified secret. This log was classified secret because the description of the titles were sometimes classified secret. This a secret document within itself.

COL ARMSTRONG: Suppose you registered a sheet full of these, and then subsequently destroyed all of the documents so registered?

A. You would still maintain this. You would not throw it away, that's for sure. That's the only record that shows what your disposition is.

IO: Irrespective of the classification here, we are talking about secret and above. I don't think you maintained top secret documents in your headquarters?

A. No, sir. We did not. The top secret documents were brought over, and I believe the SGS was the only one, the lowest individual, to sign a receipt for a top secret document. However, on the inside of the cover of the top secret document was the sheet that annotates the individual's names who have seen this document.

Q. Those were probably maintained in your TOC, I would imagine, where you had security at all times?

A. Yes, sir.

Q. Any other classified document coming into the headquarters, let's say, confidential or whatever it may be, would come over to your desk?

A. Yes, sir. Anything that came in through distribution would come over my desk.

Q. Suppose something was hand-carried to the chief of staff?

A. That's a different story.

Q. It is a different story I want to get down to. Suppose this was "Confidential and Eyes Only to the Commanding General."

A. Yes, sir.

Q. Suppose it came in two copies. What would be the disposition of such papers?

A. As far as I can recall, General, I've never seen a document come in marked "Eyes Only" in more than one copy. It was usually on a blue message form, tissue type.

Q. You're referring to an intelligence message. You are talking about messages?

A. Yes, sir.

Q. But I'm talking about personal correspondence, something of this category?

A. In our safe, I had a folder that was marked for each of the general officers. In these folders were items not necessarily classified items, but items that were stamped "Eyes Only." These were maintained, but not many of them, in that safe. As far as the distribution of the document, of the paper itself, I would only be handed the paper and told to put it in the general's file. That would be it. So I can't say.

Q. You never looked in these files?

A. Oh, yes.

Q. To see what was in them?

A. Oh, yes. I did look in them, I certainly did. There was many things in there that I thought we should get rid of. There was no point in keeping all of that junk. All we were doing was just filling up the filing cabinet. But as far as I can recall, there was nothing ever taken out of those files.

Q. Well, this is the file in particular I'm asking you about. When General KOSTER left for West Point, did he pick up that file of his and take it with him?

A. I believe he did, sir. I believe he did.

Q. This is the reason why we're asking these questions.

A. Now we are getting down to it. If I remember correctly, he did take his folder with him.

Q. Well, do you remember to whom you gave it or the circumstances?

A. General, I don't know who I gave it to, I don't remember. It may have been to the chief of staff. I may have given it to him to the general.

Q. Did you also have one for the chief of staff?

A. Yes, sir. One for Colonel PARSON, one for the two ADC's, and one for the commanding general, yes, sir. I can't recall positively, but I'm pretty sure that I gave that to the assistant chief of staff, Major POWELL, to make sure that the general got it, or at least screened it to determine what stuff he wanted out of there. There were no classified documents maintained in that folder, though, I can say that. In the generals' folders and in the chief of staff's folder, there were no classified documents. The classified documents were maintained separately, all of them.

Q. Well, what if they were confidential?

A. It's possible there may have been confidential in there.

Q. You kept your secret documents in the top drawer, and the others started in the second drawer?

A. Yes, sir.

Q. So basically we pay little more attention to the confidential documents than to for official use only or unclassified papers, but there isn't any method of controlling them. As far as you are concerned, there could be anything in there below secret, and they would all be basically the same.

A. Yes, sir, that could very well be.

Q. Before we go into broader fields, do you have any procedural questions?

MR MACCRATE: Would you describe the identification of such folders. Would there be a file number on them?

A. Yes, sir, they would have regular 345-215 file designations.

IO: What do you mean by that?

A. Well, each folder, depending on the broad scope of the subject, would have the file number and the disposition instructions and things like that on it. You would have the file number, then you would have the subject, the broad subject, not necessarily the individual paper subject.

Q. We are just talking. Remember now, the question Mr. MACCRATE asked you was about the personal folder.

A. They were not formal or anything like that. It just had the general's name written on it.

MR MACCRATE: Was it an open file or was it with a closed top?

A. One of the general officer's folders had a closed top. It was one of those according folders of the--

IO: (Interposing) Mahogany in color?

A. However, I don't recall which general. I believe it was General KOSTER's, because I remember General GALLOWAY's and General YOUNG's and General COOKSEY's were just regular manila folders, open top type.

Q. In those folders, did you have them fastened in with Acco fasteners and maintain a chronological log on them to indicate when they were received and where they came from, et cetera?

A. No, sir.

Q. It was just paper, just thrown in there in the file?

A. Yes, sir. They were just in there.

MR MACCRATE: Who was responsible for placing the papers in the general's folder and taking them out?

A. Actually, there was no responsibility. It was just a matter of somebody saying, "Put this in the general's folder."

Q. Who did that?

A. That was either myself or the SGS or the junior aide, sometimes even the senior aide.

IO: It also could have been his steno, couldn't it?

A. Yes, sir, definitely.

Q. Well, the reason that I suspect these folders contained at least confidential is the fact that if it were unclassified, the general could have kept it in his desk.

A. Very true.

Q. With no problem at all.

A. Very true.

Q. As a matter of fact, if his office were locked and the building were locked, he could keep for official use only in there and still be within the regulation.

A. There is something else we have to consider, too. A lot of the general's papers were maintained by his steno back in that back office, papers that probably I would have never seen.

MR MACCRATE: What was the distinction between what the steno maintained out in the vicinity of his desk and what came back into the folder that you had in the chief of staff's safe?

A. All I could say is that was between the general, his aide, and his steno. That's all I know.

Q. But you know that some things were brought to you to put in this folder that was maintained in the chief of staff's safe, and other things remained with the steno of the general.

A. This is true, yes.

IO: Would it be fair to say that what was in your safe, if it were unclassified, was in the nature of an official paper or semiofficial, as compared to personal or private papers and so on that he might write to his family or friends back in the United States, or things like that.

A. I would say it would be more of an official nature maintained in my safe, and more of an unofficial nature maintained in the filing cabinet.

Q. As a general rule, I think that would apply.

MR MACCRATE: I think that's all I have.

COL ARMSTRONG: It was common knowledge throughout the command that these folders existed in that safe?

A. Throughout the command headquarters.

Q. On the part of the clerks and the aides. The generals probably didn't even know about it?

A. That's possible, that's very possible. However, I can recall some items coming back. "Put this in my file," was written across the top of them.

Q. But the SGS knew about it?

A. Oh, yes.

IO: But they didn't have access. Who had access to that safe?

A. I had access to it, and Major POWELL had access to it. He and I had access to that safe. However, throughout the day just about anybody that worked in that building had access to it.

Q. Do you mean you'd let people or one of those secretaries come down there and take papers out of it without you controlling it in any way?

A. Not necessarily to that respect, sir.

Q. I'm asking the question.

A. Well, what I'm saying, a person could come into Lieutenant CAMPBELL and say, "I need a folder on this operation." Lieutenant CAMPBELL would pick it up and hand him the document, and he would take it away. As far as out-and-out access to the safe, anybody going in there and getting into it, no.

Q. If one of the aides wanted one of the general's personal files, he would come to you and say, "May I see the general's personal file?"

A. There is a little bit of a problem there, too, because of my being separated from the container. The container was in another room from where I sat. It was much easier for the aide to come in and say to Major POWELL or to the junior aide, "I need this piece of paper out of this safe." One of the two of them would get up and get it.

Q. So you weren't always sure of what was coming and going then?

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A. Definitely not, sir, definitely not. I used to run myself ragged around there sometimes just trying to keep up with classified documents that were floating around that building without a signature, which was normal. It was normal ever since I have been in the Army to work that way in one small office like that.

Q. But you should have those back every night.

A. And I would get them back.

Q. So you would be able to know whether or not you had them?

A. Yes, sir. I would get them back. I have had to go sometimes as far as the TOC to get them back, but I've got them back.

IO: For a minute, let's get away from procedures and people in the headquarters. Do you recall the formation of Task Force Barker, when it was activated, and generally where it was operating?

A. No, sir. When I first got to the division, there was a newspaper article in the Stars and Stripes regarding the Task Force Barker operation against the village of My Lai. I read this in the newspaper, cut it out, and sent it to my wife.

Q. That was in the Stars and Stripes?

A. In fact, I have still got the clipping.

Q. I'd like very much to see that.

A. It explained the whole operation against the village of My Lai, exactly what happened. That's my only knowledge of the incident.

Q. What was the date that you joined?

A. About 17 May.

Q. On 17 May?

A. And I cut this article out of the Stars and Stripes newspaper and put a notation, wrote a notation right beside it, and sent it to my wife.

Q. How long after you joined the division did you see this article in the Stars and Stripes?

A. It must have been right after I joined the division. It must have been right about then.

Q. Between the 10th and the end of the month of May.

A. Yes, sir. If you'd like, I can put that in the mail to you.

Q. I would appreciate it.

A. You can have it in a couple of days.

Q. This is a little unusual for Stars and Stripes to talk about a situation that far back. Are you sure it was Stars and Stipes, or could it have been in The Observer or The Reporter?

A. No, sir. It was the Stars and Stripes. I'm almost positive it was. However, I don't have the date or anything on it at all. All I've got is the clipping I clipped out. I'm pretty sure it was the Stars and Stripes.

Q. Did it have any pictures of riflemen?

A. Several pictures of rifleman moving across the rice paddies.

Q. Well, I would ask that you send this and the date of it in to us, if you by chance have the date, unless it appears on the article itself.

A. I can possibly go back through some old correspondence and come up with a date, close date.

Q. Well, you were familiar with the fact that there had been a Task Force Barker?

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A. Oh, yes. But my association with Task Force Barker was from that newspaper clipping.

Q. In your classified files, have you seen a report or an investigation from the commanding officer of the 11th Brigade to the commanding general of the Americal Division?

A. No, sir, I did not.

Q. A confidential document?

A. No, sir.

Q. I'll show you this paper. Give me Exhibit R-1, please.

(The recorder did as instructed.)

As previously stated, this is a report of investigation dated 24 April, to the commanding general of the Americal Division from the commanding officer of the 11th Brigade. This has been entered into the record as Exhibit R-1. I wish you would look at just the first two pages first.

(The witness reviews the first two pages of R-1.)

Q. Give me the 11 April paper.

(The recorder did as instructed.)

A. I do not recall this paper (referring to R-1). I do not recall this paper.

Q. How do you suppose that paper was in the headquarters and you didn't see it?

A. It's possible it was in the safe.

Q. What safe?

A. In the safe in the SGS office, and it's possible that I just didn't see it. I can't honestly say that I have not seen it. I can just say I don't recall seeing it and I don't. I just don't remember it.

Q. This is a true copy and not the original version, as you can see. Now, turn to the fourth page, and look at that document. See if you have ever seen this document in your safe, either by itself, two pages, or attached to another document such as in this case.

A. The name of Son My--

Q. (Interposing) Son My, yes.

A. Sounds familiar, it is familiar. But I can't put anything with it.

Q. Could you place other names such as Tu Cung, Co Luy, or Son Tinh?

A. No. Son My, of course, Son Tinh, and Quang Ngai, I know those places. Just something seems to ring a bell on Son My.

Q. Yes.

A. As far as seeing this piece of paper, no, I don't believe so. In the division we had--what do you call it, propaganda?

Q. Psychological operations?

A. Right. Now Major HOLTOM--

Q. (Interposing) H-O-L-T-O-M?

A. Most of his dealings were directly with the general and with the chief of staff, and these propaganda leaflets and things like that used to be brought in. But they would be brought in directly to the general or to the chief of staff.

Q. This particular copy I'm talking about here was reported to have been sent by the commanding officer of the 11th Brigade to the commanding general of the Americal Division along with another paper which I'll show you in a few moments. This would have been in the time frame of about mid-April.

(Witness reviews R-1.)

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which was reported to have been delivered to headquarters of the Americal Division.

(IO shows witness Exhibit M-36.)

You notice that basically it is the--

A. (Interposing) This is familiar.

Q. We know--

A. (Interposing) This is familiar. Some of the phrases in here I recall.

Q. We know that this piece of paper was picked up by General KOSTER from General TOAN.

A. This is awfully familiar, or another one very similar to it. This is very familiar.

Q. You think you've seen this paper.

A. Either this one or one very similar to it.

Q. One that is very similar to it is the one starting on page four of Exhibit R-1. Do you think this translation is more toward--

A. (Interposing) This sounds more like what I think I read.

Q. Well, it's possible that something like that--I must be honest with you. This particular copy was picked up from General TOAN in the Vietnamese. We did not get from him an English translation. This English translation was made by Lieutenant Colonel STANBERRY around the first of this year.

A. I can recall this phrase, "American guns are in your hands. Point to American heads and shoot $\frac{1}{2}$ " I remember that phrase. Of course, it could have been in anything. It could have been in another document of the same thing.

Q. Do you recall seeing this? No, the top of the second page, where it starts talking about Son Tinh and Tinh Khe Village, Son My.

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A. I remember reading something about that, Son My. It just rings a bell with me. I remember it.

Q. Do you remember?

A. I don't remember the name My Lai.

Q. Well, in the Vietnamese documents, you see, there is no--they do not refer to these as My Lai. This is where we run across the contradiction. On our maps these villages and so forth, the hamlets, are referred to as My Lai, My Lai this and My Lai that, (1), (2), (3), (4), (5), and (6). But the Vietnamese refer to this as Son My. Then they have the hamlet of Tu Cung, which was subdivisions, one of which would be My Lai (4). There is another hamlet by the name of Co Luy, and there is another hamlet by the name of My Lai, which is basically what people used to refer to as Pinkville. But it is all Son My Village.

A. This phrase down here too, "Americans guns are in your hands. Point to American heads and shoot!" I recall that phrase.

Q. This is somewhat unusual because this is somewhat in reprisal for what may have happened, coming back to this upper paragraph, to take reprisal against the Americans.

A. I wonder if I might say something. I recall that the incident--I can't put a date with it, but I recall an incident where there was--might not have anything to do with what we are talking about. We had an incident where there was a rape of two Vietnamese nurses and killing of a Vietnamese prisoner, but most of this thing was brought out. It was a court-martial. I'm just wondering if that's not maybe what I'm trying to recall, rather than this particular incident. It might have been there.

Q. The one you're talking about happened a little bit later, and the court-martial carried over into a couple of months later. We are familiar with this one, which did have an investigation which was conducted. The incident occurred across the Tra Khuc River from Quang Ngai City, up toward Son Tinh District Headquarters.

A. Right.

Q. The incident occurred during the time that General YOUNG was the acting division commander, and an investigation was conducted and the individuals were brought to trial. But what we're talking about is this area on the east of Son Tinh District. Generally speaking, the area shown in orange, which is about the confines of the Son My Village area (referring to Exhibit MAP-1).

You will notice on the map, you see a blowup of it, of the U.S. version, and you will see My Lai there. You'll see My Lai (1), (2), (3), (4), (5), and (6). You do notice, however, you see the word Son My. That is the name of the village.

Now, going to a different document, in back of these two pages, you'll see a Vietnamese version and you will see the English version on top.

A. I don't recall seeing this.

Q. Notice again, this is a recent translation of the document that was given to General KOSTER. You'll notice there is no classification on it. The Vietnamese version, however, does have a classification on it. I'm going to have this translated and so indicated, but if I'm not mistaken, it may mean some personal marking of the division.

Now, the reason I show you this last copy, this English copy, whether it has all these stamps and so forth at the moment is quite irrelevant. The content is identical. A copy of this, along with the propaganda which you saw, were made available to the commanding general of the Americal Division about mid-April.

A. I do not recall seeing this one, this paper.

Q. Let me ask you about another paper. Based upon this paper, the commanding general of the Americal Division wrote a letter to the commanding officer of the 11th Brigade in which he says that he had received a report of an allegation from the commanding officer of the 2d ARVN Division relating a report received from the district chief of Son Tinh District to the effect that a large number of women and children, non-combatants, were killed in Son My Village about mid-March, and then directing that an investigation be conducted. A copy

would have gone in his files, and he would have mailed the letter himself. He would have physically put it in an envelope and mailed it, or it would have gone in a pouch.

Q. To the brigade courier.

A. That is right.

Q. To your knowledge, aside from this one piece of propaganda which you may have seen, which you seem to recollect seeing something like that, you haven't seen any of these papers.

A. No, sir, I don't recall seeing them.

MR MACCRATE: You say you would not have seen the letter when it went out during April? You had not yet arrived?

A. That is right.

Q. However, there would be presumably a file copy of any such directive going to the commanding officer of the 11th Brigade. Where in normal course within the headquarters, would a directive from the commanding general to a commanding officer of a brigade for an investigation find its home. Into what file would that go?

A. This would probably, sir, be maintained in the steno's file for the general. In other words, he maintained all of the general's correspondence, at least 95 percent of it.

Q. This would certainly be in the nature of an official directive, wouldn't it?

A. Yes, it probably would be.

Q. Would it come under some of the controls of the headquarters?

A. Not necessarily. General KOSTER relied very heavily on his aide and his steno. In fact, everything that was done for him was done by the steno or the aide. The only time--and I can't even say that. I cannot honestly say that that clerk would not stamp that thing confidential and dispose of it through normal channels without coming through me. I

can't say that. This is very, very possible.

COL ARMSTRONG: But you said if it was a confidential document, the clerk would put it in your safe?

A. He was supposed to. He was supposed to bring it up to me, and I would put it in the safe.

Q. Could he have taken it to Lieutenant CAMPBELL--

A. (Interposing) This is true.

Q. Or the SGS, and ask them to put it in the general's folder?

A. Yes, sir.

Q. He could have also, against regulations and so forth, kept it in the general's file in his office or in his own office.

A. If it was confidential, he could do that as long as it is in a locked container. Wait a minute, that's not right either. Against regulations, he could have maintained it in that filing cabinet.

IO: Could there have been a folder in the papers of General KOSTER that was marked "Eyes Alone," "Personal," or "Eyes Only" that you would not have looked into.

A. Yes, sir. The only time that I can remember getting into that particular folder was--I didn't know what it was. I can remember taking the folder out, setting it on the corner of Lieutenant CAMPBELL's desk, and opening it. I looked inside of it, and there was written right on the outside: "Major General KOSTER, CG, Americal Division." If I remember it, it was written with grease pencil. Further, if I remember correctly, I didn't do this until after General KOSTER had left. I'm pretty sure General KOSTER was gone when I got that folder out of there and looked at it. I believe I gave it to Major POWELL and said that we ought to do something with this. We ought to get it to the general or have somebody determine what to do with his personal papers. I did not go through that folder document-for-document, page-by-page.

Q. This comes back to the disposition, then, of General KOSTER's personal papers again.

A. That is right.

Q. Are you sure you gave it to Major POWELL? Could you have given it to Captain DICKENS?

A. Yes, I could have. I don't remember who I gave it to. I remember taking it out and looking at it. I'm almost positive that General KOSTER was gone, had already left. I'm almost sure, though, I gave it to Major POWELL. I'm almost sure I gave it to him.

Q. Well, I remember for sure. I asked Major POWELL, and for sure Major POWELL indicated he did not have anything to do with any papers for General KOSTER?

A. Well, that boils it down to one of the two. It was either Major POWELL or Captain DICKENS. He was gone, and I didn't know what to do with it.

Q. Did you see any particular papers in there?

A. No, sir, I didn't really pay any attention to it. I just opened it up and thumbed through it quickly, glanced through it.

Q. Did you see anything in there, now, that you have gotten yourself down to that, "Eyes Only," anything of this nature, "Personal"?

A. I can't remember that far, sir. I can recall seeing documents with "Eyes Only," but I can't put it into that folder. I can't go that far.

Q. What were most of your "Eyes Only" papers? Were they efficiency reports or something of this nature?

A. Yes, sir.

Q. Now, let me ask you about another paper. About 15 or 20 May, another paper was reported to have

come in to the headquarters, subject: "Report of Investigation." This paper, however, consisted of about five pages. It also had attached to it, we would understand, somewhere between 15 to 20 and perhaps as many as 25 signed certificates. So this document was not exactly a thin document. It came in to the commanding general--was reported to have come in to the commander of the Americal Division about that time. Now do you remember that document coming in?

A. Yes, sir, I vaguely remember seeing a document. I don't know whether it was a report of investigation, but I remember seeing papers that had a bunch of statements signed. But again, this could be something else.

Q. Could this have been the other investigation which we were talking about in June, now?

A. That's possible.

Q. This paper, the one you would have seen, if proper, should have been a report of investigation signed by Colonel BARKER, and it should have had an indorsement on it by the commanding officer of the 11th Brigade. It should have arrived in the headquarters about the time that you took over this particular job.

A. I remember a document of this nature.

Q. What was the classification of it, do you recall?

A. No, sir.

Q. Do you recall whether or not you entered it into your log?

A. No, sir, I don't recall. I don't believe I did.

Q. Do you remember what you did with the paper.

A. If I got the paper, I would have given it to Major POWELL, assistant chief of staff. All of the papers that we got in would go to him as soon as I looked at them. They went in to him. I just don't know.

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MR MACCRATE: What do you recall about the circumstances that would lead you to recollect such a piece of paper, something that was discussed?

A. No. I remember a document coming in or a paper coming in that had a bunch of statements attached to it. I remember that. But I don't remember what it was about.

Q. Were questions raised as to its disposition?

A. No, not that I can recall at the time.

Q. After it came in, do you have any further recollection of seeing it?

A. No, sir, I don't know what happened to it.

Q. Are you sure you recall it coming in, or do you recall it after it was already in?

A. I think I recall it after it was in the headquarters.

Q. Do you recall where you saw it?

A. No, sir.

IO: Do you recall seeing a copy of it in that personal file of General KOSTER?

A. No, sir. Like I say, I didn't go into that folder and look at anything in it. I just opened it and flipped through it.

MR MACCRATE: You said you recall the incident of the two Vietnamese nurses and prisoners?

A. Yes, I remember that.

Q. And, in fact, an investigation or subsequent court-martial. Do you in any way relate this report or the attached statements to that, to that incident?

A. Yes, this is a possibility.

Q. Can we go beyond the possibility to what you in fact do recall seeing, possibly other than such material in relation to the incident involving two nurses and a prisoner?

A. I just don't remember, sir.

Q. Do you remember who in headquarters had that particular responsibility or was following up that investigation.

A. The chief of staff, Colonel PARSON, was quite involved in that investigation. It was pretty well--the total portion of that investigation was handled pretty much by the SJA and directly with the general.

IO: SJA?

A. Yes, sir, staff judge advocate.

Q. Yes.

A. And the IG.

Q. The one you're talking about?

A. Yes, sir. Now as far as--I can say this. After the initial investigation was started into this, this was strictly hands off as far as I was concerned. In other words, I was told to stay out of there, don't get into it, you can't even look at it. Now, I remember the filing of the investigation was quite thick, and was maintained in the safe in an envelope, a large, brown manila envelope, sealed. Numerous times I remember mentioning to Major POWELL we ought to do something with this. Let's get it out of here; it is irrelevant; we don't need it any more. Let's get rid of it. As far as I know, it was still there when I left.

Q. You're still talking about this investigation of two nurses and so forth?

A. Yes, sir.

Q. Can you relate that paper with this other piece of paper that I discussed with you first, with that?

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A. I think I can -- I think that's -- I'm pretty sure that's what it is. It's either that or Kham Duc. I've got Kham Duc on my mind too, because that started about the time I got there. That was a big project, of course, which most of us were involved in. General GALLOWAY got the largest portion of that investigation, and between those -- the raping of nurses, of course, was after the Kham Duc investigation. It could have been part of that, that I saw. It was quite a voluminous report.

Q. If you had seen that report I have alluded to, and we can't say for certain if you did or if you didn't see it, it would have been in response to that letter that General KOSTER had written around -- this letter should have been addressed down there about 10 May.

A. Here's something else that I might add. Letters coming in in sealed envelopes addressed to the commanding general were opened by the aide. The mail was delivered separately. The commanding general's mail was delivered directly to the aide and not to me, not to the administrative NCO.

Q. Well, even the aide probably would not open a letter which was addressed "Eyes Only"?

A. No, sir, he probably would not.

Q. But if the contents were classified, they should have been filed in your safe?

A. Yes, should have been. Yes, sir. I feel sure that I would have filed them. But I do not recall filing any such letter. I don't recall filing this letter, this report of investigation.

Q. No, that would have come in before. You didn't arrive there until about a month after that, in fact, because this is dated 24 April, and you're talking about arriving on the scene in the headquarters about 17 May.

A. What the general kept and what his steno kept for him, I don't know. I really don't know. He may have gotten a reply to that letter and put it in a folder in his filing cabinet. If that were the case, I would never see it, I could

have never seen it. That was another thing that was hands off.

Q. Based on the fact that this document is confidential, a subsequent investigation of a comparable circumstance should, in fact, be given the same classification.

A. Absolutely. It's possible, however, that the general was maintaining a file on these things, a separate file, his own file. If that were the case, I just wouldn't get involved in it.

Q. I'd like to backtrack a minute because I said previously that the letter, the letter of the commanding general, would have been about 10 May. That is incorrect. It should have been about the middle of April, about the 17th to 18th time frame, instead of May.

A. There would have been a reply to that letter.

Q. This ostensibly is the reply to the letter. And I say ostensibly because the commanding general found this, in his words, to be unsatisfactory, and directed that a formal investigation be conducted which should have been delivered to the headquarters somewhere between 15 and 20 May.

A. I do not recall seeing this.

COL ARMSTRONG: Do you recall taking the general's folder and showing it to somebody, the SGS or the junior aide, and saying: "We should do something about it."

A. Somebody should go through it and forward the general's personal things that are in there, if there are any, and get rid of them.

IO: Are we talking about the aide or the junior aide?

A. About Lieutenant DICKENS.

COL ARMSTRONG: Two or three weeks later, General YOUNG departed. What happened to his folder?

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A. As far as I can recall, his folder was still there when I left.

Q. You didn't look at this and say, "My God, General YOUNG is gone, sir, we should do something about this"?

A. No, I don't recall.

Q. Do you recall anything in General YOUNG's folder?

A. In fact, I was the one that started the folders for General YOUNG, General COOKSEY, and General GALLOWAY. There were not folders for them previous to my--

Q. (Interposing) Colonel PARSON?

A. There were no folders previous for them. There was, however, one for General KOSTER.

IO: Let me ask you about one other piece of paper. Did you ever see a paper about three-quarters of a page long, which was in response to an allegation which had been made by a pilot, helicopter pilot, to the effect that some women and children had been killed on 16 March? Have you seen this one?

A. Yes. I remember a paper coming in. A helicopter pilot complained that some women and children had been killed.

Q. Now, when did this come in to you?

A. I don't believe it did come in to me. I believe I saw the document.

Q. In some of the files?

A. After it came in.

Q. Do you remember the date on it?

A. No, sir, I do not.

Q. Did it have any attachments to it?

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A. No, sir. I don't remember. I just remember the incident. I remember the subject; I don't recall the date or any time frame.

Q. This document should have arrived in the headquarters, if it did in fact arrive, from what we have, sometime about the end of March or in the early part of April.

A. I do remember.

Q. Can you recall what it said?

A. No, sir. I just have a vague remembrance of the subject of it.

Q. Was it signed by one of the staff officers in the headquarters?

A. No, sir, I don't remember that either.

Q. Let me give you a few names and see if these start to ring a bell for you. Was it signed by Colonel HENDERSON, the brigade commander, for example.

A. By--

Q. (Interposing) By Colonel HOLLADAY, who had commanded the 123d Aviation Battalion, and who was also the aviation officer in the headquarters.

A. That sounds familiar.

Q. I know you should know HOLLADAY, but it's a question of whether this paper is--

A. (Interposing) I just don't recall.

Q. Well, one of these may come up. I'm going to name a few more. Major WATKE?

A. I don't recall.

Q. Colonel ANISTRANSKI.

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A. Colonel ANISTRANSKI. I recall that name, he was the IG.

Q. No, he was the G5. Lieutenant Colonel LEWIS, the division chaplain.

A. I don't recall him.

Q. General YOUNG?

A. It may have been signed by Colonel HOLLADAY. It's so difficult to remember.

MR MACCRATE: Do you recall the name of Major MCKNIGHT appearing on the paper?

A. No, not appearing on the paper, but I recall the name Major MCKNIGHT.

Q. Or possibly Colonel LUPER?

A. I recall a Colonel LUPER.

Q. Do you remember any association of either Major MCKNIGHT or Colonel LUPER with the paper?

A. No, sir, I don't.

IO: Do you remember the name of the warrant officer that it cited? Do you remember it being Warrant Officer THOMPSON from the 123d Aviation Battalion?

A. I can't say for sure.

Q. The aero-scout company?

A. I can't say for sure.

Q. Did the allegation include that there were numerous women and children that had been killed that day, that a captain had killed a woman, or that there had been a confrontation or disagreement between the air elements and the ground elements?

(SAIMONS)

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A. I remember this. I remember this, yes.

Q. And did it go on to say that this has been thoroughly investigated, and numerous people have been interviewed and no basis of fact was found. I don't know what it looked like. I'm only repeating the impression I have gained from what people have told me.

A. I remember a portion of a letter or something saying that the captain had killed a woman, and I remember reading of an incident whereby a helicopter made an attack on a village. I can't remember what village. I can't associate it with Son My. I just can't associate it with any particular incident.

Q. In this particular paper, it would have probably been My Lai.

A. But I do remember certain of these phrases, I do remember them.

MR MACCRATE: Do you remember it as a complaint or a report coming in of a complaint, or do you remember it as a report based upon a complaint and evaluating the complaint? Both kinds of documents we have had described to us.

A. I remember it in the sense of it being a complaint, but I don't remember whether it was a complaint by us or by them or anything like that.

Q. And not necessarily an evaluation or report upon the complaint?

A. Right. I just remember the term complaint.

Q. Do you ever remember talking with Colonel HOLLADAY about such a complaint?

A. No, sir.

Q. Or seeing him in connection with this, speaking with Colonel PARSON or--

A. (Interposing) Colonel HOLLADAY used to complain about everything. As far as pinpointing it right down to a particular incident, I can't.

IO: But do you remember the fact that it had been an allegation or a complaint made by a helicopter pilot?

A. That's the way I seem to remember it, as a helicopter pilot making the complaint, yes.

Q. And this went on to state what his complaint was?

A. What his complaint was. If I remember correctly, somebody had said that an investigation had been conducted and that it had been found this was all a bunch of hooey.

Q. Did that paper have any attachments to it that you know of?

A. No, sir. I don't believe it did.

Q. About three-quarters of a page of paper?

A. Yes, sir.

Q. Did it name--do you recall any of the people that--did he indicate that he talked to some people?

A. No, sir, I don't remember that. In fact, I don't even remember who signed the paper.

Q. Let's leave this paper for just a minute, and maybe in this process we can come back to this paper, to about the time you may have seen it. Just before the middle of July 1968, the Americal Division had an IG inspection, right?

A. Yes, sir.

Q. What did you do with your files prior to the inspection?

A. I didn't do anything with them. I went through them to make sure they were in order.

Q. Did you take any out? You go through your classified files at that time, your secret papers and so forth, to make sure. In other words, you ran an inventory. From my experience, I think I know what you would have done, probably under the direction of the SGS, to make sure that everything was in order. Because after all, he's the one responsible.

Even though you are signed for them, he is basically responsible. But at the same time you went through those, would it not also follow that you would go through all the confidential papers and things in that safe to make sure you didn't have just a bunch of junk in there, to make sure you didn't get criticized for this by the inspector general?

A. True.

Q. Can you bring this paper down to that time? I'm not saying it was, but this seems to me to be a logical time when you may have found some papers. For one thing, you were looking at them.

A. I think possibly that the time I saw this particular letter was prior to the IG inspection. I don't think-- I remade several folders after I took over as administrative NCO. I remade many of the folders and moved the pieces of paper around so that they would correspond to the appropriate file where they were supposed to go. It is possible that that time is when I saw it.

Q. It could well have been because you were just going through and reorganizing the files.

A. I can't swear to that or associate it with that particular time.

MR MACCRATE: Can you associate it with the file? Reorganizing, where would you put such a thing?

A. Not really. It seems to me when I saw this particular letter it was by itself and it wasn't in the file. Let me put it that way. It seems to me that this letter was brought to be filed. Possibly this letter was hand-carried in, and was given to me to place in the file. Maybe that's the way I became associated with it.

IO: This letter would have arrived well before your arrival?

A. Oh, yes.

Q. Conceivably it could have been back in the office, and somebody sent it to you.

A. But I do remember seeing it.

MR MACCRATE: Do you associate it with any one or more persons in the headquarters: Colonel PARSON, Major BEASLEY, or Major POWELL?

A. No, sir, I don't. This is one thing though. When Major BEASLEY left, of course, he didn't go very far away. He just went out in the field. He left a lot of his papers, a lot of papers there. His desk was just full of papers, papers stacked all over every place. Major POWELL and myself made an attempt to sort these papers out, and had a bunch of papers we didn't know what to do with. They were just typed scraps of paper, notes, and things like this which we kept separate and gave to Major BEASLEY when he came back. One time when he stopped in the office, we had quite a bit of that stuff stacked on top of our bookcases. If I recall correctly, there was two manila envelopes that were sealed in that stuff of his. It was marked "Major BEASLEY" on the outside of it. What was in there, I don't know.

IO: You never looked in there?

A. No, sir, I didn't open them.

Q. Major BEASLEY left when?

A. Some time around the latter part of May or first of June, I believe.

Q. So he would have been present, let's say, when the papers that I'm talking about would have arrived in the headquarters?

A. Oh, yes.

Q. Major POWELL would have been in there afterwards?

A. Yes. Major POWELL and I both. I think he got there 5 days before I did.

MR MACCRATE: Well, let me put it in the time frame of dates. It may be helpful to you. It would appear that the day on which Major POWELL relieved Major BEASLEY officially was 20 May. Presumably there was an actual overlap at the time, but the date of changeover as recorded and given to us was 20 May. Does that accord with your recollection?

A. Yes. Major BEASLEY was in the process of getting set up in his battalion, and Major POWELL was in the process

of just running the shop unofficially for a certain period of time, as was I. I got there, and I'm pretty sure it was 17 May. Staff Sergeant RITCHIE left about 2 weeks after that, 2 or 3 weeks after that, 2 weeks, I think. There was an overlap between he and I, and there was an overlap between Major POWELL and Major BEASLEY.

IO: How long after you reported to the headquarters was it before Major BEASLEY departed?

A. Officially departed?

Q. Well, yes, for his new assignment.

A. About a week.

Q. About a week. And he and Major POWELL were working together during that period of time?

A. Yes, sir. But Major BEASLEY wasn't there but 15 minutes a day, that was all.

Q. What battalion did Major BEASLEY go to?

A. I don't recall.

Q. Was he an artilleryman or infantryman?

A. I don't remember.

Q. It sounds like he was an artilleryman if he was in and out of there every day. Most of your infantry units were away from there. Otherwise, he would have to run in and out by helicopter.

A. I'm pretty sure he was infantry.

MR MACCRATE: Do you remember this piece of paper that you've been describing as being among this collection of papers left behind by Major BEASLEY that you went through at that time?

A. No, sir. I can't put it with that either. I wish I could, but I just can't. It's very elusive. I remember seeing this particular piece of paper.

Q. Do you remember it as one sheet of paper?

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A. No, sir, I don't even remember that. I just remember the content, and not too much of that.

Q. We have had a sheet of paper described. It was three-quarters of a sheet that had much of this content that you have described upon it.

IO: What happened to those papers of Major BEASLEY that you had stacked up?

A. He came in and we gave them to him.

Q. He just took them?

A. Yes, sir.

Q. And he also took these two other envelopes?

A. Yes, sir. They were all stacked together on top of the bookcase when he came in. It was sometime later. In fact, we were getting ready for the IG. We had to do something with that stuff. He came in, so we just gave it to him. We told him, "This is all yours; it's all marked your stuff."

Q. When the IG came in, did you retire any papers or destroy any papers?

A. No, sir.

Q. How did you ever clean out that file of your confidential material and so on?

A. I would go through it every so often. Between Major POWELL--it was all Major POWELL and myself. We determined what we should keep and what we shouldn't keep.

Q. Did you ever fill out a report like that?

A. No, sir. The only thing that we would throw away would be an SOI, old SOI.

Q. You wouldn't throw those away, you would turn them back in to the signal office, wouldn't you?

A. No, we would burn them; outdated SOI's, we would burn them.

Q. I don't want to question the Americal Division, but that seems a little unusual, because a signal officer usually accounts for every one of those. He normally takes care--

A. (Interposing) I know we destroyed many of them.

Q. Now I want to show you one other document. See if by chance you ever saw this in your files. Give me the document of 12 December.

(The recorder did as instructed.)

COL ARMSTRONG: On this paper where complaints of a warrant officer were outlined, I did not understand. Did you remember the confrontation between aircraft and troops on the ground?

A. No, sir. I just remember it being a complaint from a helicopter pilot, and that an investigation had been conducted. It was completely false.

IO: Let me ask you a few more questions. You didn't, to your knowledge, destroy any papers for the IG inspection which took place between 7 and 14 July?

A. No, sir, I don't recall.

Q. If you had destroyed any out of that secret file, you would have had to write certificates, would you not?

A. That is right.

Q. Do you recall writing any?

A. We did destroy secret documents. Yes, we did. But I couldn't say exactly what they were.

Q. How about these confidential documents? Did you by chance maintain a list of those that were destroyed?

A. I've got problems here. I can't remember whether we maintained a confidential log. I know the regulation said we didn't have to, but I can't remember whether we did or not because of the volume of them. We had so many of them. I just don't recall maintaining a log on them at all.

Q. Now here's another paper which is unclassified, and I don't know whether this got to the headquarters or not.

There is a possibility it did. This is Exhibit M-35. It is a notice of the National Liberation Front Committee of Quang Ngai Province, dated 28 March 1968. Here is the Vietnamese version with the English translation on top. You will notice it takes a rather odd format, Thouc Cao, in the Vietnamese version. Will you look at the English translation quickly. I think you will recognize whether you have seen this or not.

(The witness reviews Exhibit M-35.)

A. Yes, sir.

Q. You have seen this one?

A. I have seen this one.

Q. Now then, I'd like you to read it a little more carefully.

A. The reason I remember it, I remember the 3d Brigade, 82d Division. I remember that. I recall seeing this paper.

Q. If you have seen that paper, you probably read it more than once, didn't you, because of the opening statement, "Crimes by U. S. Imperialists who killed more than 500 civilians of Tinh Khe and Son Tinh."

A. Not necessarily. There is so much, you become so accustomed to this kind of thing over there, you really don't pay any attention to what they say.

Q. But you do remember this thing about the 3d Brigade of the 82d, which probably seemed a little unusual to you at the time, didn't it?

A. Yes, it did. Because I thought at the time, if I remember correctly, I recall that I thought this was directly against the Americal Division. I remember making a comment about it, that I don't know why they are talking about the 3d Brigade of the 82d Division.

Q. It ties it down fairly close, Quang Ngai subsector.

A. I know that Quang Ngai was in our AO.

Q. I have one other paper that I'd like you to look at, and this is very much like another paper you have seen.

This is Exhibit M-30. It is also dated 14 April. This, however, is a signed copy, signed by Angel M. RODRIGUEZ, Captain, Infantry, assistant district advisor, Son Tinh. This is not a very clear copy. Here is a true copy of it. I wish you would look at this form and then read this with the signature, and see if you have ever seen that.

(The witness does as instructed.)

A. No, sir, I don't recall this.

Q. You don't recall having seen that signature? Had you ever heard the name of Captain RODRIGUEZ?

A. No, sir.

Q. Well, we don't want to put any words or thoughts in your mind. That's not our purpose.

A. If an investigation were to come in, let's look at it this way. If I were to see a piece of paper or an investigation of this nature, say quite thick, I'll be honest with you. I didn't have time to sit down and read it clear through. I would normally look at the cover, the cover letter, determine the importance of the subject, and then either ignore it or do what's necessary with it.

Q. Yes, you have papers coming and going over your desk, probably as much as 12 to 14 hours a day if I know what your job was, and I think I do.

A. Yes, sir, I did. But I remember this positively.

Q. Do you remember the circumstances under which you saw that document?

A. No, sir. I do not.

Q. We're going to go on just for a few minutes, then we are going to take a break to get a bite to eat. This will give you an opportunity to think about things, anyway, to see if you can recall.

A. Probably the most important thing right now is the fact I can't remember whether I maintained a confidential log or not. It's just like a blank. If I did maintain a confidential

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some of the documents we were discussing earlier. First, the one paper which relates to the helicopter pilot, can you recall any more of that?

A. No, sir. I thought about it during the lunch period, and all I can remember, it was a helicopter pilot complaining.

Q. Complaining or had complained?

A. Just a helicopter pilot complaining, and that the investigation had been conducted, and that apparently the allegations were found to be untrue. But like I say, I don't remember who signed it at all.

Q. Was there just one copy of the document that you saw or were there--

A. (Interposing) As far as I can recall, it was just a one-page letter. I don't recall it having any classification whatsoever.

Q. Did it say anything about "confirming my oral report"?

A. No, sir, I don't recall that.

Q. Do you recall the circumstances under which you had seen it now?

A. I'm surmising, but I'm saying it is possible that this paper came across my desk through distribution. But I don't think so. I think that it was brought up and given to me to put in the file. I'm pretty sure it was brought out and given to me.

Q. Do you remember who brought it out and gave it to you?

A. No, sir. I do not.

Q. Could this have been about the time when they started getting things in order for the IG inspection? They might have been looking through papers and brought them in to you to put in the file?

A. I believe it was before that.

Q. Were there any instructions on it, do you recall, to send it to the IG or the JAG or anything like that?

A. No, sir.

Q. I should have said SJA instead of JAG.

A. No, sir.

Q. How about to send it to the G5? Do you have any connection between this paper and any of these officers I mentioned?

A. If I recall correctly, this piece of paper, after I got it, did not leave the headquarters again. There was no action required on it.

Q. You just put it away then?

A. Yes. I believe I put it in the file. That's all I would have done with it.

MR MACCRATE: Where in the file might you put such a paper?

A. It probably would have just gone into the general reference file. We didn't retain--our retention of papers in the headquarters was very small. We didn't retain much of anything. Most of it went back out to the G sections for their file.

Q. Well, would you describe for us your general reference file?

A. It is a folder that at that time had some miscellaneous subject items in it. I can also say that it's possible that this document was thrown away. That's very possible.

IO: Doesn't it seem rather unusual that a document like that, a response to an allegation made by an individual that some civilians were killed, talking about a captain killing a woman and a confrontation and so forth, that this would just willy-nilly be thrown away?

A. Well, after a period of time, after the document had been in the headquarters for such a long period of time and no instructions were given to it, really, there would be only one of two things to do with it. I can't say that I

checked with Major POWELL and confirmed whether or not we should throw this away or whether or not we should file it. I don't remember, I don't.

MR MACCRATE: What are the two things? You say there are only two things you could have done with it. One would be to throw it away. What would the other be?

A. To file it.

Q. I thought you said after it had been there a long time, then the decision would be made either to throw it away or to do something else. But you say that within 6 weeks after the paper comes in, that it would have been there so long that the question might have been whether to destroy it at that time.

A. Possibly, depending on what I thought I should do with it when I read it. Should I go in and ask Major POWELL whether we keep this or throw it away? It's been around here for a long time. What do we do with it? I'm at the point now where I can't say whether I threw it away or put it in the file.

Q. Would you have taken it upon yourself to throw away a document that was possibly signed by a division officer setting forth a complaint or possibly a report upon a complaint signed by an officer, either one of the division officers or a brigade commander?

A. Not on myself, depending upon whether or not there was any further action to be taken with this particular piece of paper.

Q. Well, assuming--

A. (Interposing) Like I say, I didn't know whether I went to Major POWELL and asked him.

Q. Assuming there was no further action to be taken, assuming that the signoff on the document indicated that the matter can now be regarded as closed, if that were the conclusion, would you have taken it upon yourself to throw such a thing away?

A. No, sir.

Q. To whom would you have turned, wanting to get the paper out of the pending file and into a repository?

A. I would have turned to Major POWELL. I would have asked him.

Q. Do you have any recollection in this case of turning to Major POWELL?

A. No, I don't.

Q. Is it possible that it was in an earlier time frame and that you turned to Colonel PARSON?

A. No, sir. No, I'm sure I didn't go to Colonel PARSON.

Q. Or to Major BEASLEY, when he made one of these visits, what do we do with this thing?

A. I'm sure if the decision were made to throw it away, it would have come from Major POWELL. I would have asked him.

Q. Well, Major POWELL arrived contemporaneously or thereabouts with yourself, and this would have related to something that was handled by others in an earlier time period. You have no recollection of any attempt, either by you or by Major POWELL, to make inquiry of those who had actually been participants at the time the paper was received?

A. I don't recall. I don't recall my making any inquiries into the paper, no, other than possibly asking Major POWELL what disposition we should make on it, what we should do with it. I realize this is awfully vague.

IO: Do you remember doing this or are you deciding this as a possibility?

A. This is a possibility.

Q. There is a possibility you either saw it in the file or put it in the file?

A. No, sir. I don't know.

Q. You don't know which of these it is? We could probably come up with some other possibilities too.

A. I realize that, sir. All I know, I'm sure I saw this particular piece of paper. I don't know what happened to it.

Q. You don't know when you saw it, you don't know the circumstances under which you saw it, and you don't know what happened to it?

A. That's right, sir.

Q. But you do know that you saw a paper that--

A. (Interposing) I remember seeing this particular paper.

Q. And it was a short paper?

A. Yes, sir.

Q. I mean we're not talking about a 25-page paper.

A. It was one I was able to sit down and very quickly read, because I did read it.

Q. You indicated once here today it was about one page?

A. I know it was short because I read through it.

MR MACCRATE: Were you conscious of reading something that originated at the division headquarters level, that is to say from one of the general officers in the division or someone in the command building, or was it something that originated at brigade level?

A. It seems that it was originated outside of the headquarters of division.

Q. And do you mean by that the 123d Aviation Battalion, or the 11th Brigade?

A. Yes, sir. It could have been.

Q. Well, I stated alternatives, and I was asking which of the alternatives?

A. I don't know. I don't know which, I just don't know.

Q. But you feel that there was a signoff on the thing to the effect that the matter is closed?

A. Yes, sir.

IO: Well, just a minute, let me put another connotation on this. You indicated that within the memorandum itself or the letter, it said that this thing has been investigated, and the allegations which were made could not be substantiated or had proven false, or words to that effect. Now, was there any additional writing on here which indicated this was a satisfactory response?

A. As far as I can recall, there were no indorsements. There were no writings attached or written across the face of it.

Q. Just a plain sheet of paper?

A. Yes, sir.

Q. Was it addressed to the commanding general, do you recall?

A. No, sir, I don't recall. I'm just barely able to recall the contents.

COL ARMSTRONG: Do you by any chance recall whether it was a carbon or an original?

A. I believe it was an original.

Q. Memo; DF?

A. No, it was a letter.

IO: If I gave you a date of 4, 5, or 6 April, would that ring a bell?

A. No, sir.

Q. No.

A. It just really boils down to the point that I recall a certain amount of context of this particular letter. I don't recognize the date.

Q. Believe me, we recognize the problems you are having. In the first place, we are taking you back a total of 18 months at this time, and we are asking you about details of a paper that did not appear to have any import to you. But this is the reason why we are searching, to see what we can do to establish the facts concerning this particular paper.

MR MACCRATE: You have given us further confirmation that the document reached division headquarters, that it was there. You saw it, which presents us, as you can see, with a further question of where did it go? We are putting the question to you in the broadest way for any information that you can provide as to the direction that it went from that point in time, the individuals who were interested in it, anyone that you can recall who indicated an interest in it, or the kind of file that would be appropriate for it to go in. These are the questions we have been asking, and I emphasize that this is the nature of our inquiry.

IO: Could this have been one of the papers that you saw in the stack of papers that you and Major POWELL stacked up for Major BEASLEY?

A. It's a possibility. I remember discussing this piece of paper with Major POWELL.

MR MACCRATE: And you are referring to Exhibit M-35?

A. I do remember mentioning this to him.

IO: Do you recall whether he said that paper had been referred to the chief of staff or to the commanding general?

A. No, sir. I remember I just mentioned it to him because it came in. I don't remember how it came in. It came in and I had read it. I made the comment to him, "I don't know why we got this since we are not involved." Seems like it's like everything else we get. Every piece of paper that was published, we'd end up with it.

Q. There are many ways you could have gotten this. This could have come in through the headquarters with a stack of VC propaganda, for example?

A. Yes.

Q. It could have been specifically addressed to the headquarters?

A. Usually the propaganda that came in was brought in by the G5 and was hand-carried to either one of the ADC's. This was by Major HOLTOM.

Q. Did Colonel ANISTRANSKI ever bring any of it in?

A. Yes, sir. This was hand-carried in. It wasn't sent through distribution like normal. But these were usually leaflets and things like that. I only recall one instance of a leaflet coming in, and it had a buck slip on it, a regular DD95 attached. That was the only one I can recall being sent through distribution.

Q. Well, normally--

A. (Interposing) I don't know what the importance was. I never was able to find out what the importance of hand-carrying something to the general was, rather than having it go through the message center.

Q. The importance? You have a stack of leaflets. You probably got a little readout on it from an interpreter or translator. You go in and brief the commanding general on the types of propaganda the VC are using.

A. The only ones I saw come through were all in English. They were in English, printed by the North Vietnamese or National Liberation Front.

Q. Well, this particular one would have had to have been translated?

A. Yes.

Q. But you do remember that, because as I recall in your previous testimony you thought this was odd, that in the operational area of the Americal Division, Quang Ngai Province, for example, somebody would be talking about the 3d Brigade of the 82d which had not arrived in country much before this.

MR MACCRATE: Do you remember Colonel ANISTRANSKI being involved in any investigations in this time frame of May and June 1968?

A. No, sir.

IO: This one document we're talking about, that National Liberation Front paper that you said you have seen or something very similar to it. Do you remember what happened to that document?

A. No. It went in to Major POWELL, and I don't recall it after that.

COL ARMSTRONG: You might have even hand-carried it in to him and called his attention to it, because you commented, "Why is it for us?"

A. I did hand-carry it in to him, and I called it to his attention. I wondered why we got this because it doesn't concern us. The text of the conversation was, well, we get everything anyway.

IO: Do you recall any more about this one copy of this VC propaganda?

A. No, sir. I vaguely remember this. That could have been floating around too, then.

(The witness reviews M-33.)

I vaguely remember this. It's funny, but I remember just like the word "demagogy." I recall these other words: "American guns are in your hands. Point to American heads and shoot!"

Q. Well, it's in this one right here: "What are you waiting for! Use right American guns to shoot right their heads in order to avenge our people."

MR MACCRATE: Against a background of these documents you have now examined and recall, would you reexamine Exhibit R-1 and see if any portion of that is familiar to you?

A. No, sir. I've looked at this letter, I don't recall this letter.

IO: The thing that we're finding so confusing in this situation, Sergeant SAIMONS, is that we don't find the logs. We don't find any of the documents.

A. Perhaps Sergeant LOFTIS will be able to help you determine what happened to the logs. I can't imagine what happened to them. They were all there when I left, as were all the documents.

Q. You had an inventory when the documents were signed over to you from Sergeant RITCHIE?

A. RITCHIE.

Q. You signed from him, and had a like inventory and change of documents with Sergeant LOFTIS?

A. I might add, Sergeant LOFTIS was very, very conscientious, and he wanted to make sure he had everything that was in the log before he signed for anything. That was one of the instances where we had to run all over the building to find every kind of document and establish accountability for them.

MR MACCRATE: What more can you tell us about the documents that Major BEASLEY left behind that you had to gather together? You said there were two envelopes. Do you recall now what else? You said there was a great disarray of papers scattered around, and this would seem to reflect upon the document control in the office to some extent.

A. Some of them were personal papers. There was a couple of recommendations for awards that he had started to write. He had some personal letters there also of commendations and appreciation. Most of it appeared to be of a personal nature, as were the two envelopes.

IO: But you don't know whether they were personal or not. All they were were his envelopes.

A. That is right. But Major POWELL instructed me to take all of that stuff that had his name on it and put it up on the bookshelf. When he would come in, tell him to pick it up and get it out.

Q. Was he a paper packrat?

A. If you could have seen that place when we went in

there, you would have thought so.

MR MACCRATE: Sergeant SAIMONS, I show you Exhibit M-44 and ask you if you have ever seen that? Do you recall it being among any papers that you processed?

(Witness reviews Exhibit M-44.)

A. No, sir, I can't say for sure but, that is vaguely familiar. I can't say for sure.

Q. There is a draft of a citation which appears on about the fifth sheet in or sixth sheet in. Can you identify the ok, possibly DM, that appears in the upper right-hand corner?

A. No, sir.

Q. Was there a clerk or someone in the GI shop who helped draw up citations and would come in to division headquarters with them?

A. No, I'm not--let's see, when the--I recall when the 1st Cav, whatever the cav regiment was we had--

IO: (Interposing) 1st Squadron, 1st Cavalry.

A. There was a considerable amount of help for them in the preparation of the awards due to the fact that there was so many of them, which later, of course--normally, the awards are recommended and these recommendations boarded before they came to the commanding general. In other words, even though it says to the commanding general of the Americal Division, all the recommendations were sent to the board.

MR MACCRATE: And in this file which you have before you, the processing is recorded, you have the awards work sheet. It is reviewed by Colonel WOOD and Colonel BAXLEY and Colonel JONES?

A. Yes, sir.

Q. And then you come to the--

A. (Interposing) Colonel JONES was from DIVARTY. Colonel BAXLEY was the G3, and I believe Colonel WOOD was the G4. However, I'm not sure.

Q. And then you say that the assistant adjutant general returned the recommendations for an explanation of the late submission. You get an indorsement by the adjutant of the aviation battalion, Captain DOVE, and then it's passed on up, apparently. A proposed citation is prepared and revised, and then we have the top sheet which is the text of the award over Colonel PARSON's name acting for the CG. Now, how much of this handling would go on in the headquarters, and what in your command headquarters, and what would actually be the processing as it went through your office?

A. The recommendations for awards would be sent to the G1, and would be processed through the board and all that. Now, when that's completed, if the board approves it, we had these large folders that were marked, "Americal Division Awards." On the left-hand side of the folder would go all the certificates, and on the right-hand side of the folder would go the board worksheet, the final copy of the worksheet. That would be it. And what we'd do is go through all of the worksheets and compare them with the award to make sure that all of the awards were there and that General KOSTER's and General GETTYS' signature blocks were affixed properly. Then these awards would go directly into Major POWELL, and he would give them to the junior aide. The junior aide would check them over to make sure they were right and that we hadn't made any mistakes, supposedly. Then the awards would be hand-carried, the whole folder, into the commanding general.

IO: Junior or the senior aide, who would check those?

A. Junior aide.

Q. He sat in your office?

A. Yes, sir, he was sitting right next to the SGS, assistant chief of staff. And then he would hand-carry, or Major POWELL would hand-carry them to the general, and oftentimes the chief of staff. After the general signed off on them, they would come back to me. The senior aide or

the clerk or the steno would hand-carry them back to me. I would go through them to make sure they were all signed. Then they would go back to the AG.

Q. You said they came to the G1. Did they come to the G1 or did they go to the AG?

A. To the AG.

Q. Which, of course, is a part of G1 staff section.

A. At no time did we ever see proposed citations like this.

Q. But on that rewrite, as closely acquainted as you were with the headquarters, when a recommendation came in, for example, in that form, before it went to the board, was it not customary for your enlisted editor to go through and edit it, not only to perfect it but also to make sure there weren't some words and phrases used in there that were taboo. I remember certain words that I would just never stand to have in any of the citations--

A. (Interposing) I'll be quite honest with you. I don't know who edited those.

MR MACCRATE: But you say you believe you recall this particular citation, M-44, at the headquarters. What could you recall about that?

A. The only thing that I can recall is I possibly saw it. I did see--I guess I saw it. I don't know.

IO: You wouldn't see a copy of the citation. You just see the--

A. (Interposing) I'd see this.

MR MACCRATE: When you say this, you are pointing to which sheet?

A. The third sheet, sir, the recommendation for decorations. There would be that, and attached to the top of that would be the awards attachment sheet.

IO: Recommendation of the board members?

A. And the last page, previous decorations. Those would be the three items that would be in the folder when it came up from AG. Everything was just about left to the board. When the board recommended approval on it--if the board disapproved all of them, they would come over in a folder without the citation. I mean without the certificates themselves, just this, since the commanding general for an award of this type would have to approve or disapprove it only himself. In this particular case, I see all the approvals on it with the exception of one. That's an indication it did come over with a certificate in the folder.

MR MACCRATE: Do you have any recollection of any discussion about this or anyone tying it to the earlier report that you saw there, about a complaint by a helicopter pilot?

A. None whatsoever, sir. Sir, one thing that I do recall about this. Again, I can't say that it's this particular one. I remember a discussion about the recommendation for an award that was submitted so late. Of course again, we had a lot of them that were like that. But in this particular instance, I remember an individual saying that it was late being submitted because a couple of people or one of the people was killed. But I don't remember what bearing that it possibly had on this. It's just a recollection.

Q. Well, let me put this particular recommendation in a little broader frame of reference. This is a helicopter pilot who had flying with him a crew chief and a doorgunner, and the event for which the citation is made, as you will note, is in the middle of March. In the middle of April or first part of April, the doorgunner was killed. Excuse me, the crew chief was killed. Both the crew chief and the doorgunner were put in for citations by the pilot, and you will note here that the doorgunner is the one who has put in the pilot. So if there is a case where at least one of those who would naturally support this recommendation had been killed the following month, does that fit together in any way. ANDREOTTA was the name of the crew chief, and COLBURN was the name of the doorgunner.

IO: For the record, I would like to make a correction to your statement. Spec 4 COLBURN submitted an eyewitness

statement in support of the recommendation of an award for Warrant Officer THOMPSON.

MR MACCRATE: I did not mean to confuse you, Sergeant SAIMONS.

IO: Somebody is liable to see that later on and wonder what is going on.

A. No, sir, I can't put any significance on that.

Q. Conceivably, there may have been some talk around the headquarters on this situation.

A. I have given that some thought too, General. I can't recall any conversation in the headquarters with reference to My Lai or Son My. I think where it is coming from or where it came from is just running across pieces of correspondence that related to it without making head or tails of what we were reading.

Q. Yes. Unless somebody took some time to sit down and look at these, to put the bits and pieces together, it could be a little difficult.

When did you report down here, Sergeant SAIMONS? Did you just come in last night or today? Well, today is Thursday. I want to hold you in here for at least 2 more days. Now that we have gone through this line of questioning and before you depart from this area, I want to have an opportunity to sit down with you and talk for a short time again. One thing that I think we have told you about these logs. We have been looking for these logs. Very few of these papers that you have seen here have we been able to find in the headquarters of the Americal Division. We have these papers, but I must say we had to get them from other sources. We have looked, we have had the division look we've had teams look. We have looked through all the retired files page-by-page. Now I would ask you if you can possibly think of anything that might have happened to papers such as these?

MR MACCRATE: The only document of those which you have been shown which actually came from the Americal files is this last one I showed to you, M-44.

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A. It's possible that Sergeant LOFTIS retired these documents. I don't know. He may have forwarded them to the records holding area on 1 January, I don't know.

IO: When did you depart?

A. I departed in October.

Q. And LOFTIS came on in October a few days before you departed?

A. No, he was there quite a while.

Q. That is right. He was in the other section. I was just thinking about how long he would have remained there.

A. He left in May of last year.

MR MACCRATE: Did you at the time Colonel PARSON departed, put together any papers that he took with him?

A. No, nothing more than OER worksheets that he maintained in his own desk drawer.

IO: He would come and clear out his file, for example, in your safe?

A. The items that were in there, I gave to him, which amounted to practically nothing. I had several copies of worksheets of OER's that he had given me to take care of for him. I had put those in that file, but that was all.

Q. Well, how about the departure of Major POWELL, who left the headquarters, I believe, before you did.

A. Yes. He did.

Q. About a month or so.

A. He didn't take anything with him.

MR MACCRATE: Well, did you take anything to either of them when you went down in October and joined them at--

A. (Interposing) The only thing I took down to him was a plaque that he had been awarded. The plaques didn't come in until after he departed.

IO: Well, we are going to recess at this time.

A. I wish I could have been more helpful.

Q. As I say, we will arrange so that you can come back in. It will be either tomorrow or Saturday morning, so that we can spend a little more time with you.

A. Right, sir.

IO: In the meantime, we would like you to be thinking about these particular documents we've been questioning you on. In addition, I would like to caution you that you have been ordered not to discuss the testimony here with others, including any of the witnesses that may appear in this investigation. The hearing will be recessed.

(The hearing recessed at 1430 hours, 5 February 1970.)

(The hearing reconvened at 0842 hours, 7 February 1970.)

IO: Hearing will come to order.

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

Sir, the hearing recalls Sergeant First Class Nick E. SAIMONS. Sergeant SAIMONS, I remind you that you remain under oath before this hearing.

A. Yes, sir.

IO: You recall, Sergeant SAIMONS, when we recessed previously, we asked you to remain in the area and also to think about certain items which you seem to recall. Our purpose was to provide you a little time to see if you can put some of these things into a little bit better focus. That's our purpose here this morning. Plus, we want to ask a few additional questions.

One of the things you seem to remember had to do with a report in response to an allegation which had been made by a helicopter pilot--

A. (Interposing) Yes, sir.

Q. With respect to some civilians which may have been killed.

A. I took some notes down here after I left here the other day. I remember seeing a letter, referencing a helicopter pilot's complaint of ground troops firing into the village where noncombatants were located. This would probably clarify it a little bit more than what I said the other day. I still can't remember who signed this letter. However, I do feel, I believe, that this probably came from the brigade commander because it made reference to an investigation having been conducted and the allegation found to be untrue. I remember in this letter at the same time that he indicated civilian noncombatants were, in fact, moved to a safe haven by the ground troops. But I still don't remember who signed it. I feel, though, that it must have been the brigade commander or someone associated with the brigade because, in fact, it involved--I can remember a portion of it saying civilian noncombatants were moved by ground troops. This leads me to believe it was possibly written by someone in the brigade.

Q. You recall that they were moved by ground troops. You don't remember anything about a helicopter having moved some of them?

A. No, sir. I don't. No.

Q. Were there any mentionings of names in there? Was My Lai (4) mentioned, for example? Do you recall?

A. No, sir, I don't recall.

Q. Was Co Lay mentioned? C-O-L-A-Y.

A. No, sir. I don't recall that name.

Q. Was the name of the unit commander, either Captain MEDINA or Captain MICHLES, mentioned?

A. The name Captain MICHLES rings a bell. I hope it is not power of suggestion, but it does sound familiar.

Q. Now, I don't want to put thoughts in your mind, but Captain MICHLES was killed about 2 months after that or shortly after you arrived. Actually, as I recall, you arrived there sometime around the latter part of May. Captain MICHLES was killed along with Colonel BARKER.

A. I recall when Colonel BARKER was killed.

Q. Well, the two of them were killed in the same helicopter. So you are associating MICHLES not with this accident--

A. No, sir, with reference to this letter.

Q. Was there anything in there about the Navy, about swift boats?

A. No, sir. In reference to this letter, I don't recall ever seeing a request for this investigation that was conducted. I think this perhaps happened before, and what I saw was just a letter. I'm sure it was an original, not a copy.

Q. Was there any reference to -- I'll give you a few names and see if these start to fall in place -- that the report or the investigation had been conducted by Colonel LUPER?

A. No, sir.

Q. Colonel BLACKLEDGE?

A. I know of both of these people but....

Q. Major MCKNIGHT? Colonel BEERS?

A. No, sir.

Q. Now, when we talked before, as I recall, you said the report consisted of a memo or letter and it was one page approximately.

A. Yes, sir. This is what I was able to recall of that particular thing.

MR MACCRATE: Can you recall anything of the circumstances in which you saw it, speaking about it to anyone?

A. No. I tried to remember where I saw that piece of paper, and I know it was at my desk. I recall that. I don't recall the circumstances of it being on my desk or where it went from my desk. The only place that it could have gone, that I would have sent it, would have been in to the SGS.

IO: Do you recall whether it was classified or not?

A. No, sir, I don't think it was classified. I don't recall any classification marks on it. I can only recall -- I wrote it down -- three investigations while I was there. I have listed them in order. Kham Duc investigation, the alleged rape and murder of nurses, and the false awards of the 1st Squadron, 1st Cavalry. Those are the three investigations that I do recall quite vividly. I believe what's happened with this other thing, is that I got right in on the tail end of it, had no knowledge of it in that respect, of there being an investigation.

MR MACCRATE: Can you relate it to the transfer of materials to you by Sergeant RITCHIE?

A. No, sir, I thought about that, too. I don't think so. I think this piece of paper may have come out of the general's office and somehow ended up on my desk, with me not knowing what to do with it, and not paying too much attention to it. I do recall, and this is probably irrelevant, during the period I was there we had, I can't recall exactly what they're about, but we had several items, when I speak of several items, I mean two or three items, that were lost. What happened to this paper I don't know. They were items that were requested by the chief of staff, Colonel PARSON, and when he went to get the documents, they were gone. We couldn't find them anywhere. This happened in two instances that I recall. However, I can't remember what they were, what these items were that we were looking for and couldn't find.

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IO: For what purpose were they looking for them?  
Was the G5 associated with this in any way?

A. No, not that I recall, sir. Colonel PARSON was real strict for keeping track of things. He required me to make sure that we could put this stuff where we could get our hands on it when we wanted it. In two particular cases, items that he requested and went to get them were gone. They were not located in the safe where we put them. These were, as I recall, were not classified documents. They were just items that he wanted available to him.

Q. Did he retain some documents that he would normally just keep all the time in a folder or anything?

A. This is another thing I have done a little thinking about. We kept certain documents we would often make reference to. If someone would want one of them, we would not have to go over to G3 or G1. We would have them right there in the safe and attainable. We did keep several, quite a few papers, in fact, for ready reference right in the safe.

Q. Do you remember which papers in particular you kept? Did you have a group of papers in there, for example, that were referenced Task Force Barker?

A. No, sir. I don't recall it, sir.

Q. Operation Muscatine?

A. Operation Muscatine. I recall that; that rings a bell.

Q. Well, that was a big operation and, of course, it was a rather extensive operation. It had been going on since about the first of the year.

A. I recall the title, the name. I don't know whether we had any papers pertaining to it.

Q. Did you have any concerning Son My or Pinkville or My Lai?

A. I don't believe we did, sir, not that I recall. Like I say, I recall seeing this one letter, apparently in reference to that. I recall seeing one of the propaganda papers.

Q. Yes. You indicated that you think you are almost certain you saw the notice of the Quang Ngai National Liberation Front. This paper you indicated you were certain you had seen. This is Exhibit M-35?

A. No, sir, this isn't the one.

Q. This is the one that has the 3d Brigade of the 82d you were referring to?

A. This is the paper that I brought to Major POWELL's attention.

Q. As I recall, it came to your attention primarily because it has reference to the 3d Brigade of the 82d working in Quang Ngai, which you considered part of the operational area of the Americal Division.

A. I couldn't see what the relevance was to us in reference to this thing.

Q. You also indicated that you think you may have seen Exhibit M-33 because of certain of the words that seem to be key words to you, right?

A. Yes, sir. I'm sure I have seen this paper or one very similar to it using the same words. Particularly this page-- "Point to the American heads and shoot!" Sir, I recall words to that effect.

Q. Do you recall seeing in the piece of propaganda the information contained in the second paragraph on the second page?

A. Like I said before, the term Son My does sound familiar. As far as associating it with this particular piece of paper, I can't.

MR MACCRATE: Do you associate any of these papers with anything that was delivered to you by Specialist HILL?

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A. No, I don't relate any of the papers as in a group of papers. No, I don't. This piece of paper showing the 3d Brigade of the 82d Division, I'm sure I recall this as being a completely separate piece of paper that came in through normal distribution (referring to Exhibit M-35).

IO: Would it have come in through the G5?

A. That's very possible.

Q. You don't recall it as such? It's just the logical place that it should come from?

A. Yes, sir.

Q. The G5 himself, or from his psychological operations officer, Major -- I think later Lieutenant Colonel HOLTOM.

A. Correct. The reason I say that I don't believe that, I don't believe these things came in in a group of papers, is the fact I wouldn't have time to sit down and read completely through anything like that.

Q. That's a different kind of reading than you would normally read, and you might find that kind of intriguing?

A. Not necessarily, General. We had so much paper, there wasn't time to sit down and read through each thing that came through. In reference to those initials that you showed me on an award to Warrant Officer THOMPSON, it seems familiar that those were DEMOTTO's initials. I'm not positive, but it seems familiar. I thought about that. It seems like he initialed things DM, an unusual initial. There is no middle initial.

Q. Well, it is because his name, DEMOTTO, is all one word. But what you're saying does make a little sense, as a matter of fact.

A. It seems familiar to me.

Q. Now I have here also the piece of propaganda that came in separately and was also included in the 24 April report of investigation. You had indicated on that piece of propaganda

that you had not thought that you had seen it?

A. I don't think so. The only thing, the phrasing here and, of course, the phrasing on this one is just about the same.

Q. They are different translations of the same piece of propaganda. Now would you look at the front of that paper, just open it up please and take a look at that again, and see if whether or not you have ever seen that in your file or anyplace else in the headquarters?

A. No, sir.

Q. You can't recall ever seeing it?

A. No, sir.

Q. I'm not trying to put words in your mouth or thoughts in your head. Let me ask a couple of questions about some other things. Who is ALVIS? Had he worked in the office with Sergeant RITCHIE?

A. I don't recall any ALVIS.

Q. A-L-V-I-S.

A. No, sir, I don't recall him.

Q. Who was General YOUNG's righthand man and did everything for him?

A. That's the young man -- I can't think of his name. He was just a young kid, a blond-headed kid. It wasn't HILL. Maybe it was HILL, maybe that was his name. If I could see him, I'd certainly know him. Maybe it was HILL, maybe that was his name.

MR MACCRATE: HILL's name is John W. HILL.

A. It's possible, very possible.

Q. He acted as personal secretary for Colonel PARSON.

A. He what, sir?

Q. He acted as personal secretary for Colonel PARSON.

A. No, sir. That wasn't familiar.

Q. We have spoken with HILL, and HILL did a great deal of work for Colonel PARSON.

A. I don't believe that was the man. This man that worked for General YOUNG, acted as his driver, his clerk, ran errands for him, and was his enlisted aide, of course.

IO: Who flew with General YOUNG and handled all his business on the helicopter? He didn't do that himself. He didn't have an officer aide I understand?

A. This young man was an enlisted man that flew with him most of the time.

Q. Do we have a roster at this time?

RCDR: Yes, sir.

(The roster was give to IO.)

IO: He had probably been with General YOUNG or some time in the headquarters there.

A. He had. In fact, when General YOUNG left, the boy went with him.

Q. I have here a picture of Mr. HILL.

A. No. (Witness does not recognize MR. HILL.)

Q. Take off the hair.

A. I know, but I don't recognize him. This man did do quite a bit of work for Colonel PARSON and he did do some work for General YOUNG. That's not the man.

Q. When you were there, during the first part of your assignment, was Colonel PARSON, the chief of staff, making frequent trips out?

A. No, sir. Colonel PARSON, as I recall, didn't make many trips at all. In fact, he didn't make as many trips as he should have, and toward the latter part of his assignment there he did travel quite frequently then. But I think this was under the general's insistence to get out and see the brigade, visit the brigade. He was more involved with running the headquarters.

Q. Running the headquarters?

A. That is right, sir. No, I don't recall him going on any trips at all.

Q. Now, with respect to the files that you had, we have talked to LOFTIS and evidently after he had taken the files over from you, there was some additional thinning out. Would you again go over a description of the file and what you had done to purify them, so to speak?

A. In the top drawer of the safe, we had filed all of the secret, classified. I have done some thinking about this. I believe the secret was kept to the front, and the confidential was kept to the rear of that top drawer. The second drawer of the safe, we had miscellaneous type of correspondence. Also in that drawer, I had maintained -- put the two ADC's files and the chief of staff's files. In the third drawer, there was miscellaneous op plans, things like that, just laying down loose bound, loose in the drawer.

Q. In folders evidently.

A. Acco fasteners, not necessarily in folders. The bottom drawer had a briefcase and a flight helmet.

MR MACCRATE: Whose?

A. Lieutenant CAMPBELL's. It took an act of Congress to get him to get it out of the drawer.

IO: How much space in the top drawer did the classified documents occupy?

A. I would say about that much, 8 inches or 12 inches, not much. The more I think about this particular safe in recalling, we didn't have too much in there. We didn't have too

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much classified items. Most of the classified items that came in were compiled and put in a reading file, in this daily reading file. Then sometimes the general officers or Colonel PARSON would extract, would just jerk something out of the reading file, lay it in there loose, and either tell Major POWELL or myself to put this in the file someplace where I can get my hands on it tomorrow or the next day.

Q. What filing system did you employ?

A. We used the functional filing system, filed by number and subject, AR 345-215 or 345-210.

Q. Well, if you did that, would you not have these classified papers put together? If you had them by subject so that you'd have particular item, you'd have secret, you'd have confidential, you could, in fact, have some unclassified materials in there.

A. You can't do that. You can do it, but I didn't do it. I separated the secret and the confidential, maintaining the secret documents that we had separate from confidential documents.

Q. That does mean, though, you would have to maintain duplicate numbers for certain subjects?

A. Yes, sir, that is true. You were asking me at one time if there was a safe in General KOSTER's office.

Q. Yes.

A. I don't recall a safe being in there at all.

Q. With respect to your logs, did you keep them in that safe or did you keep them in the unclassified safe?

A. No, sir. The logs were classified, and were kept in the safe in the top drawer at the front.

Q. How about sheets of the log, as they had been completed, for example?

A. They were put to the back of the log. In other words, the log was a manila folder with several DD Forms 455 in it. When we would complete one sheet, it would go to the back so that the numbers would be maintain in a sequence. In other words, you would always make reference to numbers immediately by flipping up the sheets.

Q. How about inspection certificates?

A. They were also maintained in a separate envelope with the classified material.

MR MACCRATE: In which drawer?

A. In the top drawer, sir. They were maintained in one -- to the rear, about three-quarters of the way back to the rear.

Q. Behind the classified material?

A. Yes, sir.

Q. And were the logs kept there as well?

A. No, the logs were kept to the front of the safe, kept them in the front because we were always getting them out.

Q. But in the top drawer?

A. Yes, sir.

IO: I have here an article which appeared in Stars and Stripes. Is this the article that you are referring to?

(The witness is reviewing Exhibit M-88 Stars and Stripes.)

A. No, sir, this is not the one.

Q. This article appeared in the 18 March issue of the Stars and Stripes.

A. 18 March you're right, sir. No, sir, that's not it. The article that I cut out is about the size of this portion.

IO: I would like to have an extract of this 18 March article in the Stars and Stripes entered into the record as an Exhibit.

(The article from the Stars and Stripes was entered into the record and marked as Exhibit M-88.)

Mr. MACCRATE, do you have anything further?

MR MACCRATE: No, I do not.

A. As Sergeant LOFTIS signed for all of the documents I had, I got all of the 1380's, the receipt forms. As soon as he signed for the documents, I destroyed my copies of the 1380's. I didn't see any use to keep them.

IO: The 1380, that is the form you had signed for originally?

A. Yes, sir. That is the little, pink, multi-copy form on which you sign for classified documents.

IO: The hearing will be recessed.

(The hearing recessed at 0925 hours, 7 February 1970.)

(The hearing reconvened at 1150 hours, 7 February 1970.)

LTC PEERS: The hearing will come to order.

RCDR: The following persons are present: LTC PEERS, MR MACCRATE, and MAJ LYNN.

The hearing recalls Sergeant LOFTIS and Sergeant SAIMONS.

(SFC SAIMONS and SSG LOFTIS were recalled as witnesses and testified as follows:)

Sergeant SAIMONS, Sergeant LOFTIS, I remind you that you remain under oath before this hearing.

IO: We thought it would be advisable to get the two of you together here and just talk about the files and transfer of the responsibility for maintaining the files from you, Sergeant SAIMONS, to Sergeant LOFTIS and to discuss what the files looked like under you and what the files looked like under Sergeant LOFTIS and what you, Sergeant SAIMONS, had done to sanitize the files and what you had done, Sergeant LOFTIS, in the same sense. We also want to get another little statement from you and information as to the condition that you left the files and so forth when you turned them over to DROSDICK.

Q. We'll start with you, Sergeant SAIMONS. Just tell us in brief what you had done with the files and what they looked like when you turned them over to Sergeant LOFTIS.

SFC SAIMONS: When I took over the files from Sergeant RITCHIE, we'll say that they weren't in too good of shape. I established what files we had there under the Army functional filing system. I'll go into the structure of the files a little bit. The top drawer of the safe held the secret documents and the files that pertain to the destruction certificates of the documents, the log, classified document log. The second drawer of the safe contained miscellaneous papers, not too many. The third drawer of the safe had some operations plans and things like that that were placed in the safe with acco fasteners loose in the back of the safe. The fourth

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drawer had a briefcase and a flight helmet.

Q. Were the confidential documents in the top drawer, or were they in with the second drawer?

SFC SAIMONS: I'm pretty sure they were in the top drawer also.

Q. What kind of file system were you using?

SFC SAIMONS: The Army Functional Filing System.

Q. But you had it applied individually to the secret documents and to the confidential documents?

SFC SAIMONS: Yes.

Q. Did you have a log of any kind for the confidential documents or for particular unclassified papers?

SFC SAIMONS: No, I did not have one.

Q. During your period there, as far as the files were concerned, I think you indicated you organized them after you had taken over from Sergeant RITCHIE, and then you continued to review them periodically to destroy those which were outdated, so to speak.

SFC SAIMONS: Yes.

Q. Although you had very few.

SFC SAIMONS: Yes, this is true. However, as far as I can remember, I don't believe we destroyed any classified documents. In fact I'm sure we didn't. I don't really remember whether we did or not. There were quite a few papers when I initially established the functional filing system that were gotten rid of, taken out and burned. Just exactly what these were, I don't know, papers that were of no significant value whatsoever. During my period there, nothing was transferred to the record holding area. That's about it.

MR MACCRATE: Well, I think I'd like to hear Sergeant LOFTIS

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give us his recollection of what he first saw when he went to this safe.

SSG LOFTIS: Well, sir, when I first took over from Sergeant SAIMONS, the files were under the functional filing system. He had set them up. However, I thought they needed a little more working on, which he hadn't had the time to do. Prior to signing for the documents, I believe I'm correct in saying that we did destroy some at that time prior to me signing for them, with the SGS's approval. Again, papers that were of no significance or didn't seem to be of any importance and when I--

Q. (Interposing) Which one of you reviewed the documents at that time, or did you both review the documents that were--

SSG LOFTIS: Well, prior to me signing for them, Sergeant SAIMONS made a review of the documents. After I signed for them, then it was my responsibility along with the security control officer to review them and to determine what was essential and nonessential.

SFC SAIMONS: Our biggest problem was trying to come up with all these documents so Bob could sign for them.

SSG LOFTIS: We did have an accountable record though. They were all accounted for that I signed for. Immediately after I signed for them, I implemented my own system. There was nothing wrong with the present system except I had just been accustomed to doing it a different way. I think I mentioned this the other day. You have two systems of logging and controlling documents, one where you use the multiple document entry per page, one following the other continuously per log sheet. I prefer to use the singly entry system, one document per log sheet page. What I did then was transfer the active entries. I actually typed them out on new log sheets and put one document per page. I'm speaking of secret documents only. We had no confidential logs. I made a notation of this on the remarks section of the log sheet, the log sheets where the entries were recorded under the system that Sergeant SAIMONS was utilizing, that of a multiple type entry. I lined through those and indicated in the remarks

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that the entries or the documents had been transferred to new log sheets under the same control number. I didn't assign it a new number. I then took those sheets, which were now inactive, and placed them in the inactive file.

Q. How was the inactive file designated?

SSG LOFTIS: This, if I'm not mistaken, would have been the classified documents inventory file. It would have been in 504.10, I believe. I'm not sure of the last digit. I know it was 504. And this file, the disposition of it, was to hold it in the current files area for a period of 2 years. These inactive log sheets should be in the files today because I don't believe the 2 year period has expired.

Q. Can you tell us where in the four drawers of the filing cabinet you left such material?

SSG LOFTIS: Well these log sheets, sir, are unclassified. We never logged any classified titles, and they would have been filed in the unclassified filing cabinet in the admin office. It was a four-drawer, lock-type, regular filing cabinet. And they would have been filed in the functional files area in that cabinet, since no classified information was involved on those log sheets. The active register, however, was maintained in the classified document safe by regulation. It was kept with the secret, and it was first priority for evacuation in the event of emergency destruction. I did a little reorganizing of the classified documents container at that time, because as I say, every admin NCO has his own particular system he is used to operating with and to provide a better control of documents. I prefer to use this system. So therefore I reorganized the documents, brought my confidential and secret together. There may have been some unclassified papers with documents that would have directly related to the documents in the classified documents container. I marked each folder, that being either secret or confidential. I affixed new labels to the folders with a little more detailed disposition. That was one of the areas that Sergeant SAIMONS hadn't had the opportunity to work on. I just went by the book and put new labels on them. I established my bottom drawer as a destruction holding area for any classified waste material, such as typewriter ribbons, carbon paper, et cetera. Periodically, when I got a few papers in this drawer, I would take them and

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destroy them under the procedure prescribed, using a disinterested person as a witness, who was appointed on orders. We would destroy this classified material that was waste. I did make a review of the files after I had been in the job for a while and determined that some of them were unnecessary, after talking with the SGS. I did make destruction certificates, I think at least three or four during the period I was there. These destruction certificates again contained no classified information and were filed in the unclassified file cabinet in the admin office under, I believe that file control number is 504.09, if I'm not mistaken. It's an unregistered destruction certificate file, and I believe the disposition on this file is a holding of 2 years in the current files area. So it should still be there. I believe that under the system Sergeant SAIMONS was using, they were destroying the documents by making an entry on the back of the log sheet and not preparing a separate destruction certificate. This is permissible in Vietnam. It's an accepted system, and I believe that's the system that you were using. I hadn't been used to doing this. It meant a little more work, but I preferred to prepare the regular destruction certificate forms, that being, I believe, a DA 546. This form can prepare up to ten pages, cut off the bottom of all pages except the last one, which has to be authenticated by the destruction official and the witnessing official, and all of the pages would have to be initialled, of course. And this is the manner in which I prepared my destruction certificates. Once I destroyed documents, I brought the destruction certificate back and got out my log book and went through and posted all certificates that I had destroyed, made the appropriate remarks, removed these log sheets which now would become inactive, and placed them in the inactive file, again in the 504 series. I then made annotation on my destruction certificate that it had been posted and the date and my initials and placed that in the file. This is the entire procedure that was used. The log sheets were posted, after a physical destruction was made, by me, being the destruction official and the witness, the disinterested person. One point that I believe Sergeant SAIMONS may have forgotten, and I didn't mention it the other day, was that the second drawer in this documents container was locked and you were unable to open it at the time I took over. I understood from conversation with Sergeant SAIMONS that the only thing in there was a flight helmet.

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IO: The second drawer, or the bottom drawer?

SSG LOFTIS: The second drawer, sir. It was--

SFC SAIMONS: (Interposing) You might clarify that a little bit too. The second--the helmet was in the fourth drawer. I can't remember whether the helmet was taken from the fourth drawer because that--remember when you came up to go to work there, we decided we'd use that bottom drawer for a disposal to keep our classified waste? This helmet was put in the second drawer--third drawer? Second or third drawer. I--

SSG LOFTIS: (Interposing) It was the second that was frozen, I'm positive of that.

SFC SAIMONS: And then we couldn't get the--

MR MACCRATE: (Interposing) Frozen?

SFC SAIMONS: We couldn't get the drawer open.

SSG LOFTIS: Well, I believe this happened while you were there. You closed the drawer one day and it locked. The gadget that falls in place, the locking device should click down and allow it to open. However, these things were locked in place and they would never open, jerking on it or anything. So, due to the limited number of safes in Vietnam and the ability to get one, it was almost impossible--there was no security danger involved in this because it was locked and it couldn't be opened without a blow torch or some other means. Well, the fact that there was nothing in there but this flight helmet, it was just left that way and we used the other three drawers of the safe.

SFC SAIMONS: I think I might add here that that drawer, if I remember correctly, was eventually opened, and the flight helmet was taken out. The flight helmet--I remember the flight helmet being laid--set in a chair for a long time there by Lieutenant CAMPBELL's desk.

SSG LOFTIS: Well, I don't know this. It would have either been taken out during your time or after my time, because I

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know during my entire period there that the thing was locked. I never got into that second drawer. All my filing was in the top drawer with my documents register. The third drawer, I believe I had a MACV SOP loose-leaf binder type thing that was too bulky to stand up and fit in the normal file. I may have had some loose papers in there for official use only. I had a few of those in there. I believe it was PM type reports that were in there for a period of time that were just being held. They were not in a file. They were just information type things that the chief of staff was interested in, and I held them just in the drawer. My bottom drawer was used as a destruction material drawer. I kept a laundry bag in there which I used to crumple the papers up and put in when I did make destruction, and the destruction waste, classified waste, was the only things I had in that drawer.

IO: Well, didn't somebody at about this time sort of blow through the roof wanting to get a paper and somebody said that it's in the second drawer and we can't get the drawer open?

SSG LOFTIS: No, not to my knowledge, sir. It was never a necessity to open that second drawer at anytime. And I just--

Q. (Interposing) I take it you never knew what was in the second drawer?

SSG LOFTIS: No, sir. I never once saw in that second drawer. I just went by word that there was nothing in there.

MR MACCRATE: Now I think your recollections have not completely squared here. You've each listened to the other, and what we're going to do is to see if we can trace this through once again. Now, have you finished Sergeant LOFTIS?

A. Yes, sir.

Q. I would like Sergeant SAIMONS now to think back in the light of Sergeant LOFTIS' recollection.

SFC SAIMONS: At one time, that drawer was locked and unopened. We couldn't get into that drawer. However, I don't recall when, we were able to get that drawer open, and we took that flight helmet out and that flight helmet kept ending up in the fourth drawer. Everytime I'd turn around it would be down in

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the fourth drawer where Lieutenant CAMPBELL would put it. I used that second drawer for miscellaneous papers and things.

IO: What's a miscellaneous paper?

SFC SAIMONS: Just all the things that were held for reference, papers, papers of interest to the chief of staff, to the general. Also in that second drawer I maintained the DAC's folders that I had in there for them and the folder for Colonel PARSON.

MR MACCRATE: Well was this before it was frozen shut?

SFC SAIMONS: No, this was after we opened it, after we were able to open the drawer.

Q. But now Sergeant LOFTIS was there after you were.

SFC SAIMONS: Yes, sir.

Q. And he says he never saw in that drawer. Now one of your recollections is incorrect.

SSG LOFTIS: I'm positive I didn't, sir. When I signed for the safe, the drawer was locked and Sergeant SAIMONS had told me that when he closed it one day that the latches had flipped and it wouldn't open anymore. I never saw in the drawer. I debated on whether or not to have it cut into, but again due to the shortages in classified document containers, it just wasn't feasible at the time.

Q. Your recollection, Sergeant LOFTIS, is that this second drawer was sealed when you arrived.

SSG LOFTIS: Yes, sir.

Q. And sealed when you left.

SSG LOFTIS: Right, sir.

Q. It never used for your entire period? So whatever was in there when you arrived should have been there when you left?

SSG LOFTIS: Right, sir.

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Q. And you had been told that it just contained a flight helmet.

SSG LOFTIS: Right, sir.

Q. But as far as you know, that was just what someone told you.

SSG LOFTIS: Yes, sir. If you remember when I signed over for the documents, Sergeant SAIMONS, we took that top drawer out and I said, "Well, there must be a way we can open it," and we looked at every possible way, and there was just no way to get into it because the second drawer is covered with an asbestos block in there or something that you just have to cut into it. There's no way to get into the latches by taking out the top drawer or the third drawer down.

IO: Did you ever contact your CID people to ask them to open it for you?

SSG LOFTIS: I didn't, sir.

SFC SAIMONS: No.

SSG LOFTIS: I pointed this out to the CID people when I was given a security inspection at one time. I don't remember the officer's name, but I know he was a warrant officer. At that time, I also pointed out other things. I felt the building in itself needed some work done on it in the way of security because the physical appearance of the building itself. It really wasn't the best security type building, I felt. But there again, we were limited in resources and things available to make the building more secure. The report of the inspection was filed by me, and there were numerous things in there that were pointed out, such as adding a lock to doors, doing something to the windows where they wouldn't be able to gain access, and this sort of thing. There was no action other than work orders put in, and to the best of my knowledge, some of the work was done, but not all of it in the way of correcting these deficiencies in the building itself. The headquarters commandant did take action on some of the deficiencies, I remember, that were designated in the report.

MR MACCRATE: Do you ever remember seeing, Sergeant LOFTIS, a flight helmet and a brief case anywhere in the SGS safe?

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SSG LOFTIS: I never saw the flight helmet, sir. The brief case I couldn't say yes or no if I did see one. There was probably one in there.

Q. You don't remember the drawer it was in?

SSG LOFTIS: No, sir, I don't. When I accepted the responsibility for the safe and the documents, et cetera, I removed any material which was not documents because the regulation requires that you have no extraneous material on the safe or in the safe. I believe that's since been changed. You're allowed to store sensitive material in the safe, other than classified files in the event that you're not utilizing all the space in the safe. The only thing that I left on top of the safe was a box containing grenades for the purpose of destruction in the event of an emergency destruction.

Q. Let me ask about the top drawer again. I understood Sergeant SAIMONS to say that it contained both secret documents and confidential documents. I understood you to say, Sergeant LOFTIS, that you had been the one to bring confidential and secret documents together. Is there a difference in your recollection?

SFC SAIMONS: No, I might clarify that a little bit. My confidential documents were kept in separate folders from the secret folders, and I think probably what Bob did was take out the confidential folders and marry the confidential matter with the secret matter. Am I right?

SSG LOFTIS: That's correct. I think there was some confidential in this top drawer. I won't say that there wasn't any. Some of the confidential I believe was in the third drawer. What I did was, if it should be under the same file designator, even though the folder itself contained secret material, if the confidential should have been in that file, then I placed it in that file.

Q. Were there any folders that you ever saw for the ADC or for the commanding general?

SSG LOFTIS: To the best of my memory, there was an envelope in there that had "Personal, for the commanding general" on it.

Q. This would have been for General GETTYS?

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SSG LOFTIS: Yes, sir, I believe so. There again I don't know exactly what the envelope contained.

Q. And which drawer was that in?

SSG LOFTIS: This was in the third drawer, to the best of my knowledge, sir.

SFC SAIMONS: I think I might be able to clear that up a little bit. If I remember correctly, the second drawer to the safe, where I maintained the miscellaneous matter, became stuck one day. Major POWELL and I discussed that drawer being stuck because he had difficulty one time getting it open, and then I had difficulty getting it open. And I'm pretty sure we took that stuff out of there and put it in the third drawer. We took the flight helmet and the brief case and, if I remember correctly, I don't remember ever looking in that brief case, put it inside that second drawer and closed it. At one time or the other, I know we got that drawer open. Because we managed to get the flight helmet out of there. The drawer was stuck. I remember that, the drawer being stuck. But I also remember getting it open one time and getting that flight helmet and the brief case out of there. And we laid them in the chair right next to Lieutenant CAMPBELL's desk. The flight helmet, not the brief case, the flight helmet kept ending up in the fourth drawer down in the bottom drawer. And I kept taking it out and putting it back. This apparently must have been at the time, right around the time that Sergeant LOFTIS took over that stuff, or during the time that he was there.

IO: What did DROSDICK say when you turned over to him the safe that you couldn't tell him what was in the second drawer?

SSG LOFTIS: Well he did the same thing as I did, sir. He just accepted it at my word. I thought the flight helmet was still in there, and this is what I told him. I said the second drawer's stuck. We can't get it open. There's only a flight helmet in there, and no documents were missing in accordance with our inventory, and he signed for it just as I did.

Q. Would not the possibility remain though, that there were some confidential or other documents that might be in there that--

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SFC SAIMONS: (Interposing) No, sir, because I can remember having that drawer open. That drawer was open at one time.

Q. But do you remember taking everything out of it though?

SFC SAIMONS: Yes, sir. Oh, yes, yes. In fact I moved everything. I know we moved everything out of that drawer.

Q. At one time, you know, you told me that you had your secret in the top drawer.

SFC SAIMONS: Yes, sir.

Q. And that was all. And you kept your confidential and other documents that you didn't log in in the second drawer.

SFC SAIMONS: Yes, sir. I may have told you that before our IG inspection I put all the classified in one drawer along with the logs and all of the other papers. I think Sergeant LOFTIS is the one that established taking out the destruction certificates and putting them in the other filing cabinet out in the other office. To my recollection there was some confidential matter. Most of it, however, was non-classified in the other drawer.

Q. Now where is this other safe, Sergeant LOFTIS, that you kept your logs and your destruction certificates in?

SSG LOFTIS: Sir, this is just a regular filing cabinet that's in the admin office adjacent to the SGS office.

Q. In your office?

SSG LOFTIS: In my office, right, sir. It sat to the left of my desk by the wall.

Q. Yes. So there was one safe then--

SSG LOFTIS: (Interposing) One safe.

Q. That was in the SGS office.

SSG LOFTIS: Yes, sir.

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Q. And that was a lock safe.

SSG LOFTIS: This was a combination lock safe.

Q. You had another just plain old drawer filing cabinet.

SSG LOFTIS: Yes, sir.

Q. In your office.

SSG LOFTIS: Yes, sir.

Q. And in that office you also kept your old logs and your old certificates of destruction.

SSG LOFTIS: Right, sir.

Q. And to the best of your knowledge, that second drawer of that safe was not open when you departed?

SSG LOFTIS: That's correct, sir.

MR MACCRATE: Now, Sergeant SAIMONS, where would your certificates of destruction be that were placed on the back of the log? Where were they when you turned them over to Sergeant LOFTIS? Where would they be physically?

SFC SAIMONS: In the safe. I'm pretty sure I had them in the top drawer, to the back, behind the confidential documents.

Q. Do you have any recollection of ever seeing those, Sergeant LOFTIS?

SSG LOFTIS: Yes, sir, I did see them. We made an inventory of which these were included in the inventory.

Q. And where would you have put those?

SSG LOFTIS: I would have filed those in the cabinet, the unclassified filing cabinet in my office with the destruction certificate folder.

Q. I had understood you to say, Sergeant SAIMONS, that you used classified descriptive information, and therefore that you had kept these pages in the safe because of that?

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SFC SAIMONS: Yes, sir, that's on the log. That's the active log, and I also kept the inactive log in there too. The active log itself must be maintained in the safe, sir.

Q. But do I understand that when the material becomes inactive that it is immediately declassified?

SFC SAIMONS: No, not necessarily.

Q. This is what I don't understand. If this is information that is classified and then deactivated, it would still be classified information and it still should belong in the safe, I would suppose.

SFC SAIMONS: Yes, sir.

SSG LOFTIS: To the best of my knowledge, sir, there was no classified information on these destruction certificates that Sergeant SAIMONS had prepared previously. If there had been, I don't think I would have put them in unclassified filing cabinet. If I did, it's a security error on my part that I didn't see it.

IO: So when you changed your entire filing system, the old logs would have become antiquated, would they not?

SSG LOFTIS: Well the old log sheets, once I transferred the active entries to new log sheets, would have become inactive, sir, because I lined through the entries, made a notation that they were transferred. If I remember correctly, when I did transfer them, I believe some of the entries did contain classified titles. At this time, I made a short title out of the classified titles, which is permissible. You can take the first letter of each word and run it continuously in all caps, and it becomes an unclassified short title. This is what I would have done on any entry that might have been classified from the old log sheets. I can't remember distinctly if there was some classified entries on the log sheets. It seems that there were, but I feel sure that if they were, I'd file those log sheets in the classified documents container. Any unclassified ones would have been filed in the unclassified filing cabinet.

Q. So the real thrust of the problem is whether or not the title of the document is classified.

SSG LOFTIS: Yes, sir.

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Q. And even if it had been classified confidential, it would have still had to have been filed in the safe, and all of your active logs have to be in the safe with the material itself.

SSG LOFTIS: Yes, sir.

Q. They don't necessarily have to be locked in that same safe. You don't necessarily have to keep it in that safe, but it has to be under security conditions. It could be in an adjacent safe, could it not?

SSG LOFTIS: Yes, sir, but being as we only had the one safe, it should have been with the classified material.

Q. Well, I think that what would be important to know right now is whether or not you're sure that when you turned that safe over that drawer was locked, and two, that it was empty.

SFC SAIMONS: I know it was empty. May I ask a question? When you were there, were you able to get into that second drawer of that safe?

Q. I did not try to get into the second drawer of that safe.

SFC SAIMONS: I see.

Q. So I cannot answer your question, but I can tell you that it's one thing that I'm going to find out.

SFC SAIMONS: As far as I can remember, that drawer was empty.

Q. Well, I'm just trying to rationalize what you've been telling us because you told us very specifically at one time that you kept your confidential papers in the second drawer. That was one thing. You also indicated that in the lower drawer was a briefcase and a helmet.

SFC SAIMONS: That's right.

Q. Frankly I think one could put this altogether.

SFC SAIMONS: I think what I forgot was that the drawer was locked. That's what I forgot.

Q. If your confidential documents at that point in time were in the second drawer, you would have had a problem.

SFC SAIMONS: They were not.

Q. So when the drawer started sticking, did you remove the contents from the safe and put them in with the classified material up in the top drawer? At that time also, it could have been a fallout with the brief case and the flight helmet going to the lower drawer. When did you leave, again Sergeant LOFTIS?

SSG LOFTIS: I left the headquarters, sir, 12 May 1969.

Q. May 1969.

SSG LOFTIS: I turned over the documents, as I remember, on or about the end of April to Sergeant DROSDICK, because at that time I went on a 7 day leave to Hawaii. When I returned I had 12 days remaining in country. And at that time I was free of the responsibilities of being custodian of the documents, supplies, and other duties, in which I had to sign over to him. We did this prior to my departure for leave.

MR MACCRATE: Sergeant LOFTIS, what were the days that you were away on R&R?

SSG LOFTIS: I departed the headquarters on Christmas day as I remember.

Q. No, I'm talking about in May, 1969.

SSG LOFTIS: When I left that time, it was the week that went from April to May. I think, as I remember I was gone 2 or 3 days in April and 2 or 3 days in May. It was for a period of seven days.

Q. Were you in April 1969 ever asked to search for a report of investigation?

SSG LOFTIS: No, sir, I was not.

Q. But at this time, the second drawer of the safe would have been sealed shut.

SSG LOFTIS: Yes, sir.

(LOFTIS)  
(SAIMONS)

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Q. And if anyone did make a search at anytime, they wouldn't have been able to look in that particular drawer.

SSG LOFTIS: Not without it being forced open in some manner, sir.

Q. As far as you know, that was never done as long as you were there.

SSG LOFTIS: That's correct, sir.

IO: Do you recall when you got back from Hawaii, was it still inoperable?

SSG LOFTIS: To the best of my knowledge, it was, sir.

Q. You had already turned this over to DROSDICK?

SSG LOFTIS: Yes, sir, I had. When I got back, he was doing the job and doing it well. I did give him a little more assistance in some questions he had, which were routine. When I returned from this leave, sir, my capacity from then until the time I left was just a matter of advising Sergeant DROSDICK on any questions he had and clearing my unit for departure.

Q. The hearing will recess at this time.

(The hearing recessed at 1245 hours, 7 February 1970.)

(LOFTIS)  
(SAIMONS)

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SUMMARY OF TESTIMONY

WITNESS: SAINT, Crosbie LTC

DATE OF TESTIMONY: 31 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant G-3, Americal Division.

1. BACKGROUND INFORMATION.

The witness was the S3 to the First Squadron, First Cavalry while they were attached to Task Force Oregon until January 1968 (pgs. 1, 2). At that time he was made the assistant G3 in the Americal Division operating as the executive officer and for one month worked in the operations center (pg. 2). His G3 duties involved coordination between the various sections and supervision of the paper work (pg. 2). He remained as G3 until 1 July 1968, serving under Colonel BALMER and Colonel BAXLEY (pg. 2). For an interim period Lieutenant Colonel KELLY was the acting G3 while Colonel BALMER was on R&R (pg. 2). The witness described the physical layout of the office in relation to the general's office (pg. 21). He stated that he spoke with various people prior to his appearance before the board but the only discussion which had any pertinent information was one with Colonel BALMER in which BALMER told him that he was on R&R at the time (pg. 3).

2. TASK FORCE BARKER AND THE MY LAI AREA.

The witness described the background of Task Force Barker (pg. 4). He discussed the prior operations in the My Lai area and pointed out that they would not normally refer to it as Pinkville for reasons of clarity (pgs. 4, 5).

(SAINT)

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The witness stated that he recalled an argument going on the day before the combat assault into My Lai over the assignments of helicopters (pgs. 5, 6). Normally, he would not attend the evening briefing (pg. 6). He stated that in his awareness of the situation he realized that it was a hostile area, heavily booby trapped and mined (pg. 6). He stated that a study had been put out relating to ways to eliminate the mine casualties (pg. 6).

3. INFORMATION CONCERNING THE 16 MARCH INCIDENT.

a. His knowledge of reports.

The witness stated that he never heard of a confrontation between aviation personnel and ground units on 16 March (pg. 8). He did not discuss this with Colonel HOLLADAY, the aviation officer (pg. 8). He never heard of a rumor concerning the alleged confrontation on the ground (pg. 23). He never heard of a chaplain's report (pg. 9).

b. Propaganda concerning the assault.

The witness was not familiar with any propaganda concerning that particular area (pg. 16). He had not previously seen the propaganda which is attached to Exhibit R-1 (pgs. 16, 17).

c. Investigations concerning the assault.

The witness stated that although he frequently contacted the staff sections as well as the G5 he never heard any mention concerning an investigation of the alleged incident (pgs. 18, 19). He stated that an SIR would probably be sent out if they had ever received a report that people were killed by artillery (pg. 19). The witness recalled investigations and incidents being reported which were unfavorable, such as the relief of the Special Forces at Kham Duc (pg. 23). He also mentioned another investigation which was ordered by the commanding general, concerning the rape or the murder of Vietnamese Nationals sometime in June (pgs. 25, 26).

4. DIVISION POLICIES WITH REGARD TO CASUALTIES.

The witness stated that he did not recall anyone questioning the body count and comparing it with the number of weapons captured (pg. 7). He stated he was constantly amazed by the ability of the people to completely police up an area after an engagement (pgs. 7, 8). He stated that KOSTER put great emphasis on the reduction or elimination of any civilian casualties (pg. 11). He stated that Colonel KELLY worked on a division SOP document which spelled out the rules of engagement (pg. 11). The witness was shown various exhibits and asked to examine them (pgs. 11-13). He stated that Lieutenant Colonel KELLY prepared Exhibit D-5 (pg. 13). He stated that he recalled some correspondence from either General ABRAMS or General WESTMORELAND concerning alienation of civilians (pg. 13). He stated that General KOSTER personally briefed each of the brigade commanders and normally knew more about what was going on in the division than the people who presented the briefings in the evening (pg. 15). Orders for operations would not come out of the G3 for the normal day to day activity, but apparently were used to move a unit out or to cover major activities (pg. 15).



(The hearing reconvened at 1145 hours, 31 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Lieutenant Colonel Crosbie SAINT.

(LTC SAINT was called as a witness, was sworn and testified as follows:

Colonel SAINT, could you state your name, Social Security number and assignment?

WIT: Crosbie E. SAINT, I'm currently assigned to Office of Personnel Operations, armor branch.

IO: On my left, Colonel SAINT, is Mr. MACCRATE. He is a civilian attorney who has volunteered his services to Secretary RESOR to assist me in this investigation. He also provides legal counsel for 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 to assist me in this investigation. Either Mr. MACCRATE or Colonel ARMSTRONG may ask questions. We have some other groups such as this that are taking testimony from other individuals. As you might well imagine, I have the responsibility for putting the report together, weighing the evidence and making findings and recommendations. Have you had an opportunity to review the instructions, Exhibit M-57?

WIT: Yes, sir, I have.

IO: Do you understand them or have any questions?

WIT: I understand them and I have no questions.

IO: Colonel SAINT, will you indicate what your duty assignment was with the Americal Division, when you joined the division, and reassignments you may have had in the division, when you terminated your service with division?

A. Yes, sir. Initially, I started off at Fort Hood, as the S3 of the 1st Squadron, 1st Cavalry, which then rotated as a unit and was attached for a period of time to Task Force

Oregon. This was in the early part of August 1967. At that time I remained the S3, and we operated until January 1968. I was assigned as the assistant G3 in the Americal Division. Initially I operated like an executive officer. Then I was transferred to the operations center for about a month; then I was deputy G3 and went back as an executive officer. These were the only two assignments I had during my entire tour. My duties as the deputy G3, actually involved coordination between the various G3 sections, watching out for the paper work. I also made sure that the G3 knew when he was going out on his visits and discussions with the general, so he wasn't surprised by something that he didn't know about. Periodically I checked into the operations center to see if anything unusual had happened but I remained mostly in the office so that if somebody called and needed an answer in reference to the allocation of resources they could be directed to go to the general or the G3 himself. I was not, as you might say, a decision maker. I was to insure that coordination was made within the division staff.

Q. When did you join the G3 staff of the Americal?

A. It was in January 1968, sir.

Q. How long did you remain in that capacity?

A. Until about 1 July 1968.

Q. For about 6 months?

A. Yes, sir.

Q. And who were the G3's that you served under there?

A. Initially there was Colonel BALMER, sir. Colonel BALMER went on R&R for a short period of time. He wasn't officially designated but there was a Lieutenant Colonel KELLEY who used to work in the chief of staff's office and sort of filled in as far as briefing the general at night and that type of thing. Then a Lieutenant Colonel BAXLEY took over as the G3.

Q. When did BAXLEY take over? Do you remember about the time?

A. I think it was about 1 April, sir.

Q. The My Lai incident of 16 March became known or became a matter of public knowledge about 4 or 5 months ago through television, radio, newspapers and other media. Since that time, and up to the present time, have you had any discussions with anybody from the Americal Division concerning the My Lai incident, the reporting of the operations into this area, or investigations into the incidents in this area?

A. Yes, sir. On one occasion I was at Fort Knox on a trip to counsel officers. I talked to Brigadier General GALLOWAY, and he just asked me in conversation if I had known anything about this. This was a surprise to me, and he indicated that it was a surprise to him. I told him, "No, I had no knowledge of it," that I read it in the paper and was quite surprised. We just discussed the various aspects of how something like this would happen. I don't recall discussing the incident. I think I talked to several officers who were armor officers that I knew in the division who weren't necessarily associated with the incident but were in the cavalry squadron that I was in. They were asking me, "Do you know about this?" And I replied that I didn't know about it.

Q. You did not talk to anybody else in headquarters?

A. I believe, to be specific sir, I believe I talked to Major VAUGHN on one occasion. I think he is the only one that was in the headquarters. I take it back. When the incident first came up Colonel BALMER came over and asked me if I knew anything about it. I said "No, sir." I didn't know anything about it and he just sort of kidded me, like I would be called to testify in a few months. That's the extent of my conversation. He asked me - - I'm not sure whether he was just talking or to refresh his memory - - how Task Force Barker got down there. He said, "I recall that I was on R&R at that time," and told about how the Korean Marines had pulled out and they had put the task force in on Operation Muscatine to cover their movement out. We pulled the three companies to form the task force, and that's how we got it down there. That was the limit of our discussion. I told that to the best of my memory, that was the series of incidents that led up to getting the task force in there.

Q. I was wondering how you remembered so precisely that Colonel BALMER had been on R&R. I was well aware of that.

A. The reason I remember it is because there was some discussion on whether he could go on R&R. As administrative officer I was trying to arrange the administration so that he

could go, so that the general would let him go. It wasn't a normal thing, where he just went. It was quite a fight to get him out.

Q. You are well familiar with the organization of Task Force Barker, when it was organized and why and so forth?

A. Yes, sir, I don't recall dates specifically. I could be in error if you asked what battalions it was composed of, but I know it was about a two-company task force. Colonel BARKER was the CO of the task force and I believe Major CALHOUN was the S3. I know that subsequently, in our discussion about officers to replace officers in the operations center, Captain MEDINA's name had been mentioned as the outstanding company commander. I never actually talked to the captain, but I remember making note of his name when we were looking through people.

Q. Were you still in the headquarters when he joined the Americal Division?

A. When he joined? Yes, sir, he came with the 11th Brigade.

Q. When he came up to headquarters into the G3 section of the Americal?

A. No, sir. I was gone at that time.

Q. Are you familiar with the fact that this task force was organized in the latter part of January?

A. Yes, sir.

Q. Actually it had three companies instead of two, one from each of the battalions.

A. Yes, sir.

Q. Do you recall previous operations that had been out into the eastern part of Son Tinh District, which is the area that people refer to as Pinkville? Did you refer to that as Pinkville at that time in the headquarters?

A. No, sir.

Q. What did you call it?

A. In the briefings for the general we were very specific as to this town or that town. If somebody had referred to Pinkville while I was in there, if he would have been an operations officer, I think I would have corrected him, because I could see the general saying, "There are a lot of Pinkvilles running around."

Q. Did you refer to this as My Lai? How did they refer to this?

A. I believe it would be My Lai, sir, not (1), (2), (3), or (4), but just My Lai. As far as this specific operation, sir, I didn't get involved except I knew they were going to have an operation in that area and that it required so many helicopters. I would go into the TOC occasionally to make sure that everybody was covered as far as the allocation of resources, but as far as the tactical maneuvers I really didn't get involved in it.

Q. Had you been familiar with the two previous operations into this area by Task Force Barker in the month of February?

A. I know that they had them, sir, and that's the extent of it. I knew that they had combat assaults. I knew that we had some discussion with reference to where to move the artillery to close out the LZ, I guess it's Dottie or Uptight. We had a long discussion whether to close out Uptight. If we closed it out, where would they get their artillery support, whether you would have to put "8 inch" or "155's" at Dottie to cover any operations out in that area, but that's about the extent of it?

Q. What was the logic behind closing out Uptight?

A. Just trying to conserve the number of troops there and the number of people it would take to man a fire base and secure it.

Q. Now coming down to the operation of Task Force Barker on the 16th, when did it first come to your attention?

A. Sir, the operation came to my attention probably in the evening briefing or sometime in that afternoon or the night before, that they were going to have a combat assault. It would require some helicopters and there was a discussion on how many

they would get in an argument back and forth with brigade. I would hear nothing unless something occurred during the day, and I couldn't get a hold of the G3, The TOC would call me to ask what to do about something. Normally, I did not attend the evening briefing. The only other time that I would become acquainted with the incident was 4 or 5 days later. Number one, I would read the log to make sure that I was current in what was going on, so that if something came up I wouldn't be caught surprised. I'd look at it administratively and for anything that I didn't think the G3 knew about, just a routine report. Maybe he should know about it; then I would take it in and show it to him.

Q. While you were doing this, what was your appreciation of the enemy forces in this area?

A. It was a hostile area, sir. Ever since I had been associated with the Americal Division or Task Force Oregon, the people were considered hostile. It was heavily booby-trapped and mined. It was a very dangerous area to go into. As a matter of fact we did a study with reference to the number of casualties being received from that particular area from mines and booby traps. We put out some information to the troops on ways to cut down the number of casualties.

Q. When did you turn out that announcement?

A. I think it probably started around February, sir. I started it just out of curiosity. I was noticing the number of people being wounded down there and started counting. I talked to the G1 and the surgeon and added up the number of people and why and how they were wounded. I guess that's how it got started. I don't remember exactly. It wasn't too long after Task Force Barker got in there. They had a number of people wounded by one mine. I remember the general told the G3 to find out why they were all bunched up, how come four people got wounded by one mine et cetera.

Q. Do you recall along about the first part of March that quite a large group of them got caught in a minefield? We heard varying reports of 15 and 16, some people have indicated as many as 22. I think 15 or 16 is a better figure of the number of people who got killed or seriously wounded in a mine field.

A. Yes, sir. I remember that fairly vividly. When the Koreans moved out, there was a lot of discussion of what they left behind and the number of mines they put out in the area and their inability to pinpoint them and tell us

what was out there. In many ways people were trying to figure out how to eliminate these and on one occasion when somebody was injured by a mine, we had some discussion about the Koreans leaving that stuff around.

Q. I have here the log of the Americal Division for the 16th, Exhibit M-6. I ask you if you are familiar with this. I would like to point out certain things to you with reference to item 28, page 3. Did anybody ever question these figures, "69 VC KIA as a result of artillery fire this morning"?

A. Not that I know of, sir. I don't recall specifically saying anything to anybody myself. I think probably, as I read it now, I probably would have said, "Well, that sure looks funny to me." It sounded like somebody was counting people twice or something like.

Q. That's an awful lot of people to be killed by artillery fire.

A. Yes, sir. That's what I would have said.

Q. That's what you said to yourself?

A. I imagine. I can't specifically say I recall.

Q. Do you know of anybody doing anything about this?

A. No, sir. I don't.

Q. To find out, one, if they were killed by artillery, two if it was 69?

A. No, sir. I do not know of anyone checking on it.

Q. Turning over to page 9 you get a wrap up, the same figures that were presented at the TOC briefing. Looking down at the item 94 on the bottom of the page, you see in the fifth line it starts out with "Operation Muscatine". Didn't anybody ever question this body count and compare it to the number of weapons which were captured, 128 versus 3?

A. No, sir, not that I know of. I probably would not myself, to answer your question. I do not know, but I was constantly amazed by the ability of the people to completely police up everything. On several engagements

that we got in, nothing was left but a whole lot of blood stains on pieces of clothing.

Q. Well, were those engagements where you killed large numbers such as this?

A. Yes, sir. I couldn't report that we killed that number. I'd say we had contact with a force but I can't say that we killed that many people.

Q. If you killed 128 there wouldn't be many left to carry away weapons and bodies and so forth?

A. That's right, sir, unless it was a large force.

Q. Did anybody ask them what force they were in contact with?

A. Not that I know of, sir.

Q. Did you ever hear in the TOC and the S3 shop that one of the aviators flying in the operation that day had reported, through channels, that there had been some unnecessary killing of civilians, that there had been also confrontations between aviation personnel and ground units on the 16th?

A. No, sir. I did not.

Q. Do you remember who your aviation officer was?

A. I think it was Colonel HOLLADAY at the time, sir.

Q. Did you ever talk with him at all?

A. Not since the incident.

Q. I mean while you were there, did you ever talk to him?

A. Yes, sir. Quite often I talked to him.

Q. Did he mention anything about that information getting to the division command element?

A. Not to me, sir, not to my knowledge.

Q. I become somewhat amazed at this G3 section of the Americal Division, because nobody seems to talk to anybody, nobody really seems to know what is going on, to tell you the truth. I might say that you are not the only one. I'm just a little amazed that this section could be operating in the dark as much as it was. Did you ever hear of a chaplain having a report which indicated that there was some unnecessary killing of civilians about the middle of March in My Lai or Son My?

A. No, sir.

Q. I have here an after action report dated 24 March that has been entered into the record as Exhibit R-12. Would you look at this and tell me whether you have seen this combat action report? You'll notice on the first page, paragraph two, this covers a period from 0900 to 1915 on 23 February, daylight of one day's operation.

A. No, sir, I don't recall ever reading this. I can really feel sure that if I'd seen this I would remember it because it says things in here that would have been very interesting to me, such as the use of the swiftboats and what were their fires and so forth.

Q. How is it that you, who probably ordered this report prepared or which came into you, that you don't get to see it in your position as the deputy?

A. There was a section, sir, where we had training, doctrine and literature. I'm not sure of the exact terminology. It was run by an artillery major who, after I got up there, brought up the subject of after action reports. We really weren't in line with the other divisions in Vietnam in writing after action reports and that's when we wrote a document requiring people to submit after action reports, primarily for lessons learned, so we could make some sort of a document. When these came in they went to that shop there, sir, and if he did not bring it over--

Q. (Interposing) Where was this shop? Was this in the G3 shop?

A. Yes, sir. It was.

Q. You're not talking about the unit historian, the division historian?

A. Well, a copy was supposed to go to them also, sir.

Q. At that time who was this individual?

A. The unit historian, sir?

Q. No, the doctrine and operations section?

A. It was a major who was later promoted to lieutenant colonel while I was there, sir. I can't recall his name. I know the individual.

Q. I have here another two-page document, Exhibit R-13. The first page is applicable. It is dated 19 March 1968, subject: "Combat Action Report," to the Commanding Officer, 11th Infantry Brigade, from the Headquarters, Americal Division. Would you look at that front page and see if you are familiar with this memorandum?

A. Yes, sir. It looks familiar to me.

Q. Do you recall ordering this specific combat action report to be prepared?

A. I recall specifically two of them, sir. What I did, I made up a list of those actions which occurred within the last 6 months and took them to General RYDER. We were trying to get after action reports started. I made a list of those which I thought might have lessons learned type information in them, and I took them to General RYDER. He added some and struck some of them out. I took that list, published it and I think this is probably my piece of paper.

Q. This is one for the 11th Brigade. I assume you put one out to the other brigades?

A. Yes, sir.

Q. Wouldn't you expect to see these reports after they came in, if you put this out?

A. I would check to make sure they came in. I was personally interested, sir, but I don't think that I had the time to read each one of them in detail when they came in.

Q. I have here another document which is a combat action

report dated 28 March, Task Force Barker, 11th Infantry Brigade. This has been entered into the record as Exhibit R-2. I ask if you have seen this document.

A. It reads familiar, sir. I believe I have seen this.

Q. Can you think of any reason why you would see this and not see the other one?

A. No, sir. Probably both of them were made available to me, so probably I just didn't read the other one.

Q. The copy that you read, would it have an inclosure such as this one?

A. No, sir. I don't recall seeing any inclosure.

Q. This of course would have been in overlay form.

A. Yes, sir, and perhaps then it was there and I didn't bother to put it on a map.

Q. As the deputy within the G3 shop would you tell me what your interpretation was about reporting civilian casualties?

A. I know that General KOSTER put great emphasis on reducing or eliminating civilian casualties and use of discriminate fire and control of fire. For instance I believe Colonel KELLEY was working on a division SOP document that spelled out the rules of engagement. My understanding were civilian casualties were reported to the TOC which was to notify G5 so they could look into an incident of that type.

Q. Is there any place where it specifically said that civilian casualties will be reported by the field unit?

A. Yes, sir. I can't name a specific incident but I know they were reported primarily into the TOC. The ones that I recall were artillery problems.

Q. Suppose they were killed by small arms?

A. They were supposed to be reported, sir.

Q. Where is this spelled out? Was this included in your division SOP?

A. I can't state the page, sir, but it should be under the rules of engagement.

Q. I have here the SOP for Task Force Oregon which is the SOP under which the Americal Division was operating at the time, due to the fact that your own SOP had not been finalized.

A. That is correct. I was working on it about that time.

Q. You were working on it?

A. Yes, sir.

Q. Was KELLEY working on it?

A. Yes, sir, to answer your questions.

Q. Who was the honcho of it?

A. Colonel KELLEY was initially, sir, then he moved over to the chief of staff's office. When he moved, he had farmed out those portions written by the various sections. It sat dormant for a while. I guess you could say I resurrected it and asked for all of them to come in, got it typed and made arrangements to get it printed, after having it reviewed.

Q. I refer this document to you, which is an extract from it, which has been entered into the report, and I ask for you to find for me any place that refers to the reporting of civilian casualties. Well, we will hold on that for a little while. It may take you a little while to do this. I also give you a copy of the Americal Division SOP which was published on 15 April 1968. When we recess we will give you an opportunity to sit down and study this document and see if you can find any place that would indicate recording of civilian casualties.

A. Yes, sir.

RCDR: The "Americal Division Combat SOP" dated 15 April 1968 is entered into the record and marked as Exhibit M-106.

IO: I have here Exhibit D-5, Headquarters Americal Division, Regulation 525-4 dated 16 March, subject: "Combat Actions, Rules of Engagement." Is this the document you were

referring to that Lieutenant Colonel KELLEY was preparing for division?

A. Yes, sir. I believe so.

Q. We do recognize the main thrust of this document was to prevent the unnecessary killing of civilians, to protect human life, and to have proper handling of artillery fire and other forms of ordnance. We also know that this gave no indication of reporting any civilian casualties. I have here Exhibit M-9 dated 24 March, subject: "Safeguarding of Noncombatants," to all commanders, Headquarters, Americal Division, over the signature of General KOSTER. This appears to be a very fine document which refers back to the 525-4 which you have, which was just published about 8 days prior to this. Do you know anything that might have prompted the issuance of such a letter?

A. At the time, sir, I seem to recall some correspondence from General ABRAMS or General WESTMORELAND, in reference to the NVA, VC seizing control of villages and then causing American forces to go after them, thereby alienating the populace. I was under the impression this was generated probably by Tet and those associated problems I understood they had in Saigon.

Q. Well, this wouldn't be unusual. If you recall General WESTMORELAND was continually harping on the subject as was General ABRAMS, as was probably the corps commander, General CUSHMAN. So this would not be an unusual occurrence. I'm thinking if there was anything in particular, aside from that which may have precipitated the preparation of such memorandum. It is not a memorandum. Actually it could be taken as a command letter.

A. Yes, sir. No, sir, I know of no incidents. I just thought that this was a periodic command emphasis from the higher headquarters to refresh everybody's memory, to make sure that everybody was aware, at all echelons, to minimize civilian casualties, to further indicate the effort on pacification in contrast to what it was when I first got there. The area was much more hostile than it was at this time.

Q. At this time?

A. Yes, sir. There was a lot more activity when I first got to Task Force Oregon as far as VC and NVA is concerned than there was at about this time in March 1968.

Q. I think you would have a hard time convincing people in Quang Ngai City about that.

A. That is correct, sir. I'm referring to the area where I operated and in the vicinity of Chu Lai.

Q. Had everybody completely resettled back at this time?

A. No, sir. I don't believe so.

Q. Were all the people pushed back out in the Chu Lai area?

A. No, sir, in the Chu Lai area, basically so, but not around Quang Ngai. It took a long time.

Q. We have pretty firm indications. I'll show you one entry in the log, that people knew that civilians were killed. Some of it was indirectly reported to division early in the morning, five, six, seven or eight. Numbers of this amount. Later in the afternoon one of the units reported that they had 10 or 11 civilians killed. This is not too legible, but if you look at item 39, (Exhibit M-16) at the bottom of the page you'll see where Task Force Barker has entered into its log the fact that Bravo Company is reporting no civilians KIA. Charlie Company reports 10 to 11 women or children were killed either by artillery or gunships. You'll notice on the previous page that this was also reported to brigade. We find no indication of this in the brigade log. We find no indication of this in the division log. Can you give me any explanation of this?

A. No, sir. I can't explain why it is not in the brigade log.

Q. Another thing that's bothering me, above and beyond this, is the fact that some people in division headquarters knew that at least 20 or 30 civilians had been killed. These individuals also listened to the staff briefing that night in which figures such as 128 KIA, 2 U.S. KIA, 3 weapons captured. No point was raised that 20 or 30 civilians were killed?

(Witness gives negative response.)

All right, the thing that bothers me or that I wonder about is whether or not this was a normal or unusual situation within the division? Not only within the 11th Brigade or Task Force Barker, but is this a typical operation or situation for this division?

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A. No, sir, I don't believe it was. I think, and from your other statement, the only way I can explain what you're alluding to is the command structure and the fact that General KOSTER spent personally a great deal of time out with each brigade, talking to each of the brigade commanders. He normally knew even before he got back to the evening briefing everything that the briefer was going to say. As a matter of fact, in many instances he would update the briefers, so to speak, on what actually happened. The briefing was not conducted solely for the general even though something might come up that he hadn't heard about that it would be necessary for him to look into it, but it was conducted primarily for the members of his staff, so they would have an idea of what the division's operations were that day and what was going to happen the next day. From my discussions with other individuals and how their divisions operated, we didn't issue orders to brigade through the operations center. General KOSTER or one of the assistant division commanders did, and we very often found out about it second hand through our discussions with the various brigade S3's. We had to keep on our toes in order to keep track of what was going on, so if somebody asked us a question from another unit or a supporting unit we could give them an intelligent answer.

Q. Well, you did issue some orders to brigade, broad instructions? You wouldn't cover day-to-day operations, but I'm sure I could go through here and indicate the assignment of AO's, the assignment of missions, tasks and so forth to the brigade. They operated within the context of such a direction until the AO changed.

A. Unless we had to move a unit out or some heavy contact occurred in another area, those AO's stayed fairly stable. The day-to-day activity is what I'm actually referring to. When anything was going to occur, the operations order actually was an after-the-fact piece of paper that would insure that all the loose ends were tacked together for those people who would not be privy to what was going on so they could pick up those things that they had to know about. For instance, signal matters and things like that. One of the general officers would coordinate directly with the brigade commander and talk to him about it and come up with what he wanted to do. We would get called in and asked for our opinion on what they should do or Colonel BALMER would, and whatever it

(SAINT)

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involved. We would find out many times that it already had been decided.

Q. This is not any different than the other divisions' function.

A. This is why it appears that we don't know what is going on.

Q. This is the reason why you have these staff briefings, so that the commanding general can tell the staff what he has told these people to do, so that you know what to expect. I don't mean that everyday he goes over every single thing, because he doesn't operate that way, but when he gives a change of guidance and so forth. "I want you to do this," then this is what he should bring out. Did you have any knowledge of any Viet Cong propaganda which was oriented toward this area indicating that something unusual may have taken place, any kind of propaganda, leaflets, slogans, broadcasts, arm bands, posters?

A. I recall no specific propaganda concerning that particular area. I had heard, as a general thing, that they did that type of thing, when I was in a unit. I was informed once by the S2 that the Viet Cong had made a statement on an operation, that we had killed innocent people and that type of thing. Since I was in there, I know it wasn't true and I accepted this as a propaganda device that they used whenever we went into a particular area, so I really know of no specific reference to this area.

Q. I have here a piece of Viet Cong propaganda which came out in broadcast form. It was intercepted and translated into English, a copy of which was provided to division headquarters. The first page of this document, an inclosure to Exhibit R-1 is rather bland, rather typical communist dialogue, so to speak, but the second page becomes a little more pointed with respect to the targets and the theme.

A. No, sir. I haven't seen this.

Q. You didn't see this in division headquarters?

A. No, sir.

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Q. Now, I would ask you to come back one additional page and I would ask if you have ever seen that statement?

A. No, sir. I haven't.

Q. I would ask you to turn back to the front of the document and ask if you have seen this document dated 24 April, which is the report of investigation which was entered into the record as R-1.

A. No, sir. I don't ever recall seeing it.

Q. You might look to the next page. Of course, you won't see the true copy.

A. I don't recall reading this document, sir.

Q. You'll notice that last statement though, it almost ties in with what you told me a little while ago. You get to the top of the page, "Such allegations against U.S. forces is a common technique of the VC propaganda machine." Was there anybody in headquarters who looked at and tried to analyze VC propaganda?

A. I believe the PSYOP people did, sir. I don't have any first hand knowledge of this, once it was received there.

Q. Referring to Colonel HOLTOM and his group?

A. I don't recall the name HOLTOM, sir.

Q. H-O-L-T-O-M.

A. No, sir, I don't recall him. There was a Colonel ANISTRANSKI who was a G5. Then they had a little PSYOP section and, I take it back, he was a major then.

Q. With a British accent.

A. Yes, sir.

Q. Did you ever have any discussion with other people in the G3 shop, with Colonel ANISTRANSKI or HOLTOM, with Colonel TREXLER or any of his people, with Colonel QUALLS, with Colonel PARSON or with Major BEASLEY or anybody

(SAINT)

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in the command section, that indicated that some people had been killed by Task Force Barker and it was being investigated? I would like for you to think about that now. I mentioned more than a few people.

A. Yes, sir, I recognize that. I can honestly say if anything was mentioned it was like a conversation piece of information. For instance, I used to wait to hand documents to the G3 as they went to the evening briefing. They might have said something to the effect, "Did you hear that they are investigating something?" I recall no specific statement concerning the operation down there, concerning the investigation. If something was said to me, I interpreted it only as a matter of observation, for my general information, just from one person talking to another.

Q. One of the things that also has bothered me a little bit is the fact that, maybe there's an interpretation difficulty, but it seems to me that people didn't want to discuss this sort of thing. "Don't want to get any rumors starting around here, any wild loose talking, so let's not be passing any of this stuff on." So everybody clams up.

A. Do you mean that if an incident occurred nobody would talk about it.

Q. That's right, because there seemed to be an unwritten policy in the division headquarters that you don't talk about these things, you don't get rumors started and pass these things on, let them grow or magnify. Just keep quiet about it.

A. I agree with you, sir, that you shouldn't go around talking rumors, but not to keep quiet about it in an official capacity, not to go around and just say don't discuss this. Don't go around and talk to someone who has no connection with it. I had no reason to talk to the special services officer or AG concerning this. If I knew of an incident I would either talk to the G2 or the G5 in an official capacity but not as a matter of conversation. Mainly because it would turn into a rumor or an allegation which then had not been proved. No matter where it wound up, if they didn't then get the end result of whatever the investigation turned out, you would have some pretty damaging morale problems, like people doing things they shouldn't.

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Q. It all seems well and good now but was there any question when you hit one of these things on how to get them into the command group and get them into the proper investigative channels so they would get looked into.

A. My own understanding, sir, is when I had something like this, I would insure the G5 knew about it.

Q. Suppose we get down to killing women and children, for example. No matter how you look at it, I don't care how they were killed, whether they were caught in a crossfire, whether they were killed by artillery, or if they were killed by gunships, or however they were killed; within the guidance that was put out by MACV, is this not cause for somebody to initiate some kind of a report?

A. That is correct, sir, a Serious Incident Report.

Q. Or an artillery report in accordance with MACV 20-4. These are the things that are bothering us. Why these things don't happen, why they didn't happen. We know what got to division headquarters. I know that and I know it very well, but I'm trying to figure out why the lid was put on or how the lid got put on it. How you didn't know, for example, that 20 or 30 women were killed, and you were in a key position within the division?

A. I would say, through my discussions with other individuals, the ones I knew were more concerned in the tactical operations than I was. The reason that Colonel BALMER brought me up to division was that he had a lot of paper work and a lot of coordination and a lot of administrative work that took away his time that he needed for tactical operations. That was the reason why he asked me to come.

Q. I recognize you had your problems.

A. No, sir. I didn't mean that.

Q. I recognize that, even if you had a complete division staff, you're operating with more than a division.

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An ordinary division has 16,000 maybe 17,000 but you're operating with a strength of around 23,000 sometimes up to 25,000. This is pretty damn hard to superimpose that upon a TO&E division staff, which is already stretched in the first place.

A. Yes, sir.

Q. I recognize those things, and I also recognize that you're in the middle of a transition from a separate brigade operation, which you had in the Task Force Oregon, into something else that had come out in the ROAD concept a little later, but it doesn't explain a lot of the other things that I'm interested in.

MR MACCRATE: Colonel SAINT, during your period at the division, could you place for us where Colonel KELLEY had his desk?

A. Yes, sir, initially when I first reported in, sir, he was the deputy G3. I guess you're familiar with the hootch. Colonel BALMER had his desk on one side of a little wall and there was a little window and Colonel KELLY was on the other side of the wall. When I first came in, Colonel BALMER had me sitting at a table in his office, in the G3 office. I stayed there until he moved over to the chief of staff's office, and then he had a desk next to Major BEASLY. Is that what you're referring to?

Q. Yes. He had his desk in the same office as Major BEASLY.

A. Yes, sir.

Q. In that corner office?

A. As you came in the door it was on the right, and there was a room where Major BEASLEY was, and there was a desk right next to him.

Q. Then you walked from Major BEASLEY's office into the chief of staff's office.

A. Through a little corridor, yes, sir.

(SAINT)

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Q. Then from the chief of staff's office into the commanding general's office?

A. Yes, sir.

Q. And from the time Colonel Kelly went over to the headquarters building, he was always in Major BEASLEY's office?

A. To the best of my knowledge, sir. I would say everytime I went over there his desk was there. I know they had given him several projects, so he wasn't there very often when I went in, but his desk was there.

Q. Was there anybody else in that room that you recall?

A. No, sir.

Q. Do you remember for a brief period, Lieutenant DICKENS being in that office?

A. Yes, sir, I would have to agree, he was. They made him sort of like a protocol officer, an assistant. I don't recall him ever having a desk, but he may have, sir.

Q. Did you attend the morning briefings?

A. No, I did not.

Q. Did your TOC monitor any aviation net?

A. No, sir. On occasions, when there was a large action going on, the aviation officer brought a radio in because of the telephone problem and I really don't know what net he monitored but it was on a sporadic, special instance basis.

Q. And who is the aviation officer that brought it in?

A. Colonel HOLLADAY, sir.

Q. And who was his assistant?

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A. He had several of them, sir. I don't recall specific names, sir, but I remember the faces. I think there were two or three. One of them I know was removed because he wasn't getting along well in the TOC with the aviation problems.

Q. Did you ever hear from the aviation officer or discuss in the TOC the report of a pilot in a dispute with ground forces and whether there was a command direction given over the air to look into the situation. Does that ring a bell with you?

A. No, sir, not specifically. The reason I say that for instance, in my review of the log, on one occasion I remember seeing a report which had been received by the G5 which had come into the TOC. It had been put into the log that the Vietnamese had said an aircraft had shot at them out northwest of Chu Lai. There were those kinds of instances. I remember saying something to the G3 or G5, "You know this happened?" or to Colonel HOLLADAY to make sure he knew of the incident.

Q. How about a situation that is substantially more serious than that? Colonel HOLLADAY knew about it and you're suggesting that he did not share with you that the gunners of an aero-scout ship turned their guns on American troops. This went over the broadcast net and the commander got on the air and asked to have the thing looked into. "What's this all about?" He never spoke to you about this?

A. I don't recall him speaking to me, sir. His association with me really did not require that he say anything to me. He worked directly with the G3 or the general and anytime he told me anything it was to pass it on to the G3. In other words, it was not for my coordinating information.

Q. But wasn't this the kind of thing that required serious attention?

A. Yes, sir.

Q. And someone in your position on operations being ignorant of this, I just find very hard to understand.

A. I think in a measure of explanation of how something like this could happen, sir. Number one, I was in a

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different place in the TOC and for me to get information on what was going on as far as tactical operations were concerned, would be for them to bring it to me or, which I did about twice a day, go into the TOC and sit down and listen to what was going on.

Q. Did you at a later time ever hear this matter being discussed? Did you ever hear any rumors of it around Chu Lai?

A. Do you mean did I ever hear any rumors about an American helicopter gunner turning his guns on the American troops?

Q. Correct.

A. No, sir.

Q. And threatening to shoot unless the ground forces abstained from firing?

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

Q. Did there appear to be, from time to time, a disposition on the part of the division to cut back on reports to higher commands that reflected unfavorably upon division?

A. No, sir. To my knowledge, we reported everything. I know of some very unfavorable incidents which we reported.

Q. Can you recall a situation which involved the relief of special forces?

A. Do you mean Kham Duc, sir?

Q. Yes.

A. Yes, sir. I recall that very well.

Q. Can you recall the investigation that was being made about that event?

A. I don't know of a specific investigation, sir. I know that General ABRAMS wrote General KOSTER a letter and

General GALLOWAY replied to it concerning the loss of equipment. I know they got together a special little team to write an after action report concerning the incident. The IO was in charge of it and we had to furnish varied documents and information. I know of no technical, regular investigation as such.

IO: I might say this is quite a bit different too. I'll go into the details of Kham Duc with you because I happen to know Kham Duc very well.

MR MACCRATE: I have nothing further.

IO: Colonel SAINT, I have one more question before we recess here. We know that some people from the G3 shop, possibly the G2 shop, would periodically brief the people in your aviation battalion to bring them up to date, so that they would know about the enemy artillery and the aircraft fire on that operation. Also, they were part of your team.

A. Yes, sir.

Q. One situation that I know of, where the people were in the process of briefing the aero-scout company in the messhall, and I don't know who it was from the G2 shop and G3 shop that were there. They commented to the effect that, in this operation on the 16th that we are talking about, 128 VC were killed. This is promptly broken up at this point by people in the audience by just laughing and hooting and saying, "That's a bunch of stuff. A lot of women and children." At that point the unit commander got up and said "All right, let's stop all this. Just calm down. This is being investigated." Did you ever hear a story like that? Did anybody ever come back to you and tell you about that?

A. No, sir. As a matter of fact, when you mentioned briefing the aviation I thought you were talking about within the TOC. You mentioned the aero-scout company which was a new organization created within the division assets. I didn't know that somebody had gone down and briefed them, sir.

COL ARMSTRONG: When the G3 journal was prepared, I understand that it was first prepared in pencil copy, then it was subsequently typed up. Then it was checked by Captain BENNET or whoever the TOC duty officer might be. Do you

know of any editorializing or transcribing? Did anybody ever edit that thing?

A. Not to my knowledge, sir.

Q. When I mean "edit"--

A. (Interposing) You mean take something out? Absolutely not, sir, not to my knowledge. I know of no instances. Had I known of an instance that they took something out, since that is really the only official record, I would either have it put back in or we would have a discussion with somebody else about that type thing.

IO: I give you this opportunity, Colonel SAINT, to ask any questions that you may like to ask or if you would like to make a statement into the record.

A. There are only two things which I would just like to amplify. One of them is my personal knowledge of the concern of General KOSTER for the safety of civilians, and I know that he continually emphasized this whenever I was around in his discussions. As a matter of fact the firing of artillery preparations for assaults was limited unless you have information that it was going to be a hot LZ. You were not permitted to do it. This type of thing was objected to in division and met with some concern by the lower commanders. If you had a lift going in and all of a sudden it turned hot, it would be too late to do anything about it, but if it was imposed it turned out that it was all right. I know of an instance which had occurred that I would say was the only incident that I knew of first hand. I read some type of a report of a rape or a murder of Vietnamese nationals. The fact flabbergasted me when I read it. I know the general ordered an investigation and I knew it was conducted.

Q. Which general ordered it?

A. General KOSTER ordered an investigation.

Q. When was this?

A. This was while I was the deputy G3, sir.

Q. What month?

A. I don't recall, sir. I know the incident. I guess it was about March or April, sir. About April or May.

Q. It might have been May or June?

A. It was not too long before I left. I thought they might put me on the investigation because I was sort of coming to the end of my tour.

Q. We know about this. This took place in June, so that's the reason I was asking. By that time General KOSTER was gone.

A. The incident I'm thinking of, sir, I'm fairly certain that General KOSTER was there, because I remember Colonel PARSON or Colonel ROSE was the investigating officer. At least I thought it was General KOSTER.

Q. It's so close between General KOSTER and General YOUNG. Do you know of any other incidents of this policy of protecting noncombatants or civilians, where there was any disciplinary action imposed for people doing this sort of thing, except in the case of an artillery incident? I know that happens. I've seen other reports from General YOUNG and Colonel JONES who succeeded him. I'm familiar with those. I'm talking within the division, where women or children or innocent noncombatants were killed or wounded?

A. No, sir. I don't. Not from my own experience at the squadron level.

Q. Well, you see, this is the thing that becomes very difficult for me. I can read these policies and can understand that General KOSTER did talk about this, but I also know for example that when you talk about an artillery prep, this artillery prep was planned to go right on the village. You also had a policy concerning burning or destroying houses. This is evident in your SOP. To show you how completely uninformed your division headquarters was, in the process of this 3-day operation 6 villages were burned to the ground. I find no entrance of it in the log. This is the kind of thing I'm getting at.

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A. Yes, sir.

Q. So policy is one thing and enforcement of policy is quite another one.

A. Yes, sir.

Q. And that's the problem I'm faced with.

A. Yes, sir.

Q. From the line of our questioning here, Colonel SAINT, you may possibly have some recollection of some things that were said that would come to mind. If you do, we would like to hear about it. Also, if you can think of any documents, and as you can see this is only a small sampling of what we have, but if you can think of any documents that would be pertinent to what we're doing we would like to know about those. This could include either directives, reports, maps, photographs, aerial photos or anything of this nature.

A. Yes, sir.

IO: Before we recess, I would like to again caution you that your testimony is not to be discussed with others, including other witnesses for this investigation, except of course as you may be required by judicial or legislative bodies to testify, in which event your testimony here or appearance would in no way exclude such testimony.

WIT: No, sir.

IO: The hearing will recess at this time.

(The hearing recessed at 1305 hours, 31 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: SMITH, Richard R.

DATE OF TESTIMONY: 14 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Aide and Driver for General YOUNG.

1. SMITH'S RELATIONSHIP WITH YOUNG.

General YOUNG's area of responsibility was to the south of Chu Lai (pg. 16). Mr. SMITH always stayed in the helicopter at the various stops YOUNG made (pgs. 14, 14). Thus, all he knew was what the General told him and what he heard on the radio (pg. 4). Through an agreement with YOUNG, SMITH never asked about any of the operations in which the division participated (pg. 10). The only radio transmissions with which he is familiar are those relating to YOUNG's travel arrangements (pg. 4). SMITH never did any stenographic work for YOUNG (pg. 12). All he ever did for the General was act as driver and straighten up the papers in his office (pg. 12).

2. ACQUAINTANCE WITH INDIVIDUALS INVOLVED IN THE MY LAI OPERATION.

SMITH knew BARKER and HOLLADAY, but did not know HENDERSON (pgs. 5, 7). He never heard of THOMPSON (pg. 18) or saw TOAN or KHIEN (pg. 13). He did not know ADCOCK, HENDERSON's enlisted aide (pg. 9). He might have heard of WATKE (pgs. 9, 10). At first he could not recall Task Force Barker, but he remembered it later in his testimony (pgs. 4, 11).

3. KNOWLEDGE OF MY LAI INCIDENT.

SMITH knew he did not see burnings in his overflights of the Pinkville area because he never saw any action in his

flights with YOUNG (pgs. 6, 7). He did not remember making arrangements for HOLLADAY and WATKE to see YOUNG on the 17th, or flying to LZ Dottie that day with YOUNG (pg. 6). YOUNG's helicopter pilots were from the 123d Aviation Company, but ~~nothing~~ was said about either a warrant officer's complaint that there had been indiscriminate killing of women and children or a confrontation between a helicopter pilot and ground forces (pgs. 5, 17). The witness never heard anything about an incident at Pinkville or My Lai (pgs. 11, 12). He remembered nothing about a Province Chief being unhappy with American actions in Quang Ngai, nor did he hear about the ARVN's conducting an investigation into an American operation (pg. 14).



(The hearing reconvened at 1218 hours, 14 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 next witness is Mr. Richard R. SMITH.

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

RCDR: Mr. SMITH, for the record will you please state your full name, occupation, and residence.

A. Richard Raymond SMITH, pipe fitter, Dupont, 486 Dickinson Road, Wenonah, New Jersey.

IO: Mr. SMITH, have you had an opportunity to read the instructions (Exhibit M-57)?

A. Yes, sir.

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

A. No, I understand them.

Q. On my left, Mr. SMITH, is Mr. MACCRATE and the second individual on my right is Mr. WALSH. Both these gentlemen are civilian lawyers and they have volunteered their services to Secretary RESOR to assist us in the conduct of this investigation. They also provide legal counsel to me and other members of the inquiry. On my right is Mr. WEST, who is an assistant general counsel of the Department of the Army. And on my far right is Colonel FRANKLIN, who has been designated by General WESTMORELAND, the Chief of Staff, as an assistant in this investigation. Aside from myself here this morning, any of these gentlemen may address questions to you. We have other groups, incidentally who are taking testimony as well as this one. It will be my job to put together the report and to insure that the evidence is weighed properly and to determine the findings and recommendations.

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Before we proceed with any questions, do you have any questions that you'd like to ask at this time?

A. No, sir.

Q. Mr. SMITH, will you indicate what your duty assignment was with the Americal Division when you were first assigned to it, any change of assignment you may have had, the approximate dates, and when you terminated your service with the division.

A. Well, my function was aide and driver for General YOUNG. Mostly I was just his driver, and I took care of his personal effects where he was living at his house, and in the office I'd answer the phone because he didn't have a steno.

Q. When did you join the division?

A. Well, I went to the division with the general.

Q. Out of headquarters USARV?

A. Yes, sir.

Q. Yes, and when was that?

A. Approximately--it was some time in November 1967, I think.

Q. November 1967, all right. And you remained in that capacity with him--

A. (Interposing) Until we left for Danang. I think that was--

Q. (Interposing) Probably some time in July?

A. July, I think.

Q. July 1968?

A. July 1968.

Q. Well, you were there then when General GETTYS arrived?

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A. Yes, sir.

Q. To take over command of the division from General YOUNG?

A. Yes, sir.

Q. Would you elaborate just a little bit on what you did for General YOUNG? You indicated you drove for him, took care of his things, and answered the telephone. Did you do anything else with him? Did you fly with him?

A. I flew with him. He took me out flying with him because, after he left flying there wasn't really anything for me to do. So he took me out so I could see some of the things that might be going on, see the country.

Q. That's what we understand, and we understand you were very close to General YOUNG.

A. Well, I was with him for just about my whole time in the Army and went flying with him. His aide went on a leave for I think it was a month. He took a 30-day leave and I took care of the radio while he was gone.

Q. What time was that? Can you recall?

A. I think it was around either the latter part of March or sometime in April.

Q. Yes and he was gone--what was his aide's name?

A. Lieutenant WHITE.

Q. WHITE.

A. And I operated the radio.

Q. So you just went on? You worked real hard to get everything cleaned up so that by the time he got through with the staff briefing in the morning you had everything all tidied up and you could go flying with him?

A. Yes, sir. And at night, too, when we'd come in if something wasn't to be done up at the house or work needed on the jeep. He still had a staff briefing at night.

Q. You must have enjoyed your service with him.

A. Yes, sir.

Q. Now when you were doing this job of assisting and acting as the enlisted aide for General YOUNG, were you acquainted with Task Force Barker?

A. Not that I can remember, sir. I don't remember the name.

Q. Well Task Force Barker operated in the area just north of Quang Ngai City and it operated out of an LZ called Dottie.

A. I remember flying to Dottie. I remember the LZ and Quang Ngai City, but I didn't know the names of any of the operations.

Q. When General YOUNG would go into the headquarters, what did you do?

A. I'd stay in the helicopter.

Q. You'd stay right with the helicopter. So you wouldn't know anything except what General YOUNG told you or what you'd overhear on the intercom, so to speak?

A. Yes, sir. All I ever heard on the radio was I was just telling them that the general was coming in to land. I'd ask for a jeep if he needed one; or if where we were landing was in walking distance just let them know when we were landing, and we would let the command building back at Chu Lai know where we were at all times.

Q. The time we're interested in is the period about the middle of March, and from what you've indicated that would probably be the period you were doing a lot of personal work in support of General YOUNG, operating his radios and taking care of all this. In addition you picked up the duties of Lieutenant WHITE as well.

A. Yes, sir. When he went off, but I'm not sure when he took his leave. It was a leave or R&R, I don't quite remember, sir.

Q. If it had been an R&R, he would only have been gone a week or so.

A. But he was, I remember, a couple of days late because the general would kid around in the office about it, what he was going to do when he got back. He had flight problems coming back.

Q. Well, now, and you were also around his office in the evenings and mornings when you got things straightened out and so forth. Now the date I'm interested in is actually the middle of March. The 16th is a Saturday and it logically follows that the 17th is Sunday and the 18th is Monday. Now the 17th is Sunday. Do you remember being in General YOUNG's office and having--do you know Colonel HOLLADAY, the aviation officer?

A. Yes, sir.

Q. Colonel HOLLADAY and a major by the name of WATKE. Do you remember their coming in to see--

A. (Interposing) I remember Colonel HOLLADAY, sir, but no Major WATKE.

Q. Do you recall his contacting you, perhaps while the briefing was going on in the morning, to talk to General YOUNG?

A. That would be hard to remember, sir. That phone was busy every morning.

Q. While you were there in that office and doing these things, Mr. SMITH, did you hear about a complaint or an allegation that a warrant officer pilot had made to the effect that there had been some unnecessary or indiscriminate killing of women and children?

A. No, sir. I never heard anything like that.

IO: We'll take a short recess.

(The hearing recessed at 1230 hours, 14 February 1970.)

(The hearing reconvened at 1235 hours, 14 February 1970.)

IO: The hearing will come to order.

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

IO: You don't recall, then, having made such arrangements for Colonel HOLLADAY to see General YOUNG and Colonel HOLLADAY and Major WATKE going in to see General YOUNG very early on Sunday morning?

A. It's possible that I made the arrangements, sir, because most of the time I was at the phone in the morning. But remembering it, I can't say I remember that specific thing.

Q. On the afternoon of that same day, some time along about 2 o'clock according to the log of Task Force Barker, General YOUNG flew down to LZ Dottie. Do you remember going down there with him?

A. Not on that particular Sunday.

Q. Let me show you what I'm talking about now. I'll point this out on the map so you can see what we're interested in (referring to Map 5). Here you are at Chu Lai. Here's Quang Ngai City here, province headquarters, division headquarters, located over here in the eastern part of the city, east of Highway 1. LZ Dottie is located up here about 10 or 12 kilometers to the north, right alongside of Highway 1. This area we're interested in is just northeast of Quang Ngai City here. Do you recall by chance going down over this area and seeing a lot of burning that was going on in this area?

A. No, sir, I don't. Actually I never saw any kind of action or fighting going on at all, all the time I flew with him. The only thing that I saw was a couple of jet runs, bomb runs.

Q. You didn't look out here and see a lot of smoke and haze and so forth, along about the Pinkville area?

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A. No, sir. I can't say that I did.

Q. General YOUNG went down to Dottie again the following morning according to the best information we can put together. And also there was Colonel HENDERSON. Do you know Colonel HENDERSON, commander of the 11th Brigade?

A. I've heard his name but whether I ever met him or not, I don't know, sir. The only time I would have is if he came up to Chu Lai.

Q. And also the two gentlemen I mentioned previously, who had been there with him the day before, were also with him, Colonel HOLLADAY and Major WATKE, along with Colonel BARKER. Do you remember those five people?

A. I remember Colonel BARKER and Colonel HOLLADAY real good. He chewed me out one day?

Q. What did he chew you out for?

A. I dropped the general off down at the helipad and I was bringing Colonel HOLLADAY back up and I forgot to turn the lights off. He chewed me out pretty good for that. Major WATKE, his name's coming back; it sounds familiar now, but I just can't place it.

Q. I have here a picture which has been entered into the record as photo exhibit P-200. I ask you to look at that and see if you recognize the people in the picture.

A. There are only two besides the general I recognize. That's the chaplain.

Q. You recognize the chaplain?

A. I can't remember his name.

Q. LEWIS?

- A. Chaplain LEWIS, yes, sir.
- Q. How about the individual in the center?
- A. The colonel?
- Q. Is that your information officer?
- A. I can't remember. What was his name, sir?
- Q. DIONNE?
- A. DIONNE, yes, sir. I remember him.
- Q. You will recognize General YOUNG of course?
- A. Yes. This fourth man I don't recognize.
- Q. I'll show you another picture, P-198, and ask you if you recognize any of the individuals in this picture?
- A. Just the general, sir.
- Q. Who's the fellow standing in the background?
- A. I don't know, sir.
- Q. Does that look like Lieutenant WHITE?
- A. No, sir.
- Q. Not WHITE?
- A. It doesn't look like him to me.
- Q. Do you recognize this individual (handing the witness a photograph of MAJ WATKE which was not received in evidence.)
- A. No, sir, I do not.
- Q. Let the record show that Mr. SMITH was shown a picture of Major WATKE and he does not recognize it. Now to tie the time down a little tighter, to refresh your memory, there are a couple of things that may help here.

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On the 15th of March General LIPSCOMB who commanded the 11th Brigade was replaced by Colonel HENDERSON at Duc Pho. They had a change of command ceremony there at the airfield. Do you remember attending that with General YOUNG?

A. I remember General LIPSCOMB. Change of command, I'm not sure, sir. I went to a lot of them. I think I was there, sir. It was with General LIPSCOMB, I remember, because he come up, and I think he stayed with the general at his house or with Colonel GALLOWAY. I think he was there then.

Q. General RYDER would have departed before then?

A. He departed with Colonel GALLOWAY.

Q. You remember General RYDER was there; General YOUNG was there. General YOUNG looked after a lot of the logistics, of the rear areas, so to speak. When General RYDER left, General YOUNG took over that job and Colonel GALLOWAY took over General YOUNG's responsibility. Now another thing that might help you--Colonel HENDERSON's aircraft, the name of the operator and the man that did a comparable job to what you were doing for General YOUNG was a chap by the name of ADCOCK. Do you remember ADCOCK?

A. No, sir.

Q. So if the choppers set down, I figure you fellows would be talking about, "How's everything?"

A. I stayed mostly in the chopper, because I got to know the pilot and the two gunners real good.

Q. You probably had along a whole stack of comic books?

A. That and C-rations, sir.

Q. Do you remember something about Major WATKE, then, or hearing WATKE or HOLLADAY?

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A. I remember hearing his name someplace, sir. As far as placing where it was, I might have seen him in the office or heard his name spoken.

Q. I believe I asked you this before, but we got off. I was asking about whether you had heard about an allegation or a complaint by a helicopter pilot, that he had seen what he had called unnecessary killing of women and children?

A. No, sir, I never heard anything like that.

Q. Did you ever hear that there was an investigation being conducted of something that may have happened down in what they called the Pinkville area, or My Lai area, along about March or April or up into May?

A. Investigation. I never heard that word as far as anything going on. I think everybody knew in the office--knew something was going on somewhere because of the way things had changed. General YOUNG kept going down to Dottie a lot.

Q. What did you think was going on?

A. I didn't think about it because me and the general, we made one agreement. I wouldn't ask him about it and he wouldn't ask me what I knew if I heard anything. I never asked him about what was going on. The only thing I ever asked him was whether I could fly with him because it was boring after he was gone each day.

Q. It's pretty obvious that he put a lot more confidence in you than most generals do in their enlisted aides, so the mere fact that he let you carry on those functions during the absence of Lieutenant WHITE and so on would indicate that you and General YOUNG were quite close together.

A. I wouldn't ask him about any of the operations. The only thing he'd ever tell me was when they expected to get hit, at Chu Lai.

Q. Just putting aside anything that he may have told you, or that you may have asked for, you indicated that there was a general feeling there in the headquarters.

A. Well, there always was, sir. Everybody at one time or other might have heard something and they were telling that that's going on here and that's going on there. There's always talk of rumors of what is happening here, but actually nobody knew for sure what was going on because of what he told us.

Q. What did you hear? Did you hear anything about Pinkville or My Lai?

A. Pinkville, I never heard that one, sir. Dottie--

Q. (Interposing) Did you ever hear that people are looking into Task Force Barker for--

A. (Interposing) When I saw that up on the map I remembered Task Force Barker, seeing it there. I carried his maps for him into the chopper and I think it was me and Lieutenant WHITE, I helped him, what do you call, change them around when--

Q. (Interposing) What did he carry, one of these plastic map cases so you could keep it in the aircraft and you wouldn't have it blowing around?

A. He had a folder and he had his maps all wrapped up. When the general asked for one Lieutenant WHITE--

Q. (Interposing) He would want to get the map of the right area.

A. But that is where once I saw on the map, that's where I've seen it.

Q. General YOUNG was undoubtedly down there many times. But, in this feeling you had in the headquarters, was this a continuous thing or was this something that had to do with a particular period that concerned this area?

A. No, there was no particular time or anything. It was just when we first went up there with the general. After a week or so when I got to know all the guys that I would be working with, we started to talk, you know, and one guy would start talking about he talked to somebody who heard this and this is going on. Then there was always talk about we were going to get hit, and we were going to get hit that night, and what other outfits were doing. But nobody knew

for sure. When the men would come in from out of the field for a couple of days, they'd bring them in and let them go to the PX. A couple of them knew some of them, and they'd start talking about what they did out there and then it would come back, and by the time it came back to us you couldn't believe it really, because it changed. Every time somebody would tell a story the story would change.

Q. Well, did you hear of anything down there--

A. (Interposing) As far as My Lai, sir, or anything down there, I didn't hear about that until I read it in the paper.

Q. What were some of the things that you did hear that got distorted a little bit?

A. What do you mean, sir?

Q. Well you said these guys would come in from the units and they'd have these breaks or periods in Chu Lai, and during that time they'd come down and they'd talk.

A. Well, they'd get to talking and one thing would lead to another and they'd talk about their fights and the battle they were on and patrols they were on, and maybe a buddy lost or something. But as far as where and the name of the operation, something like that, we never heard that. A lot of the guys, they'd complain, you know, because they said we had it so easy and they'd start running off on what they did and how they're living how long they were out on this patrol or that patrol, how many of their buddies got killed, and how easy we had it back here at the command building and all.

Q. Well, we know, for example, that more than a few people among the enlisted personnel knew that something unusual had taken place down there in the area of My Lai. As a matter of fact we've had some individuals who would get it almost as a matter of common gossip. Do you remember hearing anything at all concerning My Lai or Son Tinh District, or Son My village or Task Force Barker?

A. No, sir. But then that wouldn't be unusual as far as I was concerned because I didn't handle no paper work, actually. And the stenos, from what I understand, they wouldn't tell us anything, actually. Like I was mainly a driver as far as the office was concerned, and all I ever did was answer the phone for the general and take care of his office as far as paper work and everything else. The typing that the general might want, he used one of the stenos.

Q. Who handled that for him?

A. There was Colonel PARSON's steno did a lot of it, HILL.

Q. Is that John HILL?

A. Yes, sir. He handled a lot and I can't remember whether this WASHINGTON, whether he was there right before we left or whether he was there for a while. He came in and did a lot of it because he took over when Bill HERRIS left, who was General KOSTER's steno, and took over for General KOSTER. He was his steno when Bill left.

Q. Did he take over from HERRIS?

A. From Bill HERRIS?

No, sir, I don't believe he had. I think Bill HERRIS left before General GETTYS arrived. I'm not sure on it. It could have been the other way around.

Q. Well, it's very close in there, I'm sure of that. As a matter of fact, if I'm not mistaken, Specialist HERRIS accompanied General KOSTER, I believe, to see him off.

A. Yes, sir, that's right. Bill went up with General KOSTER. General KOSTER went out of Da Nang, or did he go down to Saigon?

Q. I really don't know. I think he went to Saigon.

A. I think he went to Saigon, and Bill HERRIS went with him, and this WASHINGTON--well, WASHINGTON was there a couple of weeks before.

Q. You also flew with General YOUNG into Quang Ngai City, to go to the ARVN division headquarters and over to province headquarters to see Colonel TOAN, the 2d ARVN Division commander, or Colonel KHIEN, the province chief?

A. I've heard the names. I've never seen them, at least I don't think I've seen them.

Q. You stayed with the aircraft?

A. I stayed with the aircraft all the time he'd go out. I never went with him once he got out of the aircraft.

Q. And you normally would stay out, normally land at what they called the tropo pad in Quang Ngai, where they had a helicopter pad, or did they put down--

A. (Interposing) The one place we landed it had a pad.

Q. Was that right next to the MACV compound there?

A. Yes, sir, I think it was the name of it.

Q. The other place was what they called the soccer field?

A. Yes, the soccer field. We went there quite a lot. They had a jeep waiting for him.

Q. Did you ever hear, while you were there, that a province chief was very upset and unhappy about what the Americans had done in Quang Ngai?

A. No, sir.

Q. How about a division commander, Colonel TOAN, did you ever hear that he was unhappy?

A. No, sir.

Q. Did you ever hear about the ARVN's conducting an investigation of an American operation, or what might have happened as a result of an operation?

A. No, sir.

MR MACCRATE: Who used to fly with General YOUNG beside yourself?

A. Well, there was always Lieutenant WHITE, and he had his regular gunners and his regular pilot. He had maybe a different copilot now and then.

Q. Do you remember any days when you had others along with you?

A. There was a couple of days. A lot of times he took someone with him. He used to take Colonel HOLLADAY. He took the chaplain a lot out there. I can remember this other officer who went with us a lot.

IO: Did you know who the intelligence officer was, the G2? Did he fly with him?

A. Colonel TREXLER, not very often. Now and then he'd go out with the generals.

MR MACCRATE: Do you ever recall Colonel PARSON flying with him?

A. Once, I think, sir, I remember him going out. I don't think I went out on that flight because there were too many people in the copter. I think Colonel PARSON went out twice with him.

Q. Where were they heading?

A. I don't remember sir. I'm just grasping to remember that part. The communications officer went out with him a lot too.

IO: Well, he probably took quite a few people, the shortage of aircraft being what it was in the division. Every time somebody had an opportunity to fly on the aircraft, to go some place, they probably had quite a wide assortment of people traveling.

A. If somebody found out he was going, like up to an LZ that they wanted to get to, he'd take them along or if somebody there wanted to come back, he'd bring them back.

MR MACCRATE: Did you see General KOSTER as he went around? Would he be coming to some of the same places General YOUNG went, or did they tend to divide where they would go?

A. We used to run into him out at 1st Cav. We'd either be coming in and he would be getting ready to leave or else just the opposite. We'd be getting ready to leave and he'd be coming in.

IO: Down at the 1st Cav? You mean over at the other pad you had? You didn't take off from the VIP pad; you departed from the big pad?

A. No, there was an LZ that had a lot of armor there. I don't know whether it was--

Q. (Interposing) 1/1 Cav?

A. Yes, 1/1 Cav was where we'd meet. We did that, just about, I wouldn't say every time, but a lot of times. one way or the other, he'd be coming in or they'd just miss each other.

Q. Did General YOUNG normally look after things to the south of Chu Lai or was he also way up north along--and I'm not talking about an occasional trip up to the DMZ and up to Quang Tri, but whether he went up there practically every day whether he focused mostly on the area to the south down around Binh Son, Quang Ngai Province, down in Duc Pho and clear to the south down to the Binh Dinh Province border?

A. He was mostly to the south, sir. He took a couple of trips, he took one trip that I can remember, to the DMZ because I didn't go along on that one. If I can remember, he'd go way up north now and then, but he would never go that far, never go past Danang.

Q. Well, I wish you'd think real hard before we close here. See if you can recall having heard anything about a report by an aviator, a warrant officer, or whether or not you had heard anything about Task Force Barker perhaps being in trouble or having killed some civilians unnecessarily or whether you heard anything about the province chief being unhappy. Did you ever go and visit the enlisted personnel in the 123d Aviation Battalion? You must have had a lot of friends over there, you're flying all the time, perhaps some of those gunners?

A. We always had the two gunners and we never went down there. Well, at night they had the officers club up there. I was tending bar there, so until they closed that at night--

Q. (Interposing) But these pilots you had in your aircraft, did they come from the 123d?

A. Sir, I think they did.

Q. Well, you sat around and gassed with these pilots and the doorgunners? I know what you do, it gets pretty boring sometimes while they're off in town, sometimes for half an hour, some times for 2 hours, it gets pretty boring sitting around that helicopter, so you're doing a lot of talking and they're telling you what they know and people being people. Did you talk to those gunners and so forth? Did they ever talk to you about what they had been hearing in their company and so forth? I know that a great number of people, not only in the aero-scout company but in the lift company as well, which is Alpha Company. I know that they knew this. So it wouldn't be unusual in my mind for them to talk to you about it, to tell you about it.

A. They talked a lot about, mainly about the choppers that went down, the guys they knew.

Q. Did you ever talk about a situation where some of the people in their aviation outfit had a real heated argument with some of the ground forces to the point where one of the helicopters sat down and had his machineguns trained on some Americans?

A. No, sir.

Q. You never heard about that?

A. Not about that.

MR MACCRATE: Did General YOUNG have the same pilots each day or--

A. (Interposing) His pilot would be the same but his copilot was changed. He asked for this one pilot.

Q. Who was that?

A. I can picture him, but I can't remember his name.

IO: Did you ever know a crew chief down there by the name of ANDREOTTA? Or a gunner by the name of COLBURN?

A. I've heard the name ANDREOTTA.

Q. He got killed a little while later.

A. I've heard the name.

Q. He had a very fine reputation. Did you ever hear of Warrant Officer THOMPSON?

A. No, sir.

Q. Well, Mr. SMITH, we appreciate very much your coming in. I want to tell you that we do know a great deal of what is going on, and I'm sure you recognize this from our line of questioning. But you should also know that we are trying not to leave a single stone unturned to try to find out exactly what transpired, whether it was reported properly whether it was investigated properly, and whether these investigations were reviewed properly. If, when you leave, some of these things that I've been talking about, and I've asked you some very leading questions, provided you with some information, if any of those questions come to mind, and they in turn bring forth additional thoughts which have been stored in the back of your mind, I'd very much appreciate it if you would get in touch with us so that we can have an opportunity to take advantage of such information. It may seem small to you, but sometimes these little bits and pieces of information are just exactly what we need to complete a story. Additionally, if you know of any documents, maps, photos, such as these--(indicating a photo) this incident was a photo that happened to be taken by, I think it was a chaplain, who just happened to be traveling with General YOUNG that day. If you can think of anything like that that might be useful to us, documents, directives, aerial photos, maps, so on, we'd appreciate knowing about those.

A. I have a lot of photos at home that I took while I was flying with them. Now whether they were over these places, I couldn't tell you. A lot of them were from the air. I took some on the ground, but most of the time it was from the air.

Q. Do you have them in sequence of time or anything, or in a book?

(SMITH)

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A. No, sir, I have them in a footlocker at home.

Q. May I ask you to look these over. We could do this ourselves. We could look them over and so on, but I think from what you know, you can pick out the photos that we would be looking for. If you have any pictures taken down at LZ Dottie, for example, that might prove helpful. If you have any pictures taken from the air of this area that we're referring to here, the area of My Lai (4), or if you have anything that will tie it into this situation, we'd very much appreciate having them. We will have them duplicated and immediately returned to you. Or if you prefer you can send your photos to us and we'll look them over and return them to you.

A. Sir, I'll check them out.

Q. I appreciate that. I would again remind you that we have requested that you not discuss your testimony here with others, including people who may have already appeared before us as witnesses, or people that may be associated with the operation, or the division, who may have appeared before us as witnesses. At this time I'll give you an opportunity to ask any questions that you'd like, Mr. SMITH, or if you'd like to, to enter a statement into the record.

A. No, sir, I have no questions.

IO: The hearing will recess at this time.

(The hearing recessed at 1310 hours, 14 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: SWAIN, Carrol E. LTC

DATE OF TESTIMONY: 26 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: IG, Americal Division, 6 May 1968 to  
4 April 1969.

The witness had no knowledge of the My Lai incident, any rumors of an incident, or any investigation which might have been connected with the incident (pgs. 1-5). He had seen no reports of any investigation and had no knowledge of any reports from sources outside the Americal Division (pgs. 5-10). He was not knowledgeable on the training of the men in the division concerning war crimes (pgs. 7-9).



(The hearing reconvened at 1019 hours, 26 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Lieutenant Colonel Carroll E. SWAIN.

(LTC SWAIN was called as a witness, was sworn, and testified as follows:)

RCDR: Colonel SWAIN, for the record will you please state you full name, grade, Social Security number, organization, and station?

A. My name is Carroll Edwin SWAIN. My rank is lieutenant colonel. My Social Security number is I am stationed at Headquarters, CONARC, Fort Monroe, Virginia.

RCDR: Thank you, sir.

IO: Colonel SWAIN, have you read the instructions (Exhibit M-57)?

A. Yes, sir. I have.

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

A. I understand them, sir. I do not have any questions.

Q. All right. On my left is Mr. Robert MACCRATE, a civilian attorney who has volunteered his services to the Secretary of the Army to assist us in this inquiry. He also serves as my legal counsel as well as legal counsel to others connected with the investigation. On my right is Colonel ARMSTRONG who has been designated by the Office of the Chief of Staff as an assistant in this inquiry. Either of these gentlemen may address questions to you this morning.

A. Yes, sir.

Q. Aside from this particular group we have other comparable groups which are taking testimony from others. It will be my responsibility to put together the report, to weigh the evidence, and to determine the findings and recommendations.

As a military officer you are cautioned not to discuss your testimony in this investigation with others, including other witnesses for this investigation, except as you may be required to do so in the performance of official duty or before a competent administrative, judicial or legislative body. With respect to the legislative, it is possible that you may be requested or required to testify before one of the congressional committees and most specifically the investigating subcommittee of the House Armed Services Committee. If such does eventuate, your appearance here would in no way preclude you testifying before such a body.

I do not believe that you have been either cited or cautioned 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 don't think you will be, but in the event you are, your appearance here would in no way change either the effect or the applicability of such orders by that judge or by any of the other judges connected with any of the general court-martial cases of which may develop out of the My Lai incident. Do you have any questions at this time?

A. No, sir. I do not.

Q. Colonel SWAIN, would you indicate your duty assignment with the Americal Division and also indicate the times that you joined and when you departed?

A. I was the division IG of the Americal Division. The effective date of me taking over this responsibility was 6 May 1968. I left Vietnam on 4 April 1969. And during this complete period I was the division IG.

Q. You were the inspector general all throughout that period?

A. Yes sir. I was.

Q. Eleven months. Colonel SWAIN, the My Lai incident of 16 March 1968 became a matter of public knowledge now about 5 months ago, September or October 1969. Since that time have you talked to anybody from the division headquarters or from the division concerning the incident itself, or concerning the reporting of the incident, or the investigation?

A. The only thing that I know, sir, is I talked to one officer who received a call to come before your committee. His name is Lieutenant Colonel Jerry HILL, now the IO down at CONARC headquarters. He just indicated to me that he had a call to come before the committee which I expected anyway, because he was the division IO at the time.

Q. All right. What was the date again in May that you became the IG?

A. 6 May, sir, if I am correct, to the best of my knowledge.

Q. All right. Task Force Barker was disestablished in early April, specifically the 9th of April 1968, but you became the IG in May approximately a month later. Were you aware of the existence of Task Force Barker?

A. No more than after I had been there for 2 or 3 weeks Colonel BARKER was killed.

Q. Yes.

A. And they indicated that he was the commander of a task force. This is all that I know.

Q. Did you ever hear, when you were the IG and with the staff, that within Task Force Barker something unusual had taken place out in the area of Son My Village east of Quang Ngai City in about the middle of March?

A. No, sir. I never had knowledge of such.

Q. Did you ever hear that one of the aviators who

was flying that day reported through his military channels that something unusual had taken place that day?

A. No, sir.

Q. Did any of the chaplains like a Major CRESWELL with DIVARTY or Colonel LEWIS ever discuss this matter with you?

A. No, sir.

Q. Were you aware that a matter with respect to Task Force Barker was being investigated?

A. No, sir. The only time I found out there was an investigation is when I read it in the newspapers about 5 months ago.

Q. Did General KOSTER, or General YOUNG, or Colonel PARSON, or anybody ever talk to you about an inquiry or investigation down in this area?

A. No, sir.

Q. Were you ever queried by anybody from the 11th Brigade on procedures for conducting an investigation?

A. No, sir, not in this connection. Not connected with My Lai; not connected with that.

Q. Were you ever asked to designate or to cut some orders designating an officer as an investigating officer?

A. Of the My Lai incident, sir?

Q. Well, of this general area. Now it's known as the My Lai incident?

A. No, sir.

Q. Did you ever have any discussions with any of the other staff members, the 1, the 2, the 3, I think we can exclude the 4, but the 5, concerning something that may have happened there?

A. No, sir.

Q. I have here, Colonel SWAIN, a report of investigation, dated 24 April 1968, which has been entered into our record as Exhibit R-1. I show you this report and ask you if you have ever seen this report or seen or heard anything like it?

(Witness takes exhibit from IO and examines it.)

The piece of paper you're looking at at the moment is indicated in the basic correspondence as Inclosure 2. This is purported to be some Viet Cong propaganda. That's just a letter of transmittal there.

A. Sir, to the best of my knowledge, I don't ever recall seeing this piece of paper or any pieces of paper connected with it or entering into any discussions with anyone or even hearing about it, to the best of my knowledge.

Q. If when you were in the IG, which you took over as of about the 6th of May 1968, this report as we understand it was called to the attention of proper individuals in the headquarters around or about the 8th or 10th of May, would you have expected that you would have been shown a copy of this report?

A. I wouldn't know, sir. It might have been a possibility. It would all depend on, of course, how the chief of staff or the division commander felt about it. On the 6th of May I was conducting several pre-IG inspections out in the units and most of my time was spent away from the division headquarters. And I feel that if it was anything important enough that they felt that I would need to know in my line of business they would have pulled me in on it.

Q. Whether you recognize the number or not, I'm sure you are familiar with MACV's directive with respect to investigating either atrocities or alleged atrocities?

A. Yes, I vaguely recall it, sir.

Q. I show you here MACV Directive 20-4 which has been entered into our record as Exhibit D-1. I would call your

attention primarily to paragraph 2 and to paragraph 5.

(IO hands exhibit to witness who examines the document.)

Well, I think you've seen it all. Generally the procedures under which you operated in the Americal Division? Although it's granted that this does cite the staff judge advocate as the primary action agency, with the normal inter-workings of a division staff, as closely coordinated as they are if something such as this were assigned to the JAG, you would probably be well aware of it. Would this be a correct assumption?

A. Yes, sir. We had a unique relationship there and we would talk about it. We would talk.

Q. Please look at the other document which I've shown to you and specifically Inclosure 1 which indicates that a letter received from a village chief and a report by the district chief alleged a large number of civilians were killed. The investigation itself speaks of the allegations made. Would it appear from this that a formal investigation should be conducted?

A. Based on the way I operated, sir, if I had been made aware of something like this, I would immediately have gone to the chief of staff and recommended that a formal investigation be conducted.

Q. About a month after you joined the division you had, not a comparable situation such as this, but you did receive information concerning another situation in which a formal investigation was conducted, if I'm not mistaken, having to do with one or more individuals and involving some rapes and so forth in which you did appoint an investigating officer. It was formally investigated.

A. I don't recall offhand, sir. I would have to see it.

Q. Did you ever hear any statements, or any comments, or rumors, or anything which may have caused you to be suspicious, even to a degree, that something unusual may have taken place in this area?

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A. No, sir.

Q. Did you ever have any discussion with Captain MEDINA after he joined the division staff?

A. No, sir. I don't know Captain MEDINA as a person.

Q. One other question having to do with technical channels versus command channels. Here again this is a matter of opinion because I look upon you as an experienced and qualified inspector general. If a chaplain received a report from an individual who may have pointed out the unnecessary killing of women and children, and let's say this chaplain belonged to one of the subordinate major units of the division, he could belong to the support command, DIVARTY, or any comparable organization, what should be his actions?

A. Well, this is based on my opinion, sir. He should go to his commander, the brigade commander or the support commander might do.

Q. Yes?

A. And bring this to his attention.

Q. Should he, feeling that he doesn't know that this is correct, or incorrect, or anything and before he makes such a report, have it checked out through chaplain channels?

A. Now I would say, sir, that this possibly could be a system, but I know based on my operations, say when I heard certain things, I would report it anyway and would tell the chief of staff that I was investigating it. This is the way I used to operate.

Q. All right.

MR MACCRATE: Colonel SWAIN, your first assignment in Vietnam was as IG of the Americal Division, is that correct?

A. Yes, it was.

Q. Your immediate predecessor as IG was Lieutenant Colonel HETHERLY?

A. That is correct.

Q. And you were succeeded in that position by Lieutenant Colonel HOWARD?

A. This I do not know because I left Vietnam under emergency conditions, and my replacement had not come yet.

Q. I see. Who were your principal assistants at the beginning of your period and also at the conclusion?

A. My assistant at the beginning was a Major Roy PARNELL, P-A-R-N-E-L-L. I don't know where he is at the present time, but I know his branch is Field Artillery. My assistant when I left was a Major SAPERSTEIN S-A-P-E-R-S-T-E-I-N. His branch is Air Defense.

IO: Did you have Major COMEAU with you at any time there?

A. I remember Major COMEAU. He was the staff judge advocate for a period while I was there.

Q. I keep getting IG and SJA mixed up every once and a while.

A. Yes, sir.

MR MACCRATE: Did you at any time have contact with the advisory team in Quang Ngai Province or Son Tinh District?

A. I never had any contact with the advisory team in Quang Ngai Province. I never did.

COL ARMSTRONG: Colonel SWAIN, as I recall it was the habit of the IG's making their annual general inspections to pinpoint certain specific questions relating to the individual training of the men in the units, to determine whether a widespread knowledge of certain specific subjects had been gained at this time.

A. That is correct.

Q. Do you recall whether or not the MACV directives on war crimes and how to handle prisoners were the type of subjects that you checked into?

A. Now these were not the type of subjects that I used at troop level. No more than around officers. I would ask these questions just to see whether they were aware and whether they were disseminating certain information, this is all. Sir, the IG as such in Vietnam got to see the troops, but at least in our division I was primarily concerned with whether they were being taken care of, food and medical care, things of this nature. I got quite involved while I was there in racial tension type activities, and this was about it.

Q. You didn't really pick these particular subject matters except with the officers?

A. Not with the enlisted men, sir. With the officers I would ask: "Do you have this? Are you aware of it?" Maybe proper questions just to get a feel.

Q. But what I'm getting at is was this a subject that you actually pinpointed as one of the inspection items or special areas?

A. Well, I could say that it was included, sir, somewhere in our checklists. And if it was included, we had a whole array of checklists that we used and we disseminated these checklists down to the battalion level before we inspected.

Q. I see.

IO: Colonel SWAIN, we appreciate very much your coming in. You've had the benefit of a little bit of our questioning here this morning. This may call something to light that will refresh your memory on certain things that may have happened. If you do recall anything, we'd appreciate very much you getting in touch with this office so that we can take advantage of that particular knowledge.

A. All right, sir.

Q. Or if you can think of any documents, memoranda, directives, reports, photographs, maps, aerial photographs, or anything which would be of assistance to us we would appreciate knowing about that.

A. All right, sir.

Q. I'd like to give you an opportunity to ask any questions which you may care to ask or if you would like to enter a statement into the record.

A. I have nothing to ask, sir, nor anything to add or put into the record.

MR MACCRATE: Colonel SWAIN, one thing you just mentioned. This is more by way of eliminating possibilities than the fact that we've had any suggestions that it is involved. But since this had been an area of your own concern and attention during your period there, is there anything in the area of racial tension that related particularly to the 11th Brigade that you think we should be aware of? I preface it by saying that we have not to this time been aware of it, but we are very interested to make certain that we are knowledgeable as to anything that might be of relevance to it.

A. Well, I had a few cases where troops refused to go to the field. I cannot pinpoint any specific unit. And when I speak of troops, this was the black soldier. Basically his reason for not wanting to go is the conditions at home. It always led to this. In these cases, I would not play the part of an IG. I played the part more of a father sitting down and discussing it with individuals and small groups as to what their responsibilities were. Quite often it worked quite well. It stopped some of the courts-martial. But as I say, as far as large-scale activities were concerned in the racial tension area, at that time it did not exist. It boiled down to individual type things, one or two individuals fighting around the beer tent or making certain remarks at fire bases, but it was my assessment that when they went to the field or out in the field, there was no difference in race. It was strictly a close brotherhood. This was my assessment while I was there.

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Q. Thank you.

IO: The hearing will recess at this time.

(The hearing recessed at 1045 hours, 26 January  
1970.)

SUMMARY OF TESTIMONY

WITNESS: TIXIER, Lewis B. COL

DATE OF TESTIMONY: 2 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: Acting Chief of Staff, Americal Division, 13 August 1968 until 3 October 1968; 10 January 1969 until 31 January 1969; Commander Americal Division Support Command, 28 July 1968 until 13 August 1968; 30 October 1968 until 10 January 1970.

1. ASSUMPTION OF THE DUTIES OF CHIEF OF STAFF.

The witness testified that when he took over the duties of chief of staff, he received no briefing concerning anything except current working papers (pg. 3). No classified documents were kept in his office (pg. 3). He could not recall a field safe being in the division commander's office (pgs. 4, 7).

2. WORKING OF THE COMMAND OFFICE.

The witness stated that the commander's aide handled his personal correspondence, while he himself handled the official mail (pg. 5). He had no knowledge of the filing system; this was handled by the deputy chief of staff (pg. 6). The latter also was responsible for the logs (pg. 6).

3. KNOWLEDGE OF THE INCIDENT.

The witness asserted that he had no direct knowledge of the incident, nor had he heard any rumors concerning it (pgs. 13, 14). Although he knew Captain MEDINA, he had heard nothing of his inadvertently killing a woman (pg. 14).

(TIXIER)

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SUM APP T-300

4. KNOWLEDGE OF A REPORT.

a. Knowledge of HENDERSON's report.

The witness asserted that he had no knowledge of any report of any incident similar to that under investigation (pg. 9). He stated he had never seen Exhibit R-1 (pg. 10), nor the propaganda inclosure (pg. 12). He added that if he were looking for such a report he would look successively to the G5, SJA, IG, and the TOC (pgs. 10, 16). Thence, he would go to the brigade (pg. 11).

b. Knowledge of other reports.

The witness stated that he was not familiar with Exhibit M-34, Exhibit M-36, or any letter from the 11th Brigade commander concerning the incident at issue (pg. 12).

5. OTHER INFORMATION.

a. Persons spoken to since the incident was publicized.

The witness noted that since the story of My Lai had been publicized he had spoken with a Colonel CROWE who had told him of an investigation which had been conducted. He added that he had no knowledge of this investigation (pg. 2).

b. Other investigations.

The witness recounted an incident of a rape in which an investigation was held. A court-martial ensued (pg. 9). He felt these records were on file with the Staff Judge Advocate (pg. 10).



(The hearing reconvened at 1320 hours, 2 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.

The next witness is Colonel Lewis R. TIXIER.

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

Will you please state your full name Social Security number, organization, and station?

A. Lewis R. TIXIER, Colonel, Armor, J3, OJCS, Washington, D.C.

IO: Colonel TIXIER, on my left I have Mr. Robert MACCRATE who is a civilian lawyer who has volunteered his services to the Secretary of the Army to assist in this investigation. He also provides legal counsel to myself and to the other members of the inquiry team. Colonel ARMSTRONG, on my right, has been designated by General WESTMORELAND's office as an assistant in this inquiry. Beside myself, both Mr. MACCRATE and Colonel ARMSTRONG may address questions to you this afternoon. We have other groups such as this that are taking testimony from other individuals. I will have the task of putting together a final report and weighing the evidence and determining findings and recommendations. Have you had an opportunity to read the instructions?

A. Yes, sir.

Q. You understand them?

A. I do, sir.

Q. Any questions concerning them?

A. No, sir.

Q. Colonel TIXIER, would you indicate your duty assignment with the Americal Division, indicating when you joined and any changes of assignment you may have had, including the approximate dates and the termination of your services?

A. I was posted to the Americal Division as a support commander in the latter part of July. About the 28th, I believe, I took over command of the support command. About 13 August I replaced the chief of staff and became the acting chief of staff until about 3 October. I then reverted back to support command commander, which I retained until approximately 10 January, I believe, or sometime around 10 January, and I was again made the acting chief of staff during the absence of Colonel TREADWELL, the Medal of Honor winner, who had come back for the inauguration. I remained as the acting chief of staff until about 31 January, I believe it was. I was then detached from the Americal Division and returned home, arriving about 7 February.

Q. You replaced initially Colonel PARSON as the chief of staff?

A. Right, sir.

Q. Then when you left that time, your place was taken by Colonel TREADWELL?

A. That's correct.

Q. Colonel TIXIER, the matter of this My Lai incident of 16 March 1968 became a matter of public knowledge in September or early October 1969, approximately 4 or 5 months ago. Have you had any conversations with any of the people from the Americal Division concerning either the incident, the reporting of the incident, or the investigation of the incident?

A. I've had one conversation with a Colonel CROWE I had known before here in Washington. We served together here in Washington, and, of course, I had met him and talked to him several times while we were in the Americal Division together. I talked to him about the alleged incident.

Q. Was there anything substantive about it?

A. The only substantive thing, he told me that there had been an investigation, which I was unaware of during the entire 6 months that I was in the Americal Division.

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Q. When you took over as the acting chief of staff in late August 1968, did you receive any special instructions from Colonel PARSON concerning any particular papers that may have been in the headquarters, either in your office or in the assistant chief of staff's office or the commanding general's office or any of the offices?

A. There were the papers that were working--if I may go back, Colonel PARSON had extended in Vietnam to be with CORDS, and he brought his family over and had gone to the Philippines to visit them. During this, I believe about a 5-day period that I first became acting chief of staff, the on-going papers of day-to-day business he turned over to me. Upon his return, he stayed there about 3, 4, or 5 days, maybe, at which time General GETTYS said he could be released early and not have to wait for Colonel TREADWELL to come before he could go to his new job in CORDS. Because of that short break, the papers that had not been disposed of were there for me, so I had no briefing of anything, other than just the current work.

Q. Was there any inventory of the papers at that particular time?

A. You mean inventory of classified documents?

Q. Yes?

A. No, sir. I didn't sign for any. I had no documents in my office as the chief of staff. These were kept by the combination SGS/deputy chief of staff.

Q. And who was that individual at that time?

A. I cannot remember his name, sir, because we changed within a week or so, because this individual, a major, went on down to CORDS with Colonel PARSON. As I say, I can't recall his name.

Q. Where in CORDS did Colonel PARSON go? Where did he work, in Saigon?

A. In Saigon, yes, sir.

Q. Was the chap that we're talking about a Major BEASLEY?

A. It doesn't sound like it. I don't believe it was, sir. As I say, I just don't recall the name.

Q. The individual that replaced him, was that Major HALLMAN?

A. Major HALLMAN replaced him.

Q. At the time when you took over as the chief of staff for that period, was there a safe in the commanding general's office?

A. I don't recall, sir.

Q. You remember a field safe being in there?

A. No, sir. I don't recall. I know that we had the KY-8, the scrambler telephone.

Q. You had a scrambler in there?

A. Yes, sir, but in fact the scrambler telephone was put in while I was acting chief of staff in September.

Q. Before, where the scrambler phone or your secure was located, do you remember having seen a field safe there?

A. I do not recall having seen one, sir.

MR MACCRATE: What date in August did you assume the position of acting chief of staff?

A. I believe it was around the 13th, sir. I'd have to go back to the records on that.

IO: Well, you would not take over officially, though, until actually Colonel PARSON departed. In the meantime, he would be listed on the record as the chief of staff, and as far as the records are concerned it would probably show you at a later date. Would that not be correct?

A. That's probably so.

Q. We have you down as becoming the acting chief of staff on the 24 August.

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A. Well, the 13th was when I took over, Colonel PARSON came back, I actually remained up there--

Q. (Interposing) I understand it. You probably took over officially when he departed?

A. That's correct. Yes, sir.

Q. How did the commanding general handle his correspondence? Let me be specific. Let's say the commanding general wanted to write a letter to one of his brigade commanders. How would he do it?

A. Well, during the period that I was there, he did not write a letter that I know of to a brigade commander. His personal correspondence was taken care of by his aide who sat right outside his office.

Q. At that time, I believe it was a carryover from General KOSTER's old aide, a Lieutenant DICKENS?

A. There was one aide with General KOSTER that ran the mess. I don't know his name, but he stayed there for about a month or a month and one-half. Then General GETTYS got a new aide, a captain, and I do not recall his name either.

Q. I'm not talking about writing letters to his wife or something like that.

A. No, sir.

Q. I'm talking official or semi-official correspondence. How would that be handled?

A. Well, I know the normal correspondence would come through me. I know that not all of it did, because he wrote some letters and sealed them and put them in his out-basket. Of course, either I or the deputy chief of staff would clear his out-box.

Q. Assuming that we have correspondence back and forth between, let's say, a brigade commander and the commander and so forth. Where would this stuff be filed?

A. That I can't tell you, sir, because I, as acting chief of staff, of course, I did not file it. I gave it to the deputy chief. Now, if it were sent to G3 for an answer, or G4, or to me as support commander, of course, I prepared the answer, and it would go back up to the chief of staff for approval before going in to General GETTYS as an answer.

Q. Who logged in the papers in the headquarters?

A. They were logged in under the deputy chief of staff. We had three clerks, as I recall, that worked in the outer office there who logged in all the correspondence and logged it all out.

Q. Logged it in and logged it out?

A. Yes, sir.

Q. Do you remember who the head of that section was while you were there?

A. No, sir. I don't recall his name.

Q. You remember a Sergeant LOFTIS?

A. Yes, sir.

Q. Was he there?

A. Yes, sir. He was.

Q. Before I get down to this one paper maybe you have some questions, Mr. MACCRATE?

MR MACCRATE: Do you have any recollection of hearing of the removal of a safe from the commanding general's office, something that had transpired before you arrived?

A. No, sir. As I've mentioned, to the best of my recollection there was not a safe in the commanding general's office during the period I was there.

Q. We were informed that the field safe was removed to make way for the scrambler that you have referred to. We were also informed by someone whose knowledge would presumably

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be later than yours of the removal of the safe, and I wondered if there was anything that was going on with respect to that field safe that might have come across your desk that you can now recall?

A. No, sir. I can't. I will say that if there were a safe there, which I don't recall, I had no combination. I never saw General GETTYS opening it if it was there or put anything in it. Why I'm fairly positive that it wasn't there is because I saw him almost every evening. I was there when he would leave the office. We would usually terminate the evening staff meetings there in his office. He would get up and go to his quarters, and the remainder of the staff and the ADC's would remain there.

Q. Do you have any recollection of freeing of space to make room for the scrambler?

A. No, sir. I don't. I know exactly where the scrambler was.

Q. And you handled the supervising of the installation for the general, made arrangements for people to come in to do the job?

A. That's right, because we kept them out when the general was in there, and we'd let them know when he was gone so they could work.

Q. As far as you know the space was available and nothing had to be removed in order to put it in there?

A. Yes, sir. That's correct. It was between his desk and a large couch sitting there.

IO: Colonel TIXIER, we've gone over the headquarters of the Americal Division with a rather fine tooth comb in trying to find some papers which we know were delivered to the headquarters. We are reasonably certain, from many indications, that they were delivered to the headquarters, but we've been unable to find either the papers themselves or any indication that the papers arrived and were logged or anything else. As a matter of fact, we can't even find the log, so these become rather critical as far as an investigation of the investigative process used by the Americal Division. For example, we have a report dated 24 April which

the brigade commander made out in three copies, one which he retained in the brigade headquarters and two of which were delivered forward, probably to the chief of staff, or they may have gone directly to the commanding general. These are entitled, "Report of Investigation," about a page and a third with a couple of inclosures. We can find no knowledge of this. These resulted from a letter which the commanding general had addressed to the brigade commander providing him a copy of a letter written by the district chief of Son Tinh District to the province chief of Quang Ngai and telling him to investigate this matter. We can find no reference to that letter or the attachment to it, which was the Son Tinh District chief's letter to the province chief. We also know that the commanding general had copies of some VC propaganda which was given to him by the commanding general of the 2d ARVN Division. There's also a possibility that there was another report prepared by the brigade commander sometime around the end of March or 1 April. As we understand, it could have consisted of as little as three-quarters of a page. None of these papers have we been able to find in the division headquarters. We have copies of most of these, and I will show them to you. One of these was supposed to have been delivered to the division, "Attn: Eyes Only of The Commanding General," in a manila envelope, personal, eyes only, and the classification inside. Now, can you shed any light on this particular situation? You were in there. Why is it that this situation obtained?

A. I can't answer that sir. I know nothing about any of those reports that you have just mentioned. I did not see any report that you mentioned earlier. The My Lai incident was a complete surprise to me, because I neither saw anything nor did I hear any talk the entire--

Q. (Interposing) I might say now, one of the first things you have to do is to get the My Lai incident out of your mind, because this is the term that has been coined by the Department of the Army and the newspapers since it hit the press about 4 to 5 months ago. But as far as it was concerned at the time that it happened, it was known primarily as the Son My Village, which is this area you see on the board. Generally speaking, it is a little less than that on the west, but generally that is the area of Son My Village which involved a task force by the name of Barker, which conducted this operation in there starting on 16 March and going

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for 3 or 4 days. It's an area that some people refer to as Pinkville. You hear other terms such as Tu Cung, Co Luy, but My Lai is mentioned periodically, because on our U.S. map the name My Lai shows up on some hamlets and subhamlets that are not My Lai at all. They actually have other official names as far as the registry in South Vietnam is concerned.

A. To try to be more specific, General PEERS, I did not see any documents of that type of investigation. I know we had one incident while I was chief of staff in which General GETTYS wanted investigated. It was an alleged rape during an operation. It was conducted and the papers came through me and up to General GETTYS.

Q. In that instance did you appoint an investigation officer?

A. That's correct, sir, an investigating officer. Then, of course, after it was investigated and it appeared that it was correct, then we went through the normal Article 32 procedure, investigation for a general court. The officer, sergeant, and the enlisted man that participated was brought before a general court.

Q. Was this the case that had started back in June sometime?

A. No, sir. This was a case that had occurred in September when the 1st Calvary had moved down from up around Tan Khe in the Quang Ngai area where a regiment of the 3d NVA was coming into Quang Ngai. We shifted this squadron to get them down there and it was out of a tank element. The terrain had become mushy, and the tanks had pulled in for the night into a village about a mile north of Quang Ngai. These 3 rascals had gotten into a native house and misbehaved and were tried and court-martialed. So that investigative process I know went on.

MR MACCRATE: Where in the assistant chief of staff's office would the documents for that investigation come to rest? Would any remain in the headquarters?

A. Well, I don't recall the officer that did it, now, but the initial investigative report came through our G5. I presume the initial investigation went into the deputy chief of staff, and there should be one copy which went to

the Article 32 investigating officer. The Article 32 and the subsequent court-martial was filed with the staff judge advocate.

IO: It depends on the will of the commander, whether he wants the major file retained in the JAG or the IG as the case may be, wherever it gets started, but normally the JAG, at least, maintains a complete file for record purposes. Is that correct?

A. He should. Yes, sir.

Q. Colonel TIXIER, I have here one of the papers that I discussed previously. This has been entered into the record as Exhibit R-1, dated 24 April. I wish you would look at the first two pages and tell me if you have ever seen or heard about this particular paper?

(IO handed Exhibit R-1 to the witness.)

Have you seen any of that?

A. No, sir.

Q. Now, this paper here with the attachments, which we will turn to in just a minute, two copies of this was supposed to have been delivered to division headquarters.

A. I've never seen it before.

Q. Well, it isn't only whether you have seen it or not; what I would be hopeful of getting from you, among other things, would be some indication that if you were given the job of trying to find these papers, where would you look, to explain what happened to them, what would you do?

A. Well, I would first start to look in the office of the chief of staff. Then I would go to the G5 and follow on up to the SJA and the IG within the division command area.

Q. Suppose you've done all of that; what would you do next?

A. I would go then to looking for allied papers in the TOC and look at their records.

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Q. Suppose you've done that?

A. Failing that, of course, I would start back with the brigade and try to trace individual by individual if possible, where they were delivered, to whom.

Q. Well, we know that this got to the commanding general. We know this, but we can't find any record of it nor can we find papers. When you took over, I asked you if an inventory had been made so that you knew what was under the control of the office of the chief of staff, whether this was by an assistant or by the security and documents NCO, Sergeant LOFTIS's job. What did you know him as?

A. I considered him to be the chief clerk as far as the headquarters was concerned.

Q. As I would understand, he pretty well managed the input to the assistant chief of staff and to you, to the commanding general and the ADC's. Did he also pick all of these papers up in the evenings, or did the aide bring them back? How was this handled?

A. The deputy chief of staff was responsible for cleaning out the chief of staff's and the commanding general's boxes. The aides cleared the ADC's, and they were all given to the chief clerk. Sergeant LOFTIS, as I recall, was not the chief clerk when I first went there. There was another one, but Sergeant LOFTIS was there while I was there and continued on.

Q. You remember a man by the name of ALVIS?

A. I can see the man. He was rather heavy set, 6 feet tall.

Q. Well now, going on from that piece of paper, turn back now to the fourth page?

(The witness did as requested.)

Would you look at that piece of paper? This was supposed to have been delivered to the commanding general by the commanding officer of the 2d ARVN Division. In addition, a copy of this particular paper was supposed to have been sent in independently by the brigade commander, not a part of

this report. It did follow along as attachments to the report at a later date, but initially, it came in by itself, along with another paper which I will also show you in just a minute. So will you take a quick look at that one? I don't think you have to look at the first page too long, other than to identify it by appearance. The first page is very broad; the second page you find out who this is oriented towards, and it gets down to the specifics. Do you recognize, Colonel TIXIER, as having ever seen that individual document by itself?

A. No, sir. I have not.

Q. I have here another item, which has been entered into record as Exhibit M-34. This was made available to the commanding general. I have here as part of Exhibit M-36 a letter which was addressed to the province chief by the district chief of Son Tinh District on 11 April 1968, with copies to the 2d ARVN Division headquarters and also a copy to MACV Quang Ngai Sector. This, along with a copy of the basic propaganda which you have just looked at, was provided to the commanding general at that time. His letter to the commander of the 11th Brigade was based upon it. Now, I would ask you to look at that memorandum and see if you ever seen that one?

(IO handed part of Exhibit M-36 to the witness.)

Have you ever seen that, either separately or as part of another document?

A. No, sir. I did not.

Q. Did you ever see a letter written by the commanding general of the Americal Division to the 11th Brigade commander referencing this and attaching a copy of it or addressing this particular situation?

A. No, sir. I did not.

Q. Colonel TIXIER, you were there in the support command along about mid-July, wasn't it?

A. Yes, sir.

Q. Then you were in the headquarters of the Americal Division and then back again to your support command. For a

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total of about 6 months you were in the division? During that time did you have an IG inspection?

A. No, sir. I did not.

Q. I'm talking about the division, where you would get it from USARV?

A. No, sir. I did not. In fact, the IG inspection happened just before I came in. It seems to me like it was in late June or early July when the division had its IG inspection, and I did not during the period of time that I was there, we did not have one.

Q. Just as a matter of opinion, when you took over the support command, what condition were the files in?

A. Well, I would say that in the support command headquarters the files, particularly in the G4 area, were very good, and the G3 area was very good. Of course, as far as the S2, this was a security office type of thing. As far as the S1, the files were very poor; S1 had personnel problems. We had many problems, not only from the lack of files, but we had a poor adjutant and S1 Section.

Q. Did they ever have a retirement of some of the many files during the period you were there?

A. Not that I know of, sir. To the best of my knowledge, no. At least it wasn't brought to my attention, if any of the files were, because I signed no papers nor was it called to my attention.

Q. Now, when you were there in the division, did you ever hear any discussions, comments, statements, or rumors or what have you, anything which alluded to a warrant officer making a report through channels that a particular operation by Task Force Barker, or any operation into the Son My area in about the middle of March, had resulted in some unnecessary killings of civilians?

A. No, sir.

Q. Have you heard of a confrontation between the air elements, specifically the 123d Aviation Battalion

or parts of it, with some of the ground forces, to a point where some of the machineguns were trained on the American forces?

A. No, sir. I never heard of that, or anything alluding to it, or close to it.

Q. One of your briefing officers about this time was a captain by the name of MEDINA?

A. Yes, sir.

Q. Remember MEDINA?

A. Yes, sir. I do.

Q. Did you ever hear any comments concerning MEDINA having shot a woman?

A. No, sir.

Q. Where was this support command located with respect to the division headquarters and the Aviation Battalion, the 123d, located pretty much north of the division headquarters, maybe about a mile or a mile and a half?

A. Yes, sir, the division headquarters sits on one little finger. North of that, the next little finger was the support command, and then, of course, north of that and the next little finger of land that sticks out was the 123d, our large heliport. I was about one-third of a mile from the headquarters as the crow flies. There was a little promontory which we had to go around, about 1.2 miles by road.

Q. When you were there did you have any reason at all to suspect something may have happened of an unusual nature in this area along about mid-March?

A. No, sir.

MR MACCRATE: I understood you to say, Colonel TIXIER, that there had been an IG inspection in either late June or July. Were you told about that?

A. It came to my attention through correspondence. I particularly remember that the medical battalion, which was

one of the battalions in the support command, had done extremely well. Also, in about September, I was required to set up a CMMI inspection team for the division, at which time I went through all the past records of the IG inspection, particularly on maintenance. That is the main reason it came to my attention.

Q. Do you remember anything critical of the situation of the division files and the division records?

A. No, sir. I don't recall.

Q. You remember anything being said at that time about what preparation had been made for the IG inspection?

A. I recall nothing at the headquarters level. I know that in the support command the executive officer that remained when I took over the command spoke of the preparation that had been made for this IG inspection, but specifically on records and stuff, I don't recall this.

Q. What was customary in the division in preparation for an IG inspection so far as the records of the units were concerned?

A. I couldn't say, Mr. MACCRATE, because the inspection happened before I got there, and we did not have another one. I know what I personally would have done in a command of mine. That is normal.

Q. I would be interested to hear what you regard as normal preparations for an IG inspection with respect to records and files?

A. Well, if you get out the basic regulation that we had in the Army pertaining to files, how long you keep them, how long they are to be filed, you normally try to get them as neat as you can and file them in the right place. There are files that should have been retired, and there are files requiring an update because they have been rescinded, because the expiration date is up. These are the type of things that I would look for in unclassified files. Our classified files, you would have to go a little bit further.

Q. And there would be a general cleansing of the files at that time?

A. I would say there would be some cleansing, certainly when files are no longer required, particularly in the personnel files. You have to have a cleansing before the IG of personnel files. At least that has been my experience in the Army. They will always get you for having extraneous matter in there.

Q. And then, so far as retirement is concerned, the retired documents would be sent where from the Americal Division?

A. As I recall the regulation, first of all, you cut off certain files and you retain them in the organization for a period of time, 1 year or 2 years or so. Then they would go to the records repository, which I think is in Kansas City.

Q. In response to a question by General PEERS, you indicated that if you were looking for copies of this report, Exhibit R-1, you would have to search in the chief of staff's office and turn to the G5. Now, why would you go next to the G5?

A. Well, based upon my experience in a division in which we had incidents, alleged problems, between the Vietnamese and our soldiers the G5 is responsible for civic action and for contact. At least that's the way General GETTYS managed the Americal Division when I was there. He was the one that you might say was the liaison.

Q. Who was the G5 when you arrived at the Americal Division?

A. Lieutenant Colonel--I can't recall right now.

Q. Had Colonel ANISTRANSKI left the division by that time?

A. He must have. I don't recall, nor did I know him.

Q. Do you remember Colonel HOLTON?

A. HOLTON, he was the deputy G5, and Colonel WETZEL replaced Colonel--I can't recall his name right now.

IO: Well, we appreciate your coming, Colonel TIXIER. Based upon our line of questioning, it is conceivable that some of these things that happened which we stow in the back of our minds may in fact come to the foreground. In which event we would appreciate you getting in touch with us. In addition, if you can think of any documents, directives, maps, photos, or anything of this nature which could be helpful to us, we would appreciate hearing about those. I give you this opportunity to ask any questions that you may like to ask or if you would like to enter a statement into the record.

Q. No, sir. I have nothing to ask and nothing further to add.

MR MACCRATE: May I ask, Colonel TIXIER, were you aware of any member of the headquarters staff who had the reputation for being a squirrel of papers or documents. We have found such individuals at some places in the command. We haven't been aware of anyone in the headquarters group that might fit that description. Was there anyone, any of the NCO's or anyone in the headquarters staff, that might have a collection of documents, sensitive documents, keeping them as a matter of safe keeping for the headquarters?

A. I knew of no one, sir. No one or no section came to my attention.

IO: Before we recessed the hearing, I would like to again remind you that you are not to discuss your testimony here with others, including any other witnesses for the investigation, except as you may be required to do so before an appropriate administrative, judicial, or legislative body. Now, there is a possibility that you may be asked to testify before one of the Congressional committees in which event it would probably be the investigating subcommittee for the House Armed Services Committee, in which event your presence and your testimony will in no way preclude your testifying before such a body.

IO: The hearing will recess at this time.

(The hearing recessed at 1417 hours, 2 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: TREADWELL, Jack L. COL

DATE OF TESTIMONY: 30 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: Chief of Staff, Americal Division,  
28 September 1968 until 28 March 1969: CO, 11th Brigade  
until 18 September 1969.

1. KNOWLEDGE OF THE OPERATION.

TREADWELL never heard about an aviator's report concerning the unnecessary killing of women and children or the story of a confrontation between air and ground personnel (pg. 17). He never heard about Captain MEDINA shooting a woman (pg. 17). Although he spoke to General TOAN and Colonel KHIEN quite often, they never said anything about civilians being killed (pg. 17). He saw no VC propagandea accusing the Americans of killing large numbers of people (pgs. 19, 20).

2. SEARCH FOR HENDERSON'S DOCUMENT.

About 20 April 1969 DONALDSON told TREADWELL that HENDERSON had asked DONALDSON about an investigation that HENDERSON had made of the "Pinkville incident" (pg. 3). The witness asked DONALDSON, "What is the Pinkville incident?" (pg. 3). DONALDSON said, "This was an alleged massacre that occurred, that's all I know about it" (pg. 3). Until this time the witness had never heard of Task Force Barker (pg. 5). HENDERSON said the report was in the S3 shop at brigade (pg. 3). TREADWELL told Major Jerry WHITE, the S3, to look for it (pg. 3). Two days later WHITE informed

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TREADWELL that the report had been found in the S2's safe (pg. 4). TREADWELL had WHITE send the report to DONALDSON for forwarding to HENDERSON (pg. 4). The witness never saw the report (pg. 4). He did not know whether the document itself or a copy of it was sent to division (pg. 4). He did not know who handled it after he gave the order to WHITE (pg. 5). Two days after giving WHITE this order DONALDSON informed TREADWELL that the document had been received (pgs. 6, 8). The witness heard no more about it (pgs. 6, 7). Neither Colonel WHITAKER nor Colonel HOWARD asked him about this report or anything else connected with the Pinkville incident (pgs. 8, 9). He did not know of any "Eyes Only" reports of investigation which were maintained outside the normal filing system (pg. 20).

3. OTHER INFORMATION.

a. Workings of the staff.

TREADWELL held a daily briefing for the staff prior to their morning briefing with the division commander (pg. 10). He would go over what had been done and what was being worked on at that time (pg. 10). There was no central repository for all of the action that was taken (pg. 10). All papers that the general or special staffs felt that TREADWELL had to act on were logged in and logged out (pg. 10). The routing of a paper through the building was described (pgs. 11-13).

b. Document inventory.

An inventory of documents was made in preparation for the USARV IG inspection which was to be in January of 1969 (pg. 13). TREADWELL could not recall if a record was maintained of the documents which were destroyed or retired at this time (pg. 13). Such a record would have been given to the top secret control officer in the AG section (pg. 13).

c. Safe in the general's office.

There was a field safe in the commanding general's office (pgs. 13, 14). However, the witness did not recall GETTYS ever using it (pg. 14). The safe was removed because GETTYS did not use it (pg. 14). TREADWELL did not know if an inventory was made of the safe at the time of its removal (pg. 15).

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d. Non-reporting of an incident by KOSTER.

TREADWELL recalled an incident in which the division historian had discovered an action report in which a battalion had gone in to relieve a special forces camp and had been shot up quite badly (pg. 15). This was the Kham Duc affair (pg. 16). The witness stated that he had been told that General KOSTER did not want this report forwarded to USARV because it made the division look bad (pgs. 15, 16). TREADWELL took the paper to GETTYS and recommended that it be forwarded to USARV (pg. 16). GETTYS agreed (pg. 16).

e. Assessment of district chief.

TREADWELL was unhappy with the performance of the district chief in Duc Pho District because the man did not fill TREADWELL's conception of the role (pg. 17). A new advisor was obtained and the district chief did more of what TREADWELL felt he should be doing (pg. 17).



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(The hearing reconvened at 1402 hours, 30 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Colonel Jack L. TREADWELL.

(COL TREADWELL was called and sworn and testified as follows:)

Q. Colonel TREADWELL, for the record will you please state your full name, grade, Social Security number, organization and station?

A. Jack L. TREADWELL, Colonel, Head-quarters, 4th Army.

Q. Thank you, sir.

IO: Colonel TREADWELL, have you read the instructions (Exhibit M-57)?

A. Yes, sir.

Q. Do you have any questions concerning them?

A. No, sir.

Q. On my left, Colonel TREADWELL, is Mr. Robert MACCRATE. Mr. MACCRATE is a civilian attorney who has volunteered his services to Secretary RESOR to assist us in this inquiry, and he also provides legal counsel to me and other members of the inquiry team.

On my right is Colonel ARMSTRONG who has been assigned to the inquiry by General WESTMORELAND as an assistant on the team.

Besides this group we have other groups that are likewise taking testimony from other individuals. As you well know, it will be my responsibility to put together the report, to weigh the evidence and to determine the facts findings and recommendations. Do you have any questions?

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A. No, sir.

Q. Colonel TREADWELL, would you indicate your duty assignments with the Americal Division when you joined the division, any change of assignments you may have had and the termination of your services with the division?

A. Yes, sir. I joined the Americal Division on 28 September 1968, at which time I was assigned as chief of staff. I was chief of staff until 28 March 1969, at which time I was assigned as commanding officer of the 11th Brigade. I commanded the 11th Brigade from 28 March 1969 until 18 September 1969, at which time I left the division.

Q. Until 18 September?

A. Yes, sir.

Q. I take it you were replaced by Colonel HOFFMAN?

A. I was replaced by HOFFMAN, yes, sir.

Q. Am I correct that when you departed as the chief of staff, Colonel DONALDSON, who had previously commanded the brigade then became the chief of staff?

A. Yes, sir.

Q. Back and forth?

A. We switched jobs.

Q. Colonel TREADWELL, the so-called My Lai incident of 16 March 1968 became a matter of public knowledge 4 to 5 months ago, in the latter part of September or the first part of October 1969. Since that time, have you had any discussions with anybody from the division headquarters or from within the division who may have been associated with the incident, the reporting of the incident or the investigation of the incident?

A. Since 4 or 5 months ago?

Q. Since, let's say, 1 October 1969?

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A. I have talked briefly with General GETTYS, who was the division commander during the time I was there, about it. I knew or know Captain MEDINA. Captain MEDINA was assigned in the G3 section when I arrived there in September; he was the briefing officer. I of course saw him on television. General GETTYS is the only one that I can recall that I discussed this with, I'm sure since that time. If I could go back prior to 1 October--

Q. (Interposing) Certainly.

A. On or about 20 April 1969, DONALDSON, who was then the chief of staff called me and said--

Q. (Interposing) 20 April?

A. About 20 April, yes sir. It was roughly 3 weeks after I took command of the brigade. He called me one morning and said that he had gotten a call from Colonel HENDERSON who was asking him about an investigation that he caused to be made of the Pinkville incident. I asked Colonel DONALDSON "What is the Pinkville incident?" This was the first I had heard of it. He said "This was an alleged massacre that occurred, that's all that I know about it." Colonel HENDERSON had told Colonel DONALDSON that to the best of his knowledge this informal investigation--that's the word he used--was left in the S3 shop at the brigade.

Q. S3?

A. This is what he told me. I said, "Well, John, to my knowledge it isn't there, but we'll take a look and see." So I told the S3 who is a Major Jerry WHITE, I said, "Jerry, check around the S3 shop and see if you can find an investigation concerning the Pinkville incident." I said, "Do you know what the Pinkville incident was?" He said "No," and I didn't either and I related to him what Colonel DONALDSON told me.

Q. At that time, did the word Pinkville mean anything to you as far as the location?

A. No, sir. Because my brigade never operated in the area. I'm familiar with the area, I know exactly where it is.

Q. You never referred to it or your people at that time didn't refer to it as Pinkville?

A. No, sir. Of course My Lai, I never heard the My Lai terminology come out until this was made public on television. I told Jerry WHITE to check and see if this investigation was there. We were having pretty heavy contact during this time, and we were busy. About 2 days later Major WHITE told me, "Sir, we found this report." He said, "It was in the S2's safe." I said, "Okay, send it up to the chief of staff of division and he will get it to Colonel HENDERSON." I personally never saw it, I didn't read it, I didn't see it but it was sent. I couldn't swear to it but I assumed it was sent by the liaison officer. We had a Lieutenant BROWN who was the liaison officer with the division. He is a Negro officer and he came back and forth between division and brigade each day. This was the normal way of sending things to division that we wanted to get there rather quickly and make vivid.

Q. This is one paper we have been trying to track down. It's good perhaps that it is brought up at this particular time. Do you know where it was found in the S2 shop?

A. It was in the safe that the S2 maintains. This is what I was told by Major WHITE, that it was in the S2 safe in the brigade headquarters. Major COX, Russel COX was the S2 at the time and I believe he's at Fort Bragg. He's back in the States.

Q. We've talked to Major COX.

A. Well, I didn't know that you had.

Q. One point, and I'm sure Mr. MACCRATE will want to carry this on somewhat further, did you see the document?

A. No, sir, I did not see it.

Q. Do you know whether the document itself or a copy of the document was sent forward to division?

A. I do not know, no, sir.

Q. Do you know who handled the document after Major WHITE had told you that they had found a copy of it?

A. No, sir, I don't. As I say, I assume that, because our normal way of getting things to division was for Lieutenant BROWN to come down as he did each morning. He got down around 1000 and then he'd go back about 1500, and then he would go back on the administrative helicopter. I assume, but I could not swear to that. Have you talked to Major WHITE?

Q. I don't think we have talked to Major WHITE.

MR MACCRATE: You said Jerry WHITE, do you recall his first name?

A. Jerry. J-E-R-R-Y and that does not come from Jeremiah. I'm sure it's Jerry WHITE. He's a student, well, starting next month at the Armed Forces Staff College. I have not seen him since he came back, he was due back around 12 December.

IO: Do you recall who your executive officer was at that time?

A. Yes, sir, Colonel Godfrey CROWE.

Q. Did he have anything to do with the handling?

A. Not to my knowledge, because I got this call just as we were getting ready to get in the helicopter, from Colonel DONALDSON. So I just passed it on to Major WHITE. I said, "Check around your S3 shop and see if you can find this investigation."

Q. Before that time, had you or anybody else in the brigade received queries from division for documents relating to Task Force Barker?

A. No, sir. I had never heard of Task Force Barker until this came out.

MR MACCRATE: Are you quite clear that it was in April and not in May?

A. It could have been in May, I'm not sure of the date. I said about 20 April because, as I recall, this is some 3 weeks after. It could have been a month or more than a month, it would have been 5 weeks. As I say we had quite heavy contacts going on at that time, I was busy.

Q. I recognize this is terribly difficult to pull out, but there is a possibility here that there were two communications separated by about one months time. We are very anxious to determine whether or not we have sort of lost a beat here?

A. Well, I wish that I could pin it down more closely but I can't. That's as close as I can pin it down to a date. Now Major WHITE kept very copious notes of what happened. He was with me all day, every day, as my S3 and he kept very copious notes. He kept a notebook that he had practically full when I left and he was still there when I left. He could possibly tie it down to a date more closely than I have. It was approximately 3 weeks after I left the division and that's why I said about 3 weeks because I took over 28 March and this was about 3 weeks later.

IO: Is he a lieutenant colonel today or major?

A. Major.

MR MACCRATE: Did you at any time after receiving this report talk further with Colonel DONALDSON about it?

A. Yes, sir. I did. It was 2 days after, I believe, I had told Major WHITE about it. He told me that it had been found in the S2 safe and that's when I told him to send it up to division. It was some 2 days later I had an occasion to talk to Colonel DONALDSON on the phone and I just remarked I said, "Incidentally this investigation was found and was sent to you," and he said "Yes, we got it." And that's all that transpired or all that was said.

Q. Did you have any subsequent discussions with anyone at division or brigade?

A. No, sir.

Q. Nothing about other copies of the report?

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A. No, sir. I didn't discuss it with anyone. Not that I felt that I shouldn't, it's just that when he mentioned the Pinkville incident, as I said, I had never heard of it. Task Force Barker wasn't mentioned and I didn't read the report, I didn't even see the report. Major WHITE said it was found in the S2 safe and was sent to division. That was the last that was discussed.

IO: Do you remember any strange comments he may have made at that time?

A. Who, sir?

Q. Major WHITE, about the report being found in an odd form or an odd place or something of this nature?

A. No, sir. He said he had found it and it had been in the S2 safe. He'd looked or had his sergeant major look. He had a Major HEMIZER (phonetic) who worked for him and they looked around. He had told me, I believe it was the next day, that they couldn't find it and I said, "Well, keep looking and it may show up." The following day, which was two days later, he said it was in the S2 safe. He didn't say what form or whether it was an original copy or what, and I didn't ask him.

Q. Do you have any recollection of the document thereafter being returned to the brigade?

A. No, sir. I'm hesitating here. I started to say I'm sure it wasn't returned or I would have been told about it. I can't say that positively, but I can say positively I heard no more about it.

Q. Was there any indication that rather than send the original document that was found, that a true copy was made and the true copy was sent to division?

A. No, sir, there was nothing said to me about that. All that I was told was that the report had been found and I said, "Okay, send it up to division to Colonel DONALDSON, chief of staff and he will take care of it."

IO: You did indicate to send it to Colonel DONALDSON?

A. Yes, sir.

Q. Did he say he received it or something?

A. He said, "We've received it", as I recall what he said. As I say, we were talking about another subject and I said "Incidentally, we did find the report you called about and we did send it," and as I recall he said "We did receive it."

Q. Well, the unique thing is to indicate to you at that time this was just another incident. I'm sure that had the magnitude or gravity of this situation been known at the time, many things would have been handled differently.

A. I assure you I would have read it and seen that it would have gotten there. As I say, and you have expressed it explicitly, it was something that I didn't feel was necessary and important. If I had known the severity of it, I would have taken action and done something personally. As I said, we did have a heavy contact that morning and I was out from early in the morning to late in the afternoon.

Q. Along about that time, Colonel TREADWELL, or before that perhaps, did you hear of a Colonel WHITAKER that was up from USARV headquarters to the Americal Division? Did he come down to see you or did anybody come down to see you about a month before then to sort of look for documents?

A. We had--

Q. (Interposing) Maybe even Colonel HOWARD?

A. Kim HOWARD was down there quite often. We were having some problems in one company where two of the soldiers were accusing the officer of race discrimination. I knew Colonel HOWARD very well and he was down there quite often on this. In fact, the Pinkville, My Lai was never mentioned to me except this one time Colonel DONALDSON called about the investigation. It was never mentioned as long as I was chief of staff. It never came up, I never heard the subject mentioned, the incident or anything else. Of course, in the evenings, I was with General COOKSEY and General GETTYS 7 days a week and it was never mentioned. I just never heard of it.

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Q. The reason that I asked about Colonel WHITAKER, we know that Colonel WHITAKER had come up from Long Binh about the middle of April to try to get some data on Task Force Barker and their operations and so on. The indication seems to be that one way or another they had asked the brigade to check to see if they had any background concerning Task Force Barker.

Q. To answer your question, no. I didn't see him, and in talking to General GETTYS yesterday, he mentioned that, and I asked him, I said, "General, did you ever hear of this incident before you got back to the states?" He said it was either late April or early May, he didn't remember the date, a colonel, he didn't recall his name, I'm sure came up from the USARV IG and personally asked him if he knew anything about it.

Q. Well, this is indicated. Mr. MACCRATE has been following this with complete cooperation of Colonel WHITAKER, trying to reconstruct exactly what happened so that we can get all the background on the documents we have assembled, and specifically on this one paper, since it is somewhat an important paper. From our point of view, the thing that makes it so difficult, and I must admit this to you, practically from the beginning, is the fact that in the Americal Division and in the brigade, the situation with respect to previous records and reports and all of these things is that one might say that there is a dearth of it but another way to explain it would be almost an absolute lack of it. So this report, for example, we know was made out but not in one copy and in its original form, but it did in fact get to division but we can find no record whatsoever of it in division.

A. Well, I'm sure you have questioned General DONALDSON. But as I say, I have not seen, I have not written, I have not conversed with General DONALDSON since I saw him the day I left, the 10th of September. But I haven't seen him or talked to him at all since the incident became known. As I have stated, this is the way I recall the conversation, what we said about it.

Q. When you were chief of staff, did you succeed Colonel TIXIER?

A. Colonel TIXIER, yes, sir.

Q. I think it would be well for us for you to describe how papers were handled within the division headquarters. Who routed papers to the chief of staff, who provided the papers to the chief of staff and was responsible for the in and out baskets, who secured the papers and so on, within the division headquarters at the time you were there and as it was when you took over?

A. A lot of our business, as I'm sure you are aware, was transmitted by TWX. TWX would come in, the AG section routed it to the staff section that had the action on it. I had a meeting with the general staff each morning before their briefing with the division commander and we'd go over what action they had taken and what action they were working on during the previous 24 hour period. Major HALLMAN, who was my deputy of the staff or Secretary of the general staff, kept notes of the actions and who had them and what the actions were. Some were naturally terminated in a rather short period of time and others took longer. Then he kept a record in the secretary of the general staff's office, of the actions. What actions had been taken was filed and kept in the general staff section or special staff section that took the action on it. There was no central repository for all of the action that was taken.

Q. Well, within the headquarters, the command building way, where you were located, who controlled the papers there? Suppose papers were to be retained in there. Were they logged in and logged out?

A. Yes, sir, they were logged in and logged out in the section of the office which is adjacent to my office.

Q. What category of papers were logged in and logged out, all papers?

A. All papers that came to me were logged in and were logged out. All papers within the staff section didn't come to me, but those that we discussed, that the general staff or special staff felt that I had to act on, were logged in and logged out.

Q. We had a young chap here the other day who had been one of the aides. He drew for us a sketch of the way he remembered the office setup. You notice the names have changed a little bit...

(Witness looks at Exhibit O-7, drawing of the command building.)

A. This is exactly right, the layout.

Q. Using this, and we have the secretary of the general staff, who seems to be one of the key individuals. Suppose a paper came into you, for example, let's say it was a report, along the lines we have talked about. How would this come into the headquarters? Who would it go to initially? How would it be handled?

A. It would come in this door right here (referring to sketch). It would come in from the AG message center, or the liaison officer. In this case something like this, it went to the chief of staff's clerk. He would bring it in right here. There was a Sergeant LOFTIS, who is the administrative NCO who sat right here at this desk. He logged the things in and logged them out. The things that he was particularly careful of were classified documents. It would be left right there with Sergeant LOFTIS. Then Major HALLMAN who was my deputy chief of staff in this office right here-- this shows Major BEASLEY which is probably correct at the time which was before my time, his office was right there and Sergeant LOFTIS would bring them into him. Then some things he would act on and other things he would bring them in and put them in my basket here; it shows Colonel PARSON who was the chief of staff at the time.

Q. Now suppose you felt it should go to, let's say, to General GETTYS. How does this happen?

A. If I determine that it went to General GETTYS, I would so mark on the paper and either I would take it in or Major HALLMAN would take it in. Normally I took it in. That was usually in the morning or in the late afternoon because he was always gone during the day.

Q. Now suppose he left it in his hold box, what happens then?

A. Sergeant LOFTIS, who was the security NCO for the building, each evening after the general left, we had the evening briefing at 1700 and then we came back to his office for a special intelligence briefing which normally lasted about 15 or 20 minutes. Then if there was nothing hanging, he would leave the building, at which time Sergeant LOFTIS or Major HALLMAN would clear his basket and take it and put it in the safe which was kept here.

MR MACCRATE: Where was the safe?

A. Right in this room here.

IO: Not in the colonel's room itself--

A. (Interposing) I'm sorry, the safes, there were two of them that were kept right here in this corner. But Sergeant LOFTIS was the one. He and Major HALLMAN were the only two that had the combination. In fact, I didn't have the combination. I could have, but I didn't. They were the only ones with the combination to these two safes right here. Of course in the report in question here, I can't say how that would have been handled. I don't know if Colonel DONALDSON changed the modus operandi, but I would say during my time, that is the way it would have been handled.

Q. We understand that when this report came in, it came in to the "Commanding General, Eyes Only."

A. When it came into division?

Q. To the division, so marked on the outside of the envelope. I understand, of course, that would be quite normal, the classification on the inside of the envelope?

A. I can't say because, as I say, I did not see it. I instructed Major WHITE, the S3, to have it sent to Colonel DONALDSON the chief of staff.

MR MACCRATE: General PEERS is referring to the original delivery.

A. I'm sorry, I thought you were talking about this one.

IO: Well, in that event it would probably be noted on the log and then probably delivered to you or the secretary of the general staff of the assistant chief of staff for this processing going on into the General, General GETTYS at the time. I would imagine--

A. (Interposing) That is the way it would have been done during the time I was there. If it had for the eyes of the commanding general only, then I would have taken it in to him and not opened it. But I don't know how this was addressed when I was called about it.

Q. Well, yes. Well, I'm getting back to sometime along about the end of April 1968 with the original paper. What we are really interested in is not only where this paper went but what happened to the paper, and I think I would like to make the next question whether or not during the time you were chief of staff there had been an inventory of documents made, a search through the records, so to speak.

A. There was an inventory made and the reason it was made, was that we were being suspected by the USARV IG team. This would have been about the first or second week in January as I recall that an inventory of all the documents was made.

A. January, that would be--

MR MACCRATE: (Interposing) 1969.

A. Yes.

Q. Do you recall in making this inventory or what ever was going to be done was there any record maintained of the documents which were destroyed or the documents which were retired at the time?

A. I can't recall. I could not say under oath that there was. I would have to say I assumed there was. The top secret control officer who was in the AG section would have been given this list by Sergeant LOFTIS who is our security NCO, those that should be retired and those that should be kept active in the inventory.

Q. During your time with the division was there ever a separate safe maintained back in the general's office?

A. There was a field safe in there. As I recall General GETTYS never used it. He never put anything in it. He never used it at all, to my knowledge he didn't. It was a field safe. As I recall, it was sitting in the office. It was moved out because he didn't use it. When we had the secure telephone that was put in, you know this has a large console and it was put in the area where the field safe had been sitting for some time. As I recall it was taken out of his office at that time and that's the only safe that was in here to my knowledge.

Q. Did anybody ever open it to your knowledge?

A. No, sir, not to my knowledge. It had a chain or it was just like a normal field safe.

Q. Bolted to the floor?

A. I couldn't say under oath it was. I assumed it was but I couldn't say positively that it was, it just sat there the same as a piece of furniture. It was not used.

MR MACCRATE: Who had responsibility for it's removal?

A. I would have had responsibility for it but as to who did move this safe, I cannot say.

Q. Who might have knowledge as to what happened to the safe after it was taken out?

A. The headquarters commandant, because he was the one who would sign for that type of thing.

IO: Who would have probably have done the work on this, Major HALLMAN?

A. HALLMAN.

Q. The SGS?

A. Not necessarily, no sir. Major HARRINGTON was the headquarters commandant. He was in the headquarters two and three times a day and when we wanted something done we would pass it on to him. His people would do it, because they did quite a lot of remodeling in there. I'm not sure

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you saw the effects. They did the acoustical tiles on the ceiling and the boarding up around the inside. This was the normal thing, that the headquarters commandant would do. We would tell him what we wanted done, and his people would do it.

MR MACCRATE: Do you know whether inventory was made of that safe at the time?

A. No, sir, I do not know.

Q. Would Major HARRINGTON be the most likely one to know?

A. Major HALLMAN possibly would know, but to answer your question, Major HARRINGTON would probably be the one that wouldn't.

IO: Where is Major HALLMAN now?

A. Right here, he's in DCSPER.

MR MACCRATE: How does he spell his name?

A. H-A-L-L-M-A-N.

Q. First name?

A. R-O-D-N-E-Y.

IO: At any time that you were chief of staff there, Colonel TREADWELL, did Major HALLMAN or any of the other people or, Sergeant LOFTIS ever talk to you about what should we do with these old reports of investigation or anything of this nature, that you can think of?

A. No, sir, neither of them did. The historian came in one time and--I can't pinpoint the date, I had been there a couple of months or 6 weeks--he came in and wanted to know what disposition should be made of an action. It was where one of our battalions had gone in to relieve the special forces camp and they got shot up quite badly. It was not an investigation, it was the report of an action had been there for a year and a half or something like that. The historian, through Major HALLMAN, wanted to know what disposition we should make of it because the word that was

passed on to me, General KOSTER did not want this report forwarded to USARV, because it made the division look bad. I said "Well, let me see it." I went into General GETTYS and I said, "General GETTYS, this report is here. It has been here for sometime. By regulation it should have been forwarded to USARV sometime ago. I recommend that we forward it on to USARV." He said, "Okay." He was familiar with the action that had taken place and I can't recall, it was an operation, I can't recall the name of it.

Q. The old CIDG or Special Force camp of Kham Duc?

A. Kham Duc. That was forwarded to USARV and this was the only thing that was brought to my attention.

Q. Kham Duc, that's the CIDG camp that was overrun by the 2nd NVA Division.

A. I don't recall the name of the fire base, there was a fire base there. Well, it is really immaterial, but to answer your question, this was the only thing that came to my attention, what disposition should be taken.

Q. That should have taken place about the middle of 1968.

A. I know.

Q. Maybe late spring.

A. Buck NELSON was the battalion commander who was still there. He had extended and was a G2 at that time. His battalion was involved in this action. As I say, it happened sometime before I got there.

Q. Well, the way I read this Colonel TREADWELL, in your position as chief of staff, you know how the papers are handled, but as far as you physically handling papers and this, that, and the other things, that's why you have people such as Major HALLMAN and Sergeant LOFTIS and various other people, to insure the proper distribution of these papers after you have seen them. So although this is very helpful to us, the real people we have to talk to are the physical handlers and the recorders responsible for this security of the papers.

A. Yes, sir.

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Q. Just to try on a few things for size, while you were chief of staff, recognizing we are getting pretty late into 1968, just to see if there were any lingering memories about things, I'd like to mention a few things. I'd like you to think about each of these for a minute and just recollect if either officially or somebody making a comment up at the bar or anything, if any of these were discussed. I'm hoping we will be able to separate those that may have been said in the newspaper at a more recent date. For example, did you ever hear any comment concerning one of the aviators from the 123d Aviation Battalion reporting that he had observed what he considered the unnecessary killing of civilians, noncombatants women and children? Did you ever hear anything like that?

A. No, sir.

Q. Did you ever hear of a confrontation which took place between elements of the 123 and some of the ground elements when it was so intense they had automatic weapons trained on each other, at least one side had weapons trained on the other?

A. No, sir.

Q. While you were there, did you ever hear the story of Captain MEDINA shooting a woman?

A. No, sir, I didn't. I knew Captain MEDINA, as I mentioned. He was there when I got there as a briefing officer for the G3 section, but I never heard one thing about any of the three things you have just asked me.

Q. Did you ever hear of people in Quang Ngai Province headquarters, the province chief, General TOAN, being upset over the actions of the Americans in the area east of Quang Ngai City?

A. Of course I knew General TOAN quite well and of course I knew Colonel KHIEN quite well. After I took the brigade I saw Colonel KHIEN on an almost daily basis but I never heard anything about any civilians being killed. I was unhappy with the district chief I had in Duc Pho District but I talked to Colonel KHIEN on several occasions about him. We got a new advisor and the district chief started doing more of what I thought his job should be and he should have been doing. I saw Colonel KHIEN quite often but I never heard one complaint nor one accusation or anything about killing of civilians.

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would get shot at.

Q. Well, I can tell you that what I saw in Quang Ngai now and what I saw in Quang Ngai late in '67 and up to about March, April of 1968 was just like night and day. They have made tremendous progress and I would say to you and to all the people that have had a hand in it, you can be damn proud of what has been accomplished. It was a horrible area and it's looking as though it's just starting to move.

A. Did you happen to meet Lieutenant Colonel KHU, commander of the 4th Regiment?

Q. Yes.

A. He's a very fine officier. I worked for him all the time.

Q. Commander of both the 4th and 6th Regiment.

A. 4th and 6th work in this area.

Q. They both spoke extremely high of you. The 2d Division, at the present time, according to what we heard is a better division than the 1st Division, statistically and so on. And this is what makes this thing move because you have this tremendous and fine cooperation and everybody is working together and progress is being made. Now, was Major HALLMAN there all the time you were there?

A. Yes, sir. He was there all the time I was chief of staff, yes, sir.

Q. Subsequent to your departing, did somebody else take his place, do you know?

A. No, sir, not until he got ready to DEROS.

Q. Do you know when he DEROS'd did he occupy that position all the time for total year?

A. Not a total year. He came back earlier, I believe it was in 30 days. I got there the 28th of September and he must have gotten there near the end of August and then he came back around the first of August, I believe.

Q. Of 1969.

A. Yes, sir.

Q. Was Sergeant LOFTIS there all the time that you were there?

A. Yes, sir. He was there all the time I was there. He went over with the 11th Brigade. He was squad leader in one of the infantry battalions and he was at division headquarters when I got there. He was there the whole time I was chief of staff. Then he came back. He's at Fort Jackson, South Carolina, I believe. But he is back in the states. He came back ahead of me.

Q. Did you by chance ever see any VC propaganda which accused the Americans of killing large numbers of people in a specific area?

A. No, sir, I didn't.

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Q. Let me show you, for example. I have here Exhibits R-1 and I would like to show you inclosure 2 to this and ask if sometime during your tour either as chief of staff or with the brigade you had ever seen a peice of propaganda such as this? Now this is supposed to have been a piece broadcast by the Viet Cong which was intercepted and was then of course taken down in Vietnamese, subsequently interpreted or translated and provided in this form.

A. No, sir. I didn't hear any broadcast.

Q. Well, the one specifically that I'm concerned with would have been broadcast in Vietnamese so undoubtedly you wouldn't hear because as you will notice on the second page this is addressed primarily to the ARVN, RF and PF soldier. It would have been in Vietnamese and also the second paragraph from the top is the one which is most pointed,

A. No, sir, I didn't hear anything.

Q. Fine. Do you know whether there is any special place where files "Eyes Alone" or "Eyes Only" or reports of investigation or anything like this may have been maintained, outside of, you might say, the normal filing system?

A. No, sir, I don't.

Q. We have pretty positive information where the file was located in the S2 shop in the brigade. It was not located in a file. It was located in a desk, which is quite unusual. We know why it was located in a desk, but maybe it had been moved from the desk to a safe by this time; but we know where it was kept. So these are the unusual things we run across in these circumstances trying to put signatures and finger prints on the movement of a document. So, if you can think of anything in the future, Colonel TREADWELL, that can serve our purpose here, based upon our line of questioning, if anything does come to light, I would appreciate you getting in touch with us or if you can think of any documents that might be helpful to us in terms of reports or anything of this nature, maps or photos or anything of this type.

A. I'm just sorry that I can't pin it down. I can appreciate what you are trying to do. I know what you're trying to do and I'm sorry I can't shed more light on it. As I have stated, this was the first and only thing I heard about it and I did not personally see the investigation document or however we referred to it. This was related to me by Major WHITE as I stated.

Q. Fine. We'll give you an opportunity to ask any question if you like or if you care to enter a statement into the record.

A. No, sir, I wouldn't. I'm sorry that I can't shed more light on it.

Q. This hearing will recess at this time.

(The hearing recessed at 1500 hours.)

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