

**INVESTIGATION OF THE MY LAI
INCIDENT**

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HEARINGS

OF THE

**ARMED SERVICES INVESTIGATING
SUBCOMMITTEE**

OF THE

**COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES
NINETY-FIRST CONGRESS**

SECOND SESSION

UNDER AUTHORITY OF

H. Res. 105

**HEARINGS HELD APRIL 15, 16, 17, 23, 24, 27, 28, 29, 30,
MAY 8, 9, 12, 13, JUNE 9, 10, AND 22, 1970**



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MY LAI INCIDENT SUBCOMMITTEE

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16 de 26

APRIL 13, 1976.

HON. F. EDWARD HÉBERT,
House of Representatives,
Washington, D.C.

DEAR MR. HÉBERT: I noted that on April 5 the U.S. Supreme Court refused to review the court-martial conviction of Lt. William L. Calley, Jr., for the murder of 22 civilians in the South Vietnamese hamlet of My Lai on March 16, 1968.

The report of the My Lai Incident Subcommittee, which you chaired, contains the statement, "the transcript of testimony is classified and will not be released until final disposition has been made of all criminal cases now pending or which may arise from the My Lai affair." Since the Supreme Court denial of Lt. Calley's petition concluded the last of the prosecutions resulting from the My Lai incident there would appear to be no impediment to publication of the subcommittee hearings. Accordingly, the printing of the transcript of the subcommittee hearings is hereby authorized.

Sincerely,

MELVIN PRICE, *Chairman.*

(III)

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INVESTIGATING SUBCOMMITTEE HEARINGS ON THE
INVESTIGATION OF THE MY LAI INCIDENT

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Wednesday, April 15, 1970.

The subcommittee met at 10:15 a.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Members present: Hon. F. Edward Hébert, Hon. Samuel S. Stratton, Hon. Charles S. Gubser, and Hon. William L. Dickinson.

Staff present: John T. M. Reddan, counsel and John F. Lally, assistant counsel.

Mr. HÉBERT. Before beginning our hearings, I want to define the area of our inquiry and the areas which we propose to avoid.

First, because of pending criminal proceedings in military courts which involve a number of the persons who we will have as witnesses, this subcommittee will studiously avoid any efforts to fix criminal responsibility for the death of any civilians at My Lai 4 on March 16, 1968, resulting from the operation of Task Force Barker. We feel that judgments in that area are within the purview of the military courts. In a further effort to avoid any prejudice to the rights of any person currently under charges, or who might have charges brought against him, all of our witnesses will be heard in executive session.

As a further precaution, all witnesses, should they so desire, will have legal counsel of their own choice at all times during their appearance before this subcommittee.

The subcommittee intends to address its report to the following questions:

1. As of March 16, 1968, what were the established U.S. military policies and procedures relating to the treatment of civilians and the investigation of alleged civilian casualties?

2. Did the Task Force Barker operation in the Son My area on March 16, 1968, result in a substantial allegation of civilian casualties?

3. Was any such allegation brought to the attention of appropriate officers of the Americal Division, the 11th Brigade, or Task Force Barker?

4. If so, what action was taken by the aforesaid Army command?

5. Was such action in accordance with existing policies, orders and directives?

Accordingly, those are the areas we will be especially interested in developing during our hearings.

Now, in addition to that, all witnesses are appearing under subpoena. The Army, late yesterday afternoon, refused to produce their witnesses unless they were under subpoena, so subpoenas have been issued to everybody, and the Army has now produced them to that extent.

Yesterday I received this letter from Secretary Resor.

Mr. REDDAN. You want me to read this?

Mr. HÉBERT. Yes.

Mr. REDDAN. [Reading.]

Honorable F. Edward Hébert, Chairman, Special Subcommittee—Son My, Committee on Armed Services, House of Representatives, Washington, D.C. 20515.

DEAR MR. CHAIRMAN: I am deeply concerned to learn of your Subcommittee's plan to call potential witnesses in presently scheduled or potential military justice proceedings during your formal Executive Hearings, commencing on April 15, 1970, regarding the alleged suppression of information pertaining to the Son My incident.

As I have emphasized on previous occasions, we fully appreciate your interest in obtaining sufficient information to discharge your constitutional responsibilities. At the same time, however, I have attempted—particularly in my letters of December 19, 1969 and January 6, 1970—to convey my belief that discharge of our own responsibility to execute the laws will be imperiled by such actions as your Subcommittee now contemplates.

While I shall not reiterate here the considerations underlying this conviction, I am compelled to urge once again that the discharge of our respective responsibilities can be reconciled only if interviews by the Congress of witnesses in pending court-martial cases are deferred until they can be conducted without prejudice to the defendants. In the meantime, I have already furnished you with the findings and recommendations of the Peers-MacCrate Inquiry. The record of the testimony which you have requested is being provided to you as rapidly as it becomes available and should constitute an adequate basis for your independent review of these conclusions.

With these factors in mind, I have carefully considered your request, forwarded to OCLL on April 9 by Mr. Reddan, that the Army arrange for the appearance before your Subcommittee of some 39 civilian and military personnel. The vast majority—if not all—of these individuals are material witnesses to offenses under the Uniform Code of Military Justice alleged to have been committed either at Son My or during the course of the subsequent inquiry conducted within the Americal Division. Thirteen of these men, furthermore, have been formally charged and may ultimately be tried by courts-martial.

I have concluded, therefore, in light of the factors discussed above and the problems outlined in my letter of January 6, 1970, that it would be inappropriate for the Army to voluntarily make available the witnesses requested by Mr. Reddan. As I stated in that earlier letter, furthermore, I would hope that you would carefully consider the matters I have raised before you pursue further a form of investigation which involves compelling the attendance of potential witnesses and defendants in military justice proceedings.

We remain anxious to cooperate with your Subcommittee, provided only that the Army's ability to discharge its own responsibilities is not impaired.

Sincerely, Stanley R. Resor, Secretary of the Army.

Mr. HÉBERT. In reply to that I issued subpoenas for all the people. Mr. Reddan talked to them and suggested I subpoena the Secretary to produce the witnesses, and they expressed a preference that the individuals be subpoenaed, which we have done.

We understand each other now, and I will release this statement by authority of the subcommittee, because keep in mind, no testimony can be released without the unanimous consent of this subcommittee. No testimony. That's the rule of the committee itself—not this committee, but the full committee.

Bring in the witness.

I suggested to let Mr. Reddan, counsel, question the witness first; and after he finishes, then any member can ask any questions he so desires.

Mr. STRATTON. We are not meeting tomorrow, we are meeting on Friday?

Mr. HÉBERT. We are meeting Thursday afternoon at 2 o'clock, and then we will meet Friday morning.

Mr. STRATTON. Are we meeting this afternoon?

Mr. HÉBERT. Yes.

Mr. LALLY. Mr. Chairman, I think that Thursday afternoon meeting may be indefinite. We are not sure whether this one witness will be here at that time.

Mr. HÉBERT. Well, some of these may run over, too, you know.

Mr. LALLY. Yes, sir.

Mr. HÉBERT. The subcommittee will be in order.

Mr. Reddan will introduce the witness and then I will give him his instructions.

Mr. REDDAN. All right.

This is Major Trinkle, who served a tour in the area with which we are concerned. He was wounded in action the latter part of February 1968, and we have asked the Major to come in this morning so that he could give us some idea of the nature of the terrain, the character of the people, the sort of a threat that faced the Americal Division in this extension in which My Lai 4 lies.

[A map of the Quang Ngai area in which all of these operations were conducted is printed as an appendix to these hearings.]

Mr. HÉBERT. Now, Major, will you identify yourself for the record, and give your present position?

TESTIMONY OF MAJ. PATRICK M. TRINKLE

Major TRINKLE. Yes, sir, I am Maj. Patrick M. Trinkle, presently assigned to the U.S. Military Academy.

Do you want my serial number or anything like that?

Mr. HÉBERT. No.

Now, Major, before I swear you in, I want to explain to you what your rights are. You are under the full protection of this committee when you are here. The committee will protect you against any intrusions on your personal self. You are not required to have your picture taken, or talk to any news media at all. This is within your own judgment. In the event you do decide that, you are on your own responsibility, but under no compulsion from the subcommittee. When you finish your testimony, you may leave the room by that door. You will be met by an officer at that door. A news media representative will be with that officer. He will ask you "Do you care to make a statement, or do you care to be photographed for television," or whatever they have. You say, "Yes" or "No." This is up to you. If you say "Yes," then you will of course be interviewed. If you say "No," they cannot talk to you at all and you do not have to talk to them, and you will be escorted away from this area, with no interference to your person at all.

Now, you understand that? We want to protect the witness in every sense of the word.

Now I will swear you in.

[Witness sworn.]

Mr. HÉBERT. Mr. Reddan will question you.

Mr. REDDAN. Major, you had a tour of duty in Vietnam in December 1967, until February 1968, did you not?

Major TRINKLE. Yes, sir.

Mr. REDDAN. What was your position at that time?

Major TRINKLE. I was the company commander of a company, 3d Battalion, 1st Infantry.

Mr. REDDAN. Did there come a time when your company was detached and made a part of the Task Force Barker?

Major TRINKLE. Yes, sir, in early January, I believe.

Mr. REDDAN. In what area did you operate under Task Force Barker? You can make reference to the map which is behind you there and if you can identify it by coordinates it will make the record a little more clear.

Major TRINKLE. It was called the Muscatine area of operations, sir, and it took in actually just about everything you've got on the map. The original AO was north of the Ham Giang, and on this side of Highway 1 and it went out to the ocean.

Mr. HÉBERT. You say the AO; for the purpose of the record, identify what you mean by AO?

Major TRINKLE. The area of the original Muscatine area of operations, sir. To our south was the 2d ARVN Division area of operations, which included My Lai. And following the Tet offensive, we began to operate in the AO extension, which included My Lai, but actually belonged to the 2d ARVN.

Mr. REDDAN. By AO extension, you mean this was beyond your original jurisdiction and you wanted to conduct operations in there, so you cleared it with the ARVN, the province chief, and you had permission then to operate south of the river?

Major TRINKLE. Yes, sir. Following the Tet offensive, we were asked by the 2d ARVN Division to conduct operations in the My Lai area.

Mr. REDDAN. Now, the part that is marked with a sort of a peach color there, that was the principal area of operation in the extension?

Major TRINKLE. Yes, sir.

Mr. REDDAN. And that comprised the My Lai villages, the My Lai hamlets and the Son My village?

Major TRINKLE. Yes, sir.

Mr. REDDAN. Did you have an opportunity to fly over this area prior to your ground operations for the purpose of orientation?

Major TRINKLE. Yes, sir, several times.

Mr. REDDAN. Can you tell us what the intelligence estimates were of the enemy strength and capability in the AO extension?

Major TRINKLE. I don't remember what the estimates were prior to us going in, sir. But we did develop the fact that there was a main force of Viet Cong battalion that operated out of the My Lai area. This was their primary base of operations.

Mr. REDDAN. Did you have any intelligence as to the probable size of that force?

Major TRINKLE. It ran about 150 to 200. I don't recall whether that was an intelligence estimate or whether it was our own estimate, but that's the normal size of the main force VC battalion.

Mr. REDDAN. After your assignment to Task Force Barker, when did you begin your ground operations in the My Lai area?

Major TRINKLE. Right after the Tet offensive, sir.

Mr. REDDAN. Could you tell the committee what you found in the way of sniper fire, booby traps, mines and so forth?

Major TRINKLE. Every village in the pink area there is a fortified hamlet. They are a small group of Viet Cong local force that live there and protected the villages. All of the villages are surrounded by booby traps, and from time to time the main force battalion is in and out of there. There are several arsenal and weapons caches in the area that we found as we developed the operation, and this was really their home base, and it was protected by these local forces whenever they went there.

Mr. REDDAN. Did they have any fighting bunkers surrounding the villages?

Major TRINKLE. Yes, sir; all the villages have bunkers, tunnels, trenches, surrounding them.

Mr. REDDAN. Could you describe the fighting bunker?

Major TRINKLE. Well, they are not really so much bunkers as they are spider holes, and concealed tunnels, sir. Of course they are around all the villages, there are rice paddies and dikes and a lot of earth work, and in each village there are mounds where they crawl in for protection against air strikes and that sort of thing, and then connecting these mounds are small tunnels, most of which you would have to crawl through, some of which we found up in what is called the Pinkville area, big enough to walk around in standing up. Brick lined. And all this network of tunnels has places where they come up to the ground, and from these dike areas and camouflaged holes they can observe you and fire on you.

Mr. REDDAN. In these patrol missions that you ran into that area, did you have any casualties in your group?

Major TRINKLE. In the month I operated there, sir, I'd say—this is a guess—but I think my company suffered about 30-percent casualties up until the time I was wounded. Mostly in the My Lai area.

Mr. REDDAN. Were these from sniper fire or boobytraps?

Major TRINKLE. Both.

Mr. REDDAN. Both?

Major TRINKLE. The biggest part, about half of that number came from heavy engagements that we had in My Lai, and the area around My Lai, and the other half came from boobytraps and snipers.

Mr. STRATTON. Could I interrupt at this point, just to make sure I understand?

When you say My Lai, you are talking about My Lai 4 as indicated on that chart; is that correct?

Major TRINKLE. No, sir. When I say—what I have been calling so far My Lai is this whole orange area.

Mr. REDDAN. The Son My village?

Major TRINKLE. Yes, sir.

Mr. REDDAN. Now, there came a time at the latter part of February, did there not, when your company was engaged in a major operation in the Son My area?

Major TRINKLE. There were actually two pretty heavy operations.

Mr. REDDAN. Could you describe them for us, Major? Tell us when they took place, and the nature and character and the results of the operation?

Major TRINKLE. In early February we hit a strong force in what is My Lai 1, and it took us about 2 days of heavy fighting to overcome this position and destroy it. And then the operation that I was wounded in, toward the end of February, was in My Lai 4, right here.

Mr. REDDAN. Could you tell us about, in as much detail as you can, the My Lai 4 operation at the end of February?

Major TRINKLE. The My Lai 4 operation, we hit—well, I had my company, plus two platoons of armored personnel carriers, a reinforced rifle company, and our objective was to go out to this area that we had hit about 2 weeks prior to that. We had reports that there was a buildup there. They had been repairing the tunnels and everything we had destroyed. So I moved with this as my objective, and hit heavy resistance here.

Mr. REDDAN. You were moving by land?

Major TRINKLE. Yes, sir. And we spent all of 1 day fighting and running them out of this position. They were here with mortars, and probably a company.

Mr. REDDAN. You are pointing to My Lai 4?

Major TRINKLE. Yes, sir. A reinforced company in My Lai 4. They also had positions here.

Mr. REDDAN. That's northeast of My Lai 4?

Major TRINKLE. Yes, sir. And as we cleared the area, they used their standard pattern, which was to evacuate on up to the north and toward this peninsula area out here.

Mr. REDDAN. Did you have any other companies operating with you as blocking forces?

Major TRINKLE. On this particular operation, we had no other companies south of the Ham Giang, sir. As the day progressed, Bravo Company was maneuvered from someplace up in here, I can't remember exactly where they were, down into this area.

That night, after I was wounded, Bravo Company came on down and the Bravo Company commander took command of the operation from then on out.

Mr. REDDAN. What was the purpose of your operation? What were you to achieve?

Major TRINKLE. Well, our objective in this area was always to find the Viet Cong and destroy them, sir. And we had the report that they were back here again, the 48th Battalion. And that was our objective, to find them and destroy them.

Mr. REDDAN. And you went through My Lai 4 area merely because you were trying to get to My Lai 1?

Major TRINKLE. Yes, sir.

Mr. REDDAN. When you were on the ground.

Major TRINKLE. But that was standard. You could always meet—once you got beyond this line here, of about where this old fort was, you always started picking up sniper fire.

Mr. REDDAN. That's 70?

Major TRINKLE. Yes, sir. The 70 grid line.

Mr. REDDAN. East of that, you ran into—

Major TRINKLE. We always hit sniper fire when we moved into here, and on some days, as we moved on, the sniper fire would develop into a major contact. That was the case of the My Lai 4 operation the day I went in, on that last time.

Mr. REDDAN. Now, had you gone through My Lai 4 2 weeks before on your way to My Lai 1?

Major TRINKLE. Yes, sir. I had been in My Lai 4 a couple of times before that.

Mr. REDDAN. Had you received enemy fire on your previous trips to My Lai 4?

Major TRINKLE. Sniper fire, yes, sir.

Mr. REDDAN. Did you receive any heavy resistance?

Major TRINKLE. No, we had never received heavy resistance in My Lai 4 before.

Mr. REDDAN. So when you came up at the end of February there, it was a new ballgame?

Major TRINKLE. Yes, sir. But you could meet heavy resistance any place they wanted to take their stand, really. I think the reason we met them here was because we had destroyed all their positions here in their original home base, and they had moved back into here and they were rebuilding those positions.

Mr. REDDAN. What time of day did you arrive at My Lai 4, at the end of February?

Major TRINKLE. It was the late morning hours, sir. I can't remember the exact hours. Prior to noon.

Mr. REDDAN. Just have a seat, if you will, and just tell us, as you recall, what happened. The severity of the fire, where it came from, what it did to you, how you deployed your troops? Did you call in for artillery or gunships? Anything of that sort.

Major TRINKLE. We moved by APC up to about where the fort is, not expecting to meet any resistance.

Mr. REDDAN. You are talking about the fort up there, the citadel?

Major TRINKLE. The 69 grid line, yes, sir.

Mr. REDDAN. All right.

Major TRINKLE. I dismounted my troops there, and spread out there on a wide front, to sweep on out to my objective, which was My Lai 1. The APC's were following up. We had one mortar with us, and the other APC's had .50-caliber machineguns and troops armed with 79's.

Mr. GUBSER. What is an APC?

Major TRINKLE. Armored personnel-carrier, yes, sir.

Across a rice paddy from My Lai 4 we started getting some automatic weapons fire, and then we started getting mortar rounds in on top of our lead elements. We returned fire, and it was obvious that we couldn't advance directly against this position, so I had the armored personnel carriers lay down a base of fire with one of my platoons and I took the company minus in a maneuver around to the south of My Lai 4, so I could come in from behind it. As we got behind it, we started getting fire from what you have marked as objective 1 and 2 area up to the northeast of My Lai 4. But in heavy fighting, all that afternoon, which included several air strikes on My Lai 4, we were finally able to take the position, and when we got in there we found a lot of enemy equipment, packs, telephones, weapons, base plates for their mortars. That is about the gist of the operation, sir.

Mr. REDDAN. How many VC were killed in that operation, do you recall?

Major TRINKLE. The figure that was officially reported for this whole operation, which included part of the time after I was evacuated, was 68 VC, sir. I would say in our immediate area right there, there were about 40. But of course we were too busy to count at that time.

Mr. REDDAN. Did you on that operation see any women, little children, old men?

Major TRINKLE. There was one family in My Lai 4, after we got things calmed down and before I was evacuated. I remember there being one family there. One girl had been wounded, and we evacuated her with my casualties, and I told the old man that was there with them and the rest of them to head back to Quang Ngai and go to the refugee center there. And these are the only civilians I recall seeing at My Lai 4 that day.

Mr. STRATTON. This period that you are talking about is after the Tet offensive; is that correct?

Major TRINKLE. Yes, sir.

Mr. REDDAN. Did you call in any artillery support in connection with that operation?

Major TRINKLE. I used mostly air strikes and gunships, sir. It is more accurate in a close situation like that.

Mr. REDDAN. I see. What was the condition of My Lai 4 as of the time you left it?

Major TRINKLE. You mean the houses?

Mr. REDDAN. Yes; the physical condition.

Major TRINKLE. Well, all of those villages, sir, are just rubble and have been rubble from the first time I saw them. There were a few little grass-shelter-like things, built among the rubble. But it had always been rubble, and it was rubble when we left.

Mr. DICKINSON. Do the people live in the ground?

Major TRINKLE. Yes, sir; they live in the ground, or there will be an old brick wall left from a house that had been destroyed long ago and they will build up a lean-to on that. That sort of thing. But none of those villages had been attacked for years.

Mr. REDDAN. Did you find a trench complex and field telephones, did you say?

Major TRINKLE. Yes, sir.

Mr. REDDAN. Was there any question in your mind as to the character of this village?

Major TRINKLE. Do you mean as to whether it was sympathetic with the VC or not?

Mr. REDDAN. Whether it was, in effect, an enemy base?

Major TRINKLE. Oh, no, sir.

Mr. REDDAN. A VC base.

Major TRINKLE. No.

Mr. REDDAN. You mean—

Major TRINKLE. It was an enemy base. That whole area was.

Mr. REDDAN. No doubt in your mind on that?

Major TRINKLE. No, sir.

Mr. REDDAN. I have no further questions.

Mr. GUBSER. Did you ever, in any of your experience in the My Lai area, receive fire from what would ordinarily be a noncombatant, namely a woman or a child?

Major TRINKLE. Yes, sir.

Mr. GUBSER. Would you tell us a little bit about it?

Major TRINKLE. Well, my personal experience was that we killed three women, all of whom had carbine rifles, in an ambush one night, and they carried their weapons. And I didn't call them noncombatants. They just happened to be women.

Mr. GUBSER. What would ordinarily, under civilized warfare rules, be noncombatants? That is what I meant.

Major TRINKLE. It is unusual for the women to carry weapons. They don't fight with the main force. They are strictly in this little local organization, and they are very young boys, and the girls are used to form this local organization in each village. Now, when you get to be 18, 19, 20 years old, where you can hold up in a march over the mountains and that sort of thing, then you are recruited into your main force.

Mr. GUBSER. Would it be proper and normal for any knowledgeable soldier going into that area to expect the likelihood of women and children firing upon him, or boobytrapping him?

Major TRINKLE. Yes, sir.

Mr. GUBSER. Is that a fair statement?

Major TRINKLE. That's fair.

Mr. GUBSER. Was this a free fire zone at the time you were operating in there?

Major TRINKLE. I don't understand that term, "free fire zone," sir. I have heard it since this thing blew up, but we didn't really talk about these being free fire zones.

Mr. GUBSER. What I am asking is, could you lay down artillery without permission from the province chief?

Major TRINKLE. We could in Muscatine, and after he asked us to go—but we couldn't south of the Ham Giang and the 2d ARVN, until we were asked to operate there, and then we were in operation there, physically on the ground, we could call in artillery in support of our operation.

Mr. GUBSER. Major, what instructions did you give your command prior to an action with respect to what should be done about possible civilian casualties?

Major TRINKLE. My standing operating procedures were, sir, that we weren't to have any civilian casualties if it could possibly be avoided. In other words, if there was any doubt, don't shoot, and if a civilian did happen to get hurt, which was the case when the girl was hurt in My Lai, they were evacuated immediately for medical attention.

Mr. GUBSER. What would be the criteria upon which doubt would be resolved, whether they carried weapons, whether they fled, and what else?

Major TRINKLE. The main thing was do they have a weapon. And if it were a military age male that took off running, you know, like as fast as he could, they were supposed to catch him. But if it was obviously a military age male and they couldn't catch him, then they were allowed to fire.

Mr. GUBSER. A grenade is considered a weapon, isn't it?

Major TRINKLE. Yes, sir.

Mr. GUBSER. Did you ever find situations where women or children and people who under civilized warfare rules would ordinarily be non-combatants, carrying grenades?

Major TRINKLE. I don't personally recall ever finding a woman with a grenade on her, but I am sure they must have, because we did have these three I know that were carrying carbines. I don't remember whether they had grenades or not. I found a lot of young boys carrying grenades.

Mr. GUBSER. You have?

Major TRINKLE. 14 years old.

Mr. GUBSER. Of course this could be concealed more than a carbine could.

Major TRINKLE. Yes, sir.

Mr. GUBSER. In other words, would you say, though, that it would be a normal fear for a GI in that area to feel that he could be attacked with a grenade or some other weapon by a woman or a child at any point?

Major TRINKLE. Yes, sir.

Mr. GUBSER. Thank you very much.

Mr. HEBERT. Mr. Stratton.

Mr. STRATTON. Major, you said that in this operation that you were on, that there was, as I recall, a wounded girl, and that you made arrangements for her evacuation.

Major TRINKLE. She was with that small group that had stayed in My Lai when we had our biggest fight there.

Mr. STRATTON. Yes.

Major TRINKLE. And she wasn't, I don't remember, it wasn't a gunshot wound, it was a shrapnel wound of some sort.

Mr. STRATTON. Were these individuals, this group, taken into a particular location and then evacuated to a prisoner stockade or a refugee center?

Major TRINKLE. I just sent her out on the medevac ship with my troops.

Mr. STRATTON. What about the other civilians, did they remain there?

Major TRINKLE. I told them to leave. Whether or not they did, I don't know.

Mr. STRATTON. I see. Suppose after you had singled out this girl, and directed her to be taken out on the medevac ship, that some member of your company had shot her. That would have been regarded as completely improper and contrary to instruction, would it not?

Major TRINKLE. It certainly would have, yes, sir.

Mr. STRATTON. What rules did you have for reporting any atrocities or infractions of procedures with regard to civilians? Did you have any instructions as to what should be done, if you saw this happening?

Major TRINKLE. I can only speak from the standpoint of my company, sir. But I constantly stressed with my platoon leaders to be careful, in other words, if they had to hurt somebody or had to kill somebody, to make sure that it was necessary, and the thought of atrocities never really entered my mind that much.

I remember talking to my whole company before we left from Hawaii—a lot of my men were brand new, and I was worried about this, because I had been there in 1965, and you know, I knew then when American units get there they don't always know who is good and who is bad. And at that particular time, I think there was a Marine being tried for some—he was being charged with murder in Da Nang. This was in 1967. Just about the time we deployed. And I used that example to talk to them about how important it was that we didn't do anything like this. But if it happened, my rule would have been to find the person responsible and prefer charges against him.

Mr. STRATTON. You had been in Vietnam before, so you were aware of some of the problems that would occur in that kind of a war?

Major TRINKLE. Yes, sir.

Mr. STRATTON. Were there any periodic instructions from division headquarters with regard to this procedure? Did the division officers or the brigade officers make any effort to sort of remind company commanders, battalion commanders, platoon commanders, to take precautions of this sort?

Major TRINKLE. I don't remember, sir. I really don't.

Mr. STRATTON. Major, what was the impact of the Tet offensive on the troops? Let me just preface that. I remember I was in Vietnam in December, I think—several of the members of this committee were there, December of 1967. The situation looked good. We were assured that things were pretty well under control. And then you had this concerted attack that took place at Tet. Did this rather unexpected attack have some impact on the troops themselves?

Major TRINKLE. The main effect it had on the American troops, sir, was it was just a little bit easier to find the VC for about a week. They came out of hiding, and you know, they fought like soldiers.

If you are talking about did it shake them up or scare them, no.

Mr. STRATTON. Make them a little jittery.

Major TRINKLE. No. Because the Tet offensive hurt mostly the civilians. It didn't really hurt the American troops that much.

Mr. STRATTON. I see.

Major TRINKLE. It just made our job easier for about a week because they came out of their tunnels and fought for a while.

Mr. STRATTON. Thank you very much.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. Mr. Dickinson.

Mr. DICKINSON. Yes, just a couple of short questions.

What were your orders, your standing operating procedures when civilians were killed? What did you do? Was there any particular way that you were supposed to report it? Was there anything separate from this? I mean noncombatants.

Major TRINKLE. Well, they would have been reported as civilians killed in a crossfire or something like that, yes, sir. If it did happen.

Mr. DICKINSON. I know that this did happen occasionally, but could you give us an idea of the frequency and possibly the numbers that you experienced, where noncombatants or questionable combatants were killed, civilians?

Major TRINKLE. I remember the girl that we evacuated there from My Lai. But very few other times, in my company. It happened in other companies once in a while.

Mr. DICKINSON. I understand. But it was relatively rare?

Major TRINKLE. Yes, sir.

Mr. DICKINSON. Wasn't it? I am not really trying to lead you.

Major TRINKLE. Well, I will put it this way, sir. Some companies reconned by fire, and you get more civilian casualties that way. It is not uncommon, and it has got a lot to be said for it. In other words, when they go into a village where they are real sure there are VC there, they lay down a heavy base of fire, and sometimes they kill civilians that way. I didn't use that technique.

Mr. DICKINSON. All right. Well, now, in your experience, though, if you got two, three, four civilians killed, that would be an average number?

Major TRINKLE. No.

Mr. DICKINSON. An unusually large number or what?

Major TRINKLE. From my company, there weren't any.

Mr. DICKINSON. There weren't any?

Major TRINKLE. Except for this girl.

Mr. DICKINSON. But there was no particular reporting procedure or nothing in particular that you had to do if a noncombatant, or what you assumed to be a civilian, were killed?

Major TRINKLE. You reported it to your next higher headquarters that you needed a medevac for a civilian.

Mr. DICKINSON. Well, say they were killed. You wouldn't evacuate them then?

Major TRINKLE. No, oh, no.

Mr. DICKINSON. What I am trying to get at is that it is my understanding that there were procedures for reporting civilians that were killed, and compensation made and investigations made, and so forth. Now, are you familiar with this? What did you have to do with this, if civilians were killed, other than just make the report?

Major TRINKLE. Other than just reporting to your next higher headquarters?

Mr. DICKINSON. Along with your battle report. You just included this as part of the overall report. It was not a separate report. There was nothing unique or different about the reporting of a civilian killed from your regular battle report?

Major TRINKLE. No; all reports were done on the radio, from company level. There weren't any written reports that we ever had to make.

Mr. DICKINSON. I see.

Major TRINKLE. So we just reported on the radio what the situation was.

Mr. DICKINSON. And aside from your own personal knowledge, was it general knowledge that—well, what was the general knowledge as to civilians killed? I am trying to get at numbers now.

Say three noncombatants were killed in any particular operation. Would that be anything to be remarked upon? Would that be unusual?

Major TRINKLE. I don't know, sir. I don't know.

Mr. DICKINSON. All right.

Thank you, that's all, Mr. Chairman.

Mr. HÉBERT. Major, I want to reconstruct some of your statements.

At the time up to your becoming a casualty—it was the end of February?

Major TRINKLE. Yes, sir. I can't remember the exact date, but it was about the end of February.

Mr. HÉBERT. And the alleged incident occurred on March 15 or 16?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. The 16th of March, two weeks later.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. How were you wounded?

Major TRINKLE. Gunshot wound.

Mr. HÉBERT. Where?

Major TRINKLE. Once in the back and once in the leg.

Mr. HÉBERT. Once in the leg. And you were evacuated?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And then you had no connection whatsoever with any activity, any action?

Major TRINKLE. No connection with Task Force Barker again, sir.

Mr. HÉBERT. No connection with Task Force Barker at all?

Major TRINKLE. No.

Mr. HÉBERT. Did you hear any conversation, or skuttlebutt, or rumors about something unusual taking place at My Lai 4 on March 16?

Major TRINKLE. Yes, sir. I mentioned that to the Peers Board, too, and I can't remember the source.

Mr. HÉBERT. Tell us.

Major TRINKLE. I did hear a rumor.

Mr. HÉBERT. Never mind the Peers Report. This is an independent investigation. We want to know from scratch.

Major TRINKLE. Several weeks, or possibly as much as a couple of months after I got back from the hospital, I came back to my parent battalion. I did hear a rumor, and I don't—I think it might have been Captain Riggs, who took over the company from me. But I am not sure. I mean, he is just the most likely person I would have been talking to.

I heard that C Company had done a sloppy job on their operation at My Lai, in that some of the civilians were killed, but you know, in my mind at that time, it was just a rumor, and I had visions of this three to half a dozen or so killed in a crossfire.

Mr. HÉBERT. Well, now, would it be a usual thing that just occupied a passing thought in your mind, or would this be an unusual operation? Or was this the usual modus operandi of troops?

Major TRINKLE. It wasn't usual. I probably just had the opinion, well, Medina did a sloppy job.

Mr. HÉBERT. Well, then, how long were you in Vietnam?

Major TRINKLE. I have been there for a total of 2 years, sir.

Mr. HÉBERT. Two years. And you engaged in many actions during that time?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And if this was not the usual thing, wouldn't it have an impression on you that this was a sloppy operation, and this was something that was unusual?

Major TRINKLE. There are a lot of sloppy operations over there, sir.

Mr. HÉBERT. Well, all right then. That is what I am trying to find out. I am not trying to lead you or anything. I am trying to find out what the general atmosphere was. Just another sloppy operation.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And there had been many sloppy operations?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And if anything happened, in your definition of sloppy, is where there is just—

Major TRINKLE. Everybody shoots at everything that moves.

Mr. HÉBERT. That's what you call it when you say "sloppy," you mean just "slop" them out?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. We'll use that word. And did you hear it discussed any more except on that one occasion?

Major TRINKLE. No, sir.

Mr. HÉBERT. So then am I right in presuming that this was a regular type of action?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. There was nothing unusual?

Major TRINKLE. No, sir.

Mr. HÉBERT. Now, when did you leave Vietnam? And you didn't hear any more about it, except this one conversation?

Major TRINKLE. Yes, sir. November of the next—the next November.

Mr. HÉBERT. Now, to go back again. You would describe this My Lai 4 village as an armed camp—I think Mr. Reddan asked you that.

Major TRINKLE. Yes.

Mr. HÉBERT. This was anybody in this area was Viet Cong controlled?

Major TRINKLE. Yes, sir. Viet Cong controlled.

Mr. HÉBERT. Viet Cong controlled, and they were there because they were there with the Viet Cong?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. So in other words, you didn't have any neutrals there?

Major TRINKLE. No. The neutrals had long since gone to refugee centers.

Mr. HÉBERT. And any group or groups of people, men, women or children there, were on the side of the Viet Cong?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And this was an armed camp, and they were within the protectorate of that armed camp?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. That is what you wanted to get.

So now you are back in the States and you are assigned to West Point, I understand.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. How long were you at West Point?

Major TRINKLE. I reported there right from Vietnam.

Mr. HÉBERT. What date was that?

Major TRINKLE. I took leave, and I was on duty at West Point right after Christmas.

Mr. HÉBERT. What is your duty at West Point?

Major TRINKLE. I am on the Commandant's staff.

Mr. HÉBERT. On the Commandant's staff.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. That's the military side.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. When did General Koster go to West Point?

Major TRINKLE. He left the division in about June or July, sir, and came back to West Point before I left Vietnam. He was already the Superintendent.

Mr. HÉBERT. All right. Now, then, this became a cause celebre, if we are going to describe it that way, in the summer of 1969, when the first formal attention was brought to Congress by this letter of this individual, Ridenhour. When did you become knowledgeable of this complaint?

Major TRINKLE. When I read about it in the press.

Mr. HÉBERT. When you read about it in the press.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. Did this generate in your mind any recollection about what you had heard or what you knew about sloppy operations?

Major TRINKLE. Well, I didn't believe it at all, sir. I was shocked that these accusations were being made. And I thought——

Mr. HÉBERT. Now, you say you were shocked that these accusations would be made. Yet just a few minutes ago you said that sloppy operations were——

Major TRINKLE. Sloppy operation doesn't include that many people being killed, sir. The first reports that came out were something like 500 people.

Mr. HÉBERT. Five hundred people. In other words, you are defining sloppy by numbers?

Major TRINKLE. When I first heard the rumor——

Mr. HÉBERT. That's beyond sloppy.

Major TRINKLE. When I first heard the rumor that some civilians had been killed, I thought they were talking about something less than a half dozen people.

Mr. HÉBERT. And then?

Major TRINKLE. When I read about it in the press, all these hundreds or 500's or 50, anything over half a dozen——

Mr. HÉBERT. Then are we to understand when you say "sloppy operations," you are only talking about six civilians being killed? Six, seven, a dozen?

Major TRINKLE. Certainly nothing like the numbers that are being talked about here.

Mr. HÉBERT. Say a dozen, two dozen. That is what you are talking about. So when you say "sloppy operations," you mean just a handful of people being killed?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. You are not talking about a number that's involved or suggested in this incident?

Major TRINKLE. No, sir.

Mr. HÉBERT. You knew, of course, that General Koster was the commanding officer of the Americal Division at the time when this allegedly occurred?

Major TRINKLE. You mean when I read about it in the press?

Mr. HÉBERT. Yes.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. Did you have any conversations with General Koster?

Major TRINKLE. We were asked not to talk to each other about it, sir, by the Peers Board.

Mr. HÉBERT. Now, wait a minute. Now, we are getting into our dates. The Peers Board only came into being later. The Peers Board only came into being——what was the date?

Mr. REDDAN. December, I think.

Mr. LALLY. November.

Mr. HÉBERT. The Peers Board only came into existence——

Major TRINKLE. You mean when it first came out in the press?

Mr. HÉBERT. Yes.

Major TRINKLE. No; I didn't talk to General Koster about it. In fact, I never talked to General Koster about it.

Mr. HÉBERT. Don't anticipate me. I will get to it.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. Though you were shocked at this, you knew that General Koster was the Superintendent of the Academy at that time, you

knew he commanded the Americal Division, and nothing ever occurred to you that you had in passing mentioned this to General Koster, saying "What do you think about this?" or "Did you know anything about this, you were the commander of the Americal Division?" Not one word was passed between you and General Koster?

Major TRINKLE. We didn't see each other on a daily basis, sir, he being the superintendent.

Mr. HÉBERT. All right.

Major TRINKLE. He was two people up from my chain of command. He didn't approach me on the subject, and I certainly didn't approach him.

Mr. HÉBERT. I understand. That is why I want you to just answer the questions on that.

Major TRINKLE. Yes, sir.

Mr. HÉBERT. And then the Peers Board instructed everybody not to discuss this matter?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. In what form did this prohibition take place?

Major TRINKLE. When I was notified to appear before the Peers Board, somebody on the board told me don't discuss it with anybody else.

Mr. HÉBERT. That was after you appeared as a witness?

Major TRINKLE. No; this was when I was notified I was going to appear.

Mr. HÉBERT. Now, when were you notified you were going to appear before the Peers Board?

Major TRINKLE. It was very soon after the board was formed. I don't remember the exact date, but it was right after the board was formed, within a week or so.

Mr. HÉBERT. And who told you not to discuss this?

Major TRINKLE. One of the people on the Peers Board, sir, one of the people connected.

Mr. HÉBERT. One of the people on the Peers Board went to West Point and told you not to talk about it?

Major TRINKLE. No.

Mr. HÉBERT. How did you know?

Major TRINKLE. I talked to somebody by phone in discussing where I was supposed to report and what time and that sort of thing.

Mr. HÉBERT. Who told you to report to the Peers Board? How did you get that information?

Major TRINKLE. He is a major, sir, but I don't remember his name. He works in the Pentagon there.

Mr. HÉBERT. He called you on the telephone and told you that you were going to be summoned before the Peers Board?

Major TRINKLE. I got a message through the duty officer at West Point, and then I believe I had some questions on the message, and his name was on the message, so I called down here.

Mr. HÉBERT. The duty officer at West Point told you you were to be summoned before the Peers Board?

Major TRINKLE. He told me I was supposed to go to Washington and gave me this major's name.

Mr. HÉBERT. For what reason did he tell you you were supposed to go to Washington?

Major TRINKLE. It was a TWX, sir. You know, like a telegram. And it came in on the weekend and it just said I was supposed to report to Washington.

Mr. HÉBERT. And that aroused your curiosity on why you were supposed to go to Washington?

Major TRINKLE. Well, I had a pretty good idea why I was supposed to go, sir.

Mr. HÉBERT. What gave you the idea?

Major TRINKLE. Well, I knew I was a member of Task Force Barker, and I had been reading in the press that it was going to be investigated.

Mr. HÉBERT. I thought you just said that you were not involved in Task Force Barker.

Major TRINKLE. Oh, yes, sir. I was a company commander in Task Force Barker.

Mr. HÉBERT. I see. Well, then, since then you have not discussed this with General Koster?

Major TRINKLE. No, sir.

Mr. HÉBERT. Have you discussed it with anybody else?

Major TRINKLE. I have discussed it with my former battalion commander, Colonel Franklin, who was not connected with Task Force Barker at all. And, as far as I know, he is not connected with the investigation at all.

Mr. HÉBERT. And what was that discussion about?

Major TRINKLE. Personal things.

Mr. HÉBERT. I am not interested in personal things.

Major TRINKLE. I mean personal opinions about "It's a shame that Colonel Henderson is getting hung. It's a shame that Major Callhoun is getting hung. It's a shame that General Koster is getting hung."

Mr. HÉBERT. You knew they were getting hung already just by what you read in the newspapers?

Major TRINKLE. Yes, sir.

Mr. HÉBERT. But you have never talked to anybody except your battalion commander? What was his recollection? He heard the same rumors that you had heard?

Major TRINKLE. I don't know, sir.

Mr. HÉBERT. You didn't ask him?

Major TRINKLE. No.

Mr. HÉBERT. In the discussion.

Major TRINKLE. You mean did he know about it before it was in the press?

Mr. HÉBERT. Yes.

Major TRINKLE. He didn't know.

Mr. HÉBERT. You asked him if he knew about it?

Major TRINKLE. No; I didn't ask him.

Mr. HÉBERT. How did you know he didn't know about it if you didn't ask him?

Major TRINKLE. Well, he had never mentioned it to me before.

Mr. HÉBERT. You assumed he didn't know?

Major TRINKLE. I assumed.

Mr. HÉBERT. But you don't know?

Major TRINKLE. No.

Mr. HÉBERT. That's all.

Mr. REDDAN. Just one other question, Major.

Prior to your operation and during the time you were attached to Task Force Barker, did you have an opportunity to discuss with Colonel Barker what his objectives were in the Son My area, and how he wanted you to treat the villages and property and civilians in that area?

Major TRINKLE. No, sir. The subject never came up with Colonel Barker.

Mr. REDDAN. Did he ever have any discussions with you about search and destroy operations?

Major TRINKLE. Colonel Barker had very few discussions with me about anything, sir.

Mr. REDDAN. Were you ever given any instructions that involved search and destroy operations?

Major TRINKLE. The way I operated with Task Force Barker was, I would usually make a suggestion about what my company should do to Major Calhoun, who was the S-3 at that time, and he would get Colonel Barker's approval on it.

Mr. REDDAN. Did you have any discussions with Major Calhoun about search and destroy operations, or how you were to treat private property and civilians in the Son My area?

Major TRINKLE. I don't recall any specific discussions, sir.

Mr. REDDAN. That's all.

Mr. HÉBERT. Any further questions?

Mr. GUBSER. I would like to ask one more. You made the statement earlier in your testimony that you considered every person in My Lai 4 to be Viet Cong-controlled.

Major TRINKLE. Controlled, yes, sir; not Viet Cong, but Viet Cong-controlled.

Mr. GUBSER. But does that lend any credibility to an assumption on the part of a GI participating in an operation in that area that every person in that area was likely to try to kill him?

Major TRINKLE. Yes, sir.

Mr. GUBSER. Thank you.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Yes, Mr. Chairman.

Major, you said you had very few discussions with Colonel Barker, and got very few instructions from him. Was it your impression that the kind of operation that he favored and supported was one that would go in and do a pretty thorough job of destroying any particular objective, specifically burning the hooches, killing the livestock, making sure that any suspect Viet Cong were eliminated and so forth?

Major TRINKLE. I don't know. It is hard to say what another man would do, sir. I personally had a low opinion of Colonel Barker. I thought he was a very weak leader. He seemed to be primarily interested in body count and that sort of thing, and he was, you know, right—he didn't understand the political implications at all, and he didn't give me, he didn't tell me ever to destroy any villages or anything. But he didn't tell me not to, either.

Mr. STRATTON. But was it your general impression that the kind of operations that were conducted under his leadership would usually result in such things as I have referred to? That is, a pretty thorough destruction of the area?

Major TRINKLE. The only things I ever destroyed were tunnels and bunkers and that sort of thing, sir. Whether he condoned this in other companies or not, I don't know.

Mr. STRATTON. But you said you had a low opinion of him as a leader, and he did not give you any instructions not to do certain things.

Major TRINKLE. He didn't give me any instructions at all, sir; about anything.

Mr. STRATTON. And you said you felt he had a weak impression of the political aspects of the fighting in Vietnam?

Major TRINKLE. Yes, sir.

Mr. STRATTON. Now, with respect to the question that Mr. Hébert asked, I wanted to clarify that just a little bit in my own mind. The rumor that you heard about Captain Medina's operations, simply that there had been an unusually large number of civilian casualties, is that correct?

Major TRINKLE. No, not that there had been an unusually large number, that there had been some civilian casualties.

Mr. STRATTON. Some civilian casualties?

Major TRINKLE. Yes, sir.

Mr. STRATTON. And, therefore, you concluded that he had done a sloppy job?

Major TRINKLE. Yes, sir.

Mr. STRATTON. By permitting some civilian casualties occurring in a military operation.

Major TRINKLE. Yes, sir.

Mr. STRATTON. You did not—the rumor that you heard did not involve the rather coldblooded and deliberate lining up of civilians in a particular spot, presumably having surrendered, and unarmed, and then gunning them down in cold blood?

Major TRINKLE. No, sir. There was no indication that anything like that happened at all.

Mr. STRATTON. Now, I think—well, let me say this. If that thing were to have occurred, would you regard that as a sloppy job, or would you regard that as—

Major TRINKLE. No, sir, I would regard that as murder.

Mr. STRATTON. As murder?

Major TRINKLE. Yes, sir.

Mr. STRATTON. One other question. Did you know General Koster personally when you were in the division?

Major TRINKLE. No, sir.

Mr. STRATTON. And your assignment—was your assignment to West Point either the result of a request on your part to be at the same place where he was assigned, or was it a request from him to have you in his command?

Major TRINKLE. It was a request that originated on my part to General Koster, because I wanted to be assigned to West Point, and he knew me from receiving briefings when I was S-3 of the 3d Battalion, 1st Infantry, and I called him and asked if he would assign me to West Point, and he agreed to that.

Mr. STRATTON. But your primary interest was in being at West Point rather than being associated with him again?

Major TRINKLE. Yes, sir.

Mr. STRATTON. Thank you.

Mr. LALLY. Mr. Chairman?

Mr. HÉBERT. Yes.

Mr. LALLY. Major, when did you return to duty after you were wounded?

Major TRINKLE. About 3 weeks later.

Mr. LALLY. And were you then assigned to 11th Brigade?

Major TRINKLE. I was assigned to the 3d Battalion, 1st Infantry of the 11th Brigade, yes, sir.

Mr. LALLY. At that time, or shortly thereafter, Major, did you learn of any investigation being conducted by 11th Brigade officers?

Major TRINKLE. No.

Mr. LALLY. Of this incident?

Major TRINKLE. I didn't know about the investigation, no.

Mr. LALLY. Thank you, sir.

Mr. HÉBERT. Thank you very much, Major. I appreciate your cooperation.

Major TRINKLE. Thank you.

[Whereupon, at 11:40 a.m. the subcommittee proceeded with another witness.]

TESTIMONY OF SFC. CECIL D. HALL

Mr. HÉBERT. If you will identify yourself for the record, then we will start from there.

Sergeant HALL. I am Sergeant 1st Class Cecil D. Hall, sir, from Fort Leonard Wood, at the present time.

Mr. HÉBERT. Now, Sergeant, I want to tell you, explain to you, what your situation is here and what your rights are here.

The subcommittee will give you full and complete protection against any infringement on yourself and your privacy. When you leave the room, you will leave by that door. A representative of the news media will ask you, do you want to talk, or say anything, or have pictures taken, or not. This is entirely up to you. The subcommittee places no restrictions, except to caution you that this is an executive session, and nothing is to be discussed that has taken place here, in this room, in questioning you.

If you do not care to make any statement, you will be escorted privately away, and you do not have to speak. This is entirely up to you. But, the subcommittee gives you full protection against any infringement at all on your privacy.

Now, you also have the right of counsel. Apparently, you do not have counsel.

Sergeant HALL. No.

Mr. HÉBERT. All right.

Now, I will have to swear you in.

[Witness sworn.]

Mr. HÉBERT. All right, Mr. Reddan.

Mr. REDDAN. Sergeant, have you given the reporter your full name?

Sergeant HALL. Yes.

Mr. REDDAN. How many tours have you had in Vietnam, Sergeant?

Sergeant HALL. One, sir.

Mr. REDDAN. During what dates?

Sergeant HALL. December 1 of 1967, and I was evacuated in November of 1968. Sometime in November. I don't remember the exact date.

Mr. REDDAN. During your tour, were you ever attached to Task Force Barker?

Sergeant HALL. Yes, sir. I was with Task Force Barker when it was first conceived, until, oh, 15, 20 days before it disbanded.

Mr. REDDAN. Do you remember approximately when that was?

Sergeant HALL. It was around April, sometime in April, I believe, when the task force itself disbanded.

Mr. REDDAN. What were your duties with Task Force Barker? What were your assignments?

Sergeant HALL. I was the brigade communication chief, and I acted as the task force commander's radio operator, in many instances.

Mr. REDDAN. As the communication chief for Task Force Barker, what were your duties?

Sergeant HALL. I maintained the radio communications, wire communications; also I would go out with Colonel Barker on many occasions. We did not have a console in our command helicopter; therefore, we had to use multiple radios, PRC-25 radios, to put down in the aircraft. And this required somebody else to help operate.

Mr. REDDAN. Did you perform any function in connection with the tactical operation sense?

Sergeant HALL. Well, I was usually in the TOC.

Mr. REDDAN. Were you usually in the TOC? What did you do when you were there? Did you monitor the incoming radio calls, messages, long line calls, or what?

Sergeant HALL. Oh, I would hear them. Incidentally, for me to sit there and be the radio operator and—

Mr. REDDAN. You had your own operators to do that?

Sergeant HALL. No. Usually, it was the personnel who worked in the TOC, the duty officer, who handled the call, or the operations sergeant. Whoever was there. If they were on duty, they handled the call.

Now, I might be in the area working on SOI's and things of this nature.

Mr. REDDAN. What do you mean?

Sergeant HALL. The signal operating instructions. The call signs. We received our call signs from brigade, and then we cut them up. They were on sheets, and we cut them up into smaller packets and issued them out to the units.

Mr. REDDAN. When the messages came in, either by telephone or radio, were the messages logged in?

Sergeant HALL. Yes; the duty officer or the operations sergeant who was on duty would log them into the daily journal.

Mr. REDDAN. Were they logged in verbatim, or just the general thrust and tenor of the message?

Sergeant HALL. I don't—I wouldn't say that they were verbatim, as such. If a certain unit called, why, that was so noted.

Mr. REDDAN. Would you note what they called about?

Sergeant HALL. Yes. The general content would be there, but I'm sure it wasn't verbatim.

Mr. REDDAN. The time of the transmission?

Sergeant HALL. Yes.

MR. REDDAN. Did it show the disposition that was made on the—
Sergeant HALL. There is a block. I couldn't say that in each instance that was so noted.

MR. REDDAN. Were the messages initialed to show who took it down?

Sergeant HALL. Yes. The person who took the message and made the log entry usually put their initials on it.

Now, the radio operator's log—this is not a radio operator's log. This is the daily journal.

MR. REDDAN. Yes.

Sergeant HALL. It was not, to my knowledge, a radio operator's log maintained, because there was no radio operator on duty.

MR. REDDAN. What did you do with the task force log?

Sergeant HALL. I didn't, sir.

MR. REDDAN. What was done with it?

Sergeant HALL. Well, as far as I know, it went forward, or was reviewed by—at the end of the day, by the Commander, Colonel Barker.

MR. REDDAN. Was this sent on to brigade, or division?

Sergeant HALL. To the best of my knowledge, it would have gone on to brigade. Now, I can't say that it did.

MR. REDDAN. Yes.

Now, when you were the radio operator of Colonel Barker, what were your duties?

Sergeant HALL. To relay back to base camp. Many times when we had the air assaults, I would relay back whether it was a hot LZ, meaning whether they received ground fire, when they assaulted the area, or if it was cold; and then if they had calls for Colonel Barker, I would be monitoring the radio and then I passed it on over to him.

MR. REDDAN. Did you monitor his conversations while he was on the air?

Sergeant HALL. I have heard some of his conversations, but not to say I monitored them all, no, sir. I couldn't say that.

MR. REDDAN. Did you deliberately turn them off when he came on, when you passed the microphone?

Sergeant HALL. No; I would pass the—physically—pass the microphone—

MR. REDDAN. He didn't have one of his own?

Sergeant HALL. He had one of his own, but it would be on a different frequency.

MR. REDDAN. He couldn't switch from one frequency to another?

Sergeant HALL. We didn't have a console. The only time he could was when the aircraft commander—the aircraft commander had the console.

MR. HÉBERT. For the aircraft, then, if he could get on there, the intercom, he could possibly switch?

MR. REDDAN. You would then take off your headset and hand it over?

Sergeant HALL. It was a hand set. And I could hand it over to Colonel Barker and tell him that a certain call sign wanted him, and he could go ahead and transmit on back to base, or wherever the case may be.

MR. REDDAN. All right.

Now, before we get up to the March 16 date, I would like to ask you whether or not you participated in any operations, known as the AO extension, there in the Son My area?

Sergeant HALL. Yes, sir.

Mr. REDDAN. Prior to March 16?

Sergeant HALL. Yes, sir.

Mr. REDDAN. Could you tell us something about those operations that you were engaged in?

Sergeant HALL. Well, the first operation that we were involved with in the AO extension was on the 12th of February, and this is when we went into what is referred to as My Lai.

Mr. REDDAN. Which My Lai did you go into, at that time?

Sergeant HALL. I really can't say, sir. I couldn't walk up there and put my finger on it and say this is the one. Although it was close to the citadel, this being the citadel.

Mr. REDDAN. The citadel is—69, 70 coordinates?

Sergeant HALL. Yes, sir. This is the citadel. It was the one east of the citadel. In this area right along in here.

And we went in. It was B Company—

Mr. REDDAN. As radio operator or communications chief and radio operator for Colonel Barker, what were you doing in there?

Sergeant HALL. Well, sir, the day—it was a bad day; heavy fog. You could hardly see, and we had wounded, and the unit was pinned down, and we couldn't get in any ships to take the wounded out. So another individual and I volunteered to go in with Colonel Barker's aircraft.

Mr. REDDAN. Where were you, at that time; back at LZ Dottie?

Sergeant HALL. No, sir. We were—this one right here.

Mr. REDDAN. You were at the hill?

Sergeant HALL. There was a monastery on the hill.

Mr. REDDAN. 66 coordinate, 66, 76, about? 755?

Sergeant HALL. I believe this is the hill right here. There is a monastery on the hill, a Buddhist monastery. That's where we had set up a temporary field headquarter for this particular operation.

Mr. REDDAN. And you were there as the—

Sergeant HALL. Communications chief.

Mr. REDDAN. Yes.

And it was a foggy day, and the people were pinned down out there, in the My Lai area; and you volunteered to go out?

Sergeant HALL. And get out the wounded.

Mr. REDDAN. I see. Tell us about that.

Sergeant HALL. Well, we made about three trips into the area, but we had to go down in the concentrated fire up on the helicopter. There were the two helicopter pilots, two door gunners, Sergeant Warren and myself. We went in and got as many of the wounded out as we could.

Mr. REDDAN. Where did you take them out of, do you remember?

Sergeant HALL. Well, the same area. I'm sure it's the area here of My Lai 4, this area right in there.

There are so many My Lai's there, and they're just scattered all over.

Mr. REDDAN. What company was pinned down?

Sergeant HALL. B Company, Captain Michles' company.

Mr. REDDAN. Did you have any idea how many casualties that company received that day?

Sergeant HALL. Well, now, it wasn't his company. We had tracks there also that day. APC's. And first one we took out died. Mendoza died when we got him to the hospital.

That was the only KIA that I know we received that day.

Mr. REDDAN. Were they pinned down with small arms fire, or rockets?

Sergeant HALL. Small arms.

Mr. REDDAN. All small arms?

Sergeant HALL. Yes, sir.

They figured Mendoza was hit with a .50 caliber. We laid down suppressive fire from the helicopter.

Now, with two people, with M-14's and M-16's in the doorway concentrating all the fire, we could possibly get from the helicopter and door gunners with their machinegunners putting all the fire down there we could.

Mr. REDDAN. Were you firing on the hamlet itself?

Sergeant HALL. On the village, sir.

Mr. REDDAN. This is where you were getting the enemy. Were you getting enemy fire from the village?

Sergeant HALL. They were getting enemy fire from the village. They were on the outside area of the village trying to move in, and they were getting the fire, at that time.

Mr. REDDAN. All right.

Sergeant HALL. So we made I don't know how many passes—there was a number of passes—and laid down all the fire we could just as fast as we could pour it out.

Then we came in and the pilot, Captain Michles, told us over the radio that he said we don't think you can make it in here. But we went in and got Mendoza out, and I went around to a few other of the areas there and the track vehicles looking for more wounded, and we got back out and took Mendoza as a single casualty out and took him to Chu Lai.

Then we came back and went in again. And again we still were receiving fire. Why we weren't hit, I don't know, but it's one of those lucky things.

Mr. REDDAN. Now, this was early in February, is that right?

Sergeant HALL. This was—well, the orders that I have received, we were decorated at this time, and it was the 12th of February.

Mr. REDDAN. And you were decorated. What decoration did you receive?

Sergeant HALL. Air Medal.

Mr. REDDAN. Do you know how many casualties our troops received on that occasion?

Sergeant HALL. I know we took out Mendoza, and I know we took out at least two more. He went in at least three times. Then I believe they finally did get another ship down there. But we couldn't get any help due to the poor visibility. Gunships were not available, so we just used our command for what we could get.

Mr. REDDAN. Do you know how many VC were killed in that operation?

Sergeant HALL. I would, in my mind, I would say almost like they call in the section 1, the third operation, almost a hundred.

Mr. REDDAN. Almost a hundred VC were killed on that operation?

Sergeant HALL. Yes, sir. As to the body count report.

Now, for my personal knowledge, there, and counting them, I couldn't say.

Mr. REDDAN. Could you tell us what the condition of My Lai 4 was at the end of that operation? Physical condition of it? Was it burning?

Sergeant HALL. I never did get all the way in there on that operation, sir.

As I remember it, they never did get all the way in. We finally had to pull back. There is a time when we had Vietnamese tracks, about 10 or more had personal cars, with Vietnamese on them, and they sat back there and never did come to our assistance.

Mr. REDDAN. They didn't get too close.

Sergeant HALL. They stayed back where it was nice and safe, and they had a couple of medics that weren't too happy about that.

There were conscientious objectors who were in that area at that time. And they were decorated. But they were so bitter, they could have very easily gone down and started taking care of the people on those tracks, because it was one of those things. They had the armament there and yet we didn't get it.

Mr. REDDAN. So that our troops were unsuccessful in entering My Lai 4 on that day?

Sergeant HALL. As I remember it, they did not make it. We pulled them back.

Mr. REDDAN. Now, were you engaged in another operation in that area prior to March 16?

Sergeant HALL. I believe we were, when Major Trinkle was wounded.

Mr. REDDAN. Were you in there at that time?

Sergeant HALL. Yes, sir; I was on the ground again.

Mr. REDDAN. How did you happen to be there at that time?

Sergeant HALL. I was with Colonel Barker again, and there were wounded and dead. We had a corporal that was killed. In fact, I believe he was the FO for Captain Trinkle—Major Trinkle—that had been killed, and he was lying there dead; and we needed to get him out, because of the troops—the morale of the troops. So Colonel Barker asked me if I would go on the ground.

Mr. REDDAN. Was Colonel Barker with you, at the time?

Sergeant HALL. Yes.

Mr. REDDAN. In the chopper?

Sergeant HALL. Yes.

And I was also willing to get on the ground. And so we had to get the people out, so they did move them on out.

And they moved the wounded out, and I stayed on the ground, and I ended up being there all night that night.

I don't know the date, the date of the operation. I remember there was—we set up a perimeter, a small perimeter around a cemetery. There was an old cemetery there.

Mr. REDDAN. How close to the village was the cemetery?

Sergeant HALL. Oh, it was on the edge of the village.

Mr. REDDAN. Right on the edge?

Sergeant HALL. Yes, sir.

Mr. REDDAN. Were you pinned down in there?

Sergeant HALL. No, sir; I did not take a round.

Mr. REDDAN. I see.

Sergeant HALL. That particular day, there were a lot of rounds being fired.

Mr. REDDAN. Yes.

Sergeant HALL. In that area where we set up the perimeter, a lot of the people came out of the village, and we would stop them and search them, and they were old men, old women and young girls.

I remember this one little girl had her hand—her hand was just blue where she had been wounded. We figured it must have been a gunshot or something got it, but she had been shot through the hand. And they had taken like a cord, a window sash, and tied it around her arm, and her whole hand turned blue. So we took that off, and got the circulation going, and wanted to give her something to eat and she wouldn't eat. When we ate some of it first, then she would eat.

There was a number of them. An old man, I would say, was among them. His papers showed he was among them. And his booklets and everything he had with him.

Oh, I'd say we had in the neighborhood of 15 or 20 civilians with us. Mr. REDDAN. What did you do with them?

Sergeant HALL. We took them right there and wouldn't let them continue on. They weren't mistreated. We fed a couple of the kids there C rations, candy and everything from them. I'm just trying to think. Captain Kotouc was with us that day. He got off the aircraft too. And we stayed there on the ground; and he went out that night, and I stayed all night.

There were women and—a lot of bunkers in this village, and like I guess we'd call them, air raid shelters, or what have you. But you saw a movement in one, and got ready to shoot, and a woman came out of there with a baby in her arms. She didn't get shot, but it was lucky. We called her—had this other woman call her and tell her to come over there to that area. She wouldn't do it. She headed right back in the bunker again, so we didn't shoot her. I could have, and probably wouldn't have had any remorse had I done it, but she got back in there. I never did go in and get her.

Then we moved on through the village, and we found, let's see—

Mr. REDDAN. You moved through the village the next day?

Sergeant HALL. No.

Mr. REDDAN. That night?

Sergeant HALL. We moved through that village that day.

Mr. REDDAN. I see.

Sergeant HALL. But like I say, if we had gone in there and through, probably a lot of them in there, but you can't always send a man into one of these bunkers after people. It's just a little, looks like, a hole in the ground. Some of those in that area, anyway. But we found different—well, uniformed people, but couldn't find the weapons, but they were there and they were there in green shorts and shirts.

I came upon a hole that was dug in the ground, and loosely piled over with dirt. And further investigation showed that we uncovered what was a satchel of papers and documents. We took this on back and went on back, and they checked that out.

Mr. REDDAN. Do you know how many VC were killed that day, in that operation?

Sergeant HALL. No, sir; I do not.

Mr. REDDAN. Did you see any dead women or children in My Lai 4 that day?

Sergeant HALL. That day?

Mr. REDDAN. Yes.

Sergeant HALL. I didn't see any dead women or children.

Now, depending on what you call children. There was one man, one individual, in uniform, green shirt and green shorts on, and as

far as I'm concerned he was as VC as they come, and he couldn't have been any more than 15 or 16 years old.

Mr. REDDAN. I meant little children, 1, 2 years old.

Sergeant HALL. No, sir. One girl that was wounded, I would estimate her at 10, 11 years old, but that was a hand wound.

Now there may have been, sir, but I wasn't able to see them, if there were.

Mr. REDDAN. Now, on the 16th of March, you were not engaged out in that area other than these two times that you just told us about?

Sergeant HALL. Many times, many times, sir. Not on the ground. I would go in and pick up wounded.

Mr. REDDAN. On the ground is what I mean.

Sergeant HALL. Not that I can remember, off-hand, sir.

Mr. REDDAN. Now, on the operation on March 16, that we are concerned with here, primarily, did you participate in any of the operation which took place prior to March 16?

Sergeant HALL. If they were held in the TOC, I probably was there. But for me to stand right there and watch Colonel Barker, what he was telling his company commanders, no, sir, I couldn't say I did.

Mr. REDDAN. What were your duties on March 16, and where were you?

Sergeant HALL. Again, sir, I'm sorry, I can't tell you exactly where I was on that day.

Mr. REDDAN. Should you have been on the TOC on that day?

Sergeant HALL. Probably was. Maybe flying. But for me to recall, over this period of time, and say on this day I was at a certain place, I can't do it. I don't have total recall.

Mr. REDDAN. Do you remember an incident of a pilot, probably a Warrant Officer, coming in to talk on the 16th, and 17th, and complaining about women and children being killed?

Sergeant HALL. I remember this taking place.

Now, when he came in there, seems to me, as I believe I told you, in February, that he came in to talk, into TOC, and he——

Mr. REDDAN. What is your best recollection as to what took place?

Sergeant HALL. The best recollection, for me to recall, is that either he came in to TOC, or I heard it on the radio, that there was women and children down there. And Major Calhoun reacted by getting on the radio and calling out and saying, watch out for women and kids.

This is the best of my recollection; but to say that, if the man walked in the door right here, and say that is the man, I couldn't do it.

Mr. REDDAN. But you recall that word had come in that women and children were being harmed out there, and Major Calhoun got on the radio and called out and told them to be careful of that, is that correct?

Sergeant HALL. To the best of my recollection.

Mr. REDDAN. Do you know who he called?

Sergeant HALL. No, sir. I can't say. He might have called Colonel Barker, if he was in the area; or if he was able to get through on the ground, it might have been—gee, it's hard to say. He might have even called LZ Uptight, which was sitting out there next to the—next to it on the grounds, for a relay. But I couldn't say.

Mr. REDDAN. Did he have the capability of getting through from LZ Dottie to the ground troops at My Lai 4 that day?

Sergeant HALL. Periodically you could. It wasn't consistent. It depended upon where they were.

Mr. REDDAN. Do you recall what Major Calhoun's reaction was to this information with respect to women and children?

Sergeant HALL. No, sir, I don't.

Mr. REDDAN. Do you remember whether he was upset, or whether he was angry?

Sergeant HALL. No, sir, I don't. You know, I don't know. We really never saw him get too upset, sir. When you say upset, you mean to fly off the handle?

Mr. REDDAN. No. Disturbed. In other words, was he worried or was he mad?

Sergeant HALL. No, sir, I don't think so.

Mr. REDDAN. Do you have any recollection as to how he reacted to this news?

Sergeant HALL. No. I really couldn't pin that down to say that it bothered him, or that it didn't bother him.

Mr. REDDAN. What was your reaction?

Sergeant HALL. What would my reaction be?

Mr. REDDAN. Yes.

Sergeant HALL. My reaction would be that, well, I probably shouldn't say this, but I will.

If they were out there, and this is what we had heard from the, let's say, Quang Ngai, the province, that people out there were either VC, VC sympathizers, or assisting the Viet Cong, and sir, to me, war is war. I don't—I just can't—well, I will say it anyway. If they were there, they shouldn't have been. And it was a known fact that the people had been there many, many, many years; and when you go out there and you send people out there, and they find brick-lined tunnels, going down into an area, and they come out of a tunnel and sit down to get a breather and are blown up by a booby trap mine sitting under trees, someone's planting them.

And you go out and you pick up a young man with his groin blown away, his hands and everything blown away, from a booby trap, 250-pound bomb, the man still alive, and fight you all the way to Chu Lai, when he should have been dead a long time ago; and you're glad to see him die, you put—pretty soon you become pretty callous. That's my reaction, sir.

Mr. REDDAN. Now, did you ever hear—or was it ever brought out, brought to your attention in any way, that as a result of this My Lai operation on March 16, 1968, that a large number of civilians had been killed?

Sergeant HALL. For me to personally be told that a large number of civilians had been killed, no, sir, I don't think—civilianwise?

Mr. REDDAN. Yes, sir.

Sergeant HALL. No, sir, I didn't really consider people civilians, not in that area.

Mr. REDDAN. Did you hear, either through scuttlebutt or rumor, or any other way, that a large number of women and children and old men had been killed that day, and that there was an investigation being made, or to be made?

Sergeant HALL. No, sir, I can't truthfully say that I know that. Or that I have.

I've heard a lot of things since then, you know, but for me to say that yes I knew it at that time, I can't say that.

Mr. REDDAN. Were you in the TOC that day or the next day, when General Young came in? And Colonel Henderson?

Sergeant HALL. Yes, sir.

Mr. REDDAN. And Major Watke, and Colonel Holladay; were you in there when they came in?

Sergeant HALL. I don't remember Colonel Holladay. I knew Major Watke and Colonel Henderson and General Young. General Young was there a number of times. But I do remember General Young coming down, yes, sir.

Mr. REDDAN. Was he there on the 16th or the 17th?

Sergeant HALL. I don't know, sir.

Mr. REDDAN. Did you hear any of their discussions?

Sergeant HALL. No, sir, I did not.

Mr. REDDAN. Did you know the purpose of his visit?

Sergeant HALL. I can't recall whether I did or not. Did I know he was investigating this? I couldn't say that, sir.

Mr. REDDAN. Did you know whether his visit and the visit of these others that I have mentioned there had anything to do with what had taken place at My Lai 4 on March 16?

Sergeant HALL. It's possible. Like I said, as far as me to recall the date and everything, and these people, I know these people were there, yes. I've seen them there. And, in fact, if I remember correctly, the pilot that made the accusation, or first alerted about the women and children, was one of Major Watke's pilots.

Mr. REDDAN. Was he there that day with Major Watke?

Sergeant HALL. I don't know, but he was one, I'm sure he was one of Major Watke's pilots from Chu Lai, from 123 Aviation. They supported us down there.

Mr. REDDAN. Do you remember anyone from the Son Tinh Province or area coming to the talk?

Sergeant HALL. Major Gavin was also at our talk at the TOC.

Mr. REDDAN. Who was?

Sergeant HALL. Major Gavin.

Mr. REDDAN. Gavin. Was he up there, at any time, to discuss this My Lai 4 operation?

Sergeant HALL. I remember some people going down to see Major Gavin at Son Tinh.

Mr. REDDAN. Who was that?

Sergeant HALL. I don't know. I say, I can remember them saying they were going down to see Major Gavin at Son Tinh.

Mr. REDDAN. Did you relate that in any way to this My Lai 4 operation?

Sergeant HALL. Not until just now. But I do remember someone saying they were going down to see Major Gavin. I think General Young was down there that day.

Mr. REDDAN. Did General Young say he was going down?

Sergeant HALL. I don't know.

Mr. REDDAN. Was it someone from the division or the brigade who was going down to see him?

Sergeant HALL. Well, I think Colonel Henderson probably went down to see him, too.

Mr. REDDAN. At about this time?

Sergeant HALL. At about this time.

Now, either they went on down to talk, to Quang Ngai, to the 2d ARVN Division Headquarters, or probably down to see Major Gavin. Major Gavin was at Son Tinh, and then I don't remember the colonel's name that was at the 2d ARVN Division Headquarters, as the advisor there.

Mr. REDDAN. That's all.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. Jack, did you establish for the record the radio transmissions on the 16th?

Mr. REDDAN. No.

Mr. GUBSER. Does he know anything about it?

I have no questions.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Thank you, Mr. Hébert.

Sergeant, as I remember, you referred to one of these operations. I have forgotten which one it was, where you went in. And you said that the civilians that you had seen included, I believe, a woman who came out of a bunker with a baby in her arms, and then I think you said she went back in again.

Is that correct?

Sergeant HALL. That's correct, sir.

Mr. STRATTON. And I think that you said that you didn't shoot her, but you wouldn't have felt any particular remorse if you had done so?

Sergeant HALL. I believe that's exactly the words I used, sir.

Mr. STRATTON. Could you tell us why you would say that?

Sergeant HALL. Why I didn't shoot her, I don't know. But the big part that I say, I've had the misfortune, or I don't know, hauling so many people out of that area, that it probably wouldn't bother me a bit. I can't say it wouldn't, because I didn't shoot her; but I do think that I could have without any problems, especially when you pick up our people out of there, your own friends, and the people there can be the cruelest people in the world.

Mr. STRATTON. What you mean, if I understand it correctly, is that the fact that she came out and then went back in meant that she was still a potential combatant?

Sergeant HALL. That's correct, sir. We asked her to come out. We had the Vietnamese woman there tell her to come on over there, where there were many Vietnamese. They were all right there with us. She could see them. And she went right back into that hole again.

Mr. STRATTON. Now, suppose she had come out and suppose you had searched her, and so on, and put her into a separate area where civilians were to be further processed; and, as a matter of fact, what was your procedure if you had civilians that were in that position?

Sergeant HALL. Well, now, you're asking my procedure? Or are you asking—

Mr. STRATTON. The standard procedure. In other words, if you went into an area and some civilians did come out with their hands up.

Sergeant HALL. Sir, you would isolate those from any military that you can weed out, your young military age—well, we have young military age there. There can be a little kid, but I mean they are all potentially dangerous.

Mr. STRATTON. I know.

But let's say you've got somebody who has obviously surrendered as a civilian, assuming this, they could be combatants and could be dangerous. You have them in an area where they are under your command and control.

What was the standard procedure? Was it to take them to a POW center, or refugee center, or just what?

Sergeant HALL. Usually took them to a—what did they call it—not a rehabilitation center—they were taken down to camps set up by the Vietnamese, and they set up new places for them to live. Tried to move them out of the villages.

Mr. STRATTON. All right. Now, suppose you had a group of individuals of this kind, and if, instead of taking them to these centers, you just said, "oh, the heck with it, let's shoot them all down."

Would you regard that as being a proper action?

Sergeant HALL. No, sir.

Mr. STRATTON. What would you consider it?

Sergeant HALL. Well, I would consider it illegal and immoral to start with. But it's contrary to the Geneva Convention, of which we are not a signed member, of course.

Mr. STRATTON. I'm trying to see whether there is any distinction in your mind between a shooting of an individual who was not a civilian individual who has not followed instructions and goes back into a bunker where she could become a potential combatant, and someone who has come out, be disarmed, surrendered, and so on.

Sergeant HALL. I don't see where I would have any reason at all to shoot these people. As you say, line them up and shoot them. No.

Mr. STRATTON. All right.

And you would regard that kind of action as being illegal and immoral and improper, is that right?

Sergeant HALL. Illegal and immoral.

Mr. STRATTON. And immoral. All right.

Now, did you have any instructions—were you aware, in your position, of any instructions to the combatants as to what to do with people in this position?

Sergeant HALL. This was instilled in us from the time we came in the Army until the time we retire, of handling of prisoners of war. And it's also being brought up at the additional classes. They will have Geneva Conference classes. You're given Geneva Conference cards.

I don't know how many people read them, but I mean they are there to be had. They periodically—you receive them periodically, all sorts of cards on first aid, Geneva Conference. This is over and over and over.

Mr. STRATTON. Do you recall if Colonel Barker ever gave out such instructions?

Sergeant HALL. Oh, I can't say yes, Colonel Barker did and set a time or anything, no. Most of it is understood over a period of years.

I will put it that way, because this is indoctrinated into us, year after year after year. We have our training schedules and everything we go by.

Mr. STRATTON. Let me ask one other question.

Was there any particular change or reaction in the combat troops as a result of the Tet offensive? Did they feel resentful and revengeful, more jittery, as a result of what took place at Tet, and what the situation would have been before Tet?

Sergeant HALL. Sir, we arrived in country around the first of December 1967. And if I remember correctly, it was February—no, it was in January—we formed the task force.

These troops had not had enough days of combat in that short period of time to really form up any firm frame of mind as regarding combat. Many of them had seen very little combat at the time we went into the area.

Some of the older sergeants had been in Vietnam previously. Colonel Barker had been to Vietnam previously as a visitor. In fact, I believe he was there with special forces.

Major Calhoun had been there before. All these people had been there before. So their leaders weren't new, untrained people, or untrained men. They had been in the country before, and they had worked with the Vietnamese military.

Now, some of the most vicious people in the world are the Vietnamese National Police. Thank goodness we don't have that here.

Mr. STRATTON. But the individual troops had not been there long enough so that pre-Tet, post-Tet, there wouldn't have been much difference.

Sergeant HALL. No; they wouldn't have realized what had happened prior to Tet. That's one reason, if I remember correctly, why we were formed up, because of the Tet on February 6. We filled a gap between the last, I believe it was the first of the 46th to the 198th Brigade, between them and the 2d ARVN Division at Quang Ngai. And we filled the area there, and it just happened to be a real hot area.

Mr. STRATTON. Thank you.

Mr. HÉBERT. Mr. Lally.

Mr. LALLY. Sergeant, directing your attention to the TOC on March 16, do you remember Major Gavin being in the TOC on that morning?

Sergeant HALL. I can't say. When you pin me down to a day, sir, I can't say that.

Mr. LALLY. Well, at the time of this statement about the women and children out there, do you remember Major Gavin being there, at that time?

Sergeant HALL. He may have been, but I could not say yes he was.

Mr. LALLY. Do you remember any of the district advisory staff being in the TOC at that time?

Sergeant HALL. May I pause a moment here?

Mr. LALLY. Certainly.

Sergeant HALL. Major Gavin may well have been there, because this was a pre-planned operation; and more than likely, he would have come on into the TOC area. But now, quite a drive on down to his district headquarters, but no, I cannot say if there were any visitors there; but there may well have been. I can't say, sir.

Mr. LALLY. Thank you, sir.

Mr. HÉBERT. Sergeant, in recalling the incident of March 16, to which you can't apply a fixed date, you were in the operation of My Lai 4 regardless of what the date was that we are talking about now?

Sergeant HALL. Yes, sir.

Mr. HÉBERT. Did you hear, after that, or during the time you did say, that somebody came in to complain there were some women and children?

Sergeant HALL. Yes.

Mr. HÉBERT. After the incident, or whatever did take place on that date, did you hear any conversations, any rumors, any scuttlebutt, about killing, wanton killing, of women and children?

Sergeant HALL. I heard one thing, sir. And I heard it from an individual, a young trooper, whom I don't know what unit he was with. He was with the task force.

The only thing that I ever heard said was an individual saying, about the shooting of someone in the head, and he was surprised how hollow the base of a person's skull was.

Mr. HÉBERT. That he, himself, had shot someone in the head?

Sergeant HALL. Yes.

And you hear this. And from young troops. You usually take it as after battle boasting. You don't take it as being the real thing.

Mr. HÉBERT. You did or did not hear about the incident of the investigation—

Sergeant HALL. The alleged My Lai—

Mr. HÉBERT. Yes.

Sergeant HALL. No.

Mr. HÉBERT. You didn't hear anything about it?

Sergeant HALL. Not that I can remember.

Mr. HÉBERT. When did you first hear about it?

Sergeant HALL. I was surprised when it started coming out in the papers.

Mr. HÉBERT. That's the first you heard about it?

Sergeant HALL. Yes.

Mr. HÉBERT. How long did you remain in Vietnam after My Lai 4?

Sergeant HALL. I was, well, I evacuated in November, that same year.

Mr. HÉBERT. About 4 or 5 months later?

Sergeant HALL. Yes, sir.

Mr. HÉBERT. You were in the area after that, and you were in practically daily contact with the troops who were engaged there?

Sergeant HALL. Well, I operated the Mars radio station there.

Mr. HÉBERT. And you were in contact with Colonel Barker practically every day then, weren't you?

Sergeant HALL. Yes, sir.

Well, I left the task force. Colonel Barker went to the 4th of the 3d, and he was killed, I believe, in June, when Colonel Barker and Colonel Michles were killed.

Mr. HÉBERT. What kind of officer was Colonel Barker?

Sergeant HALL. He was an outstanding officer; and anyone who says he isn't, or wasn't, is wrong.

And he is the type of individual who can ask you to do something, and you would break your neck to do it, whether it killed you or not. And he didn't even have to ask, really, because the people would jump to do anything for Colonel Barker.

Mr. HÉBERT. You considered him an outstanding leader?

Sergeant HALL. Colonel Barker was of the highest caliber, sir.

Mr. HÉBERT. Of course, this is your opinion.

Would Colonel Barker have condoned what you would call murder, from your knowledge of him?

Sergeant HALL. No, sir.

Mr. HÉBERT. He would not have?

Sergeant HALL. No, sir. I don't believe Colonel Barker would.

Mr. HÉBERT. Thank you very much, Sergeant. We appreciate your cooperation, and you may leave by that door, under the instructions which the Chair has given you.

Sergeant HALL. Fine. Thank you.

[Witness excused.]

[Whereupon, at 12:45 p.m. the subcommittee proceeded to another witness.]

Mr. HÉBERT. Sergeant, will you identify yourself for the subcommittee?

TESTIMONY OF SFC. CLINTON D. STEPHENS

Sergeant STEPHENS. Sfc. Clinton D. Stephens. Serial No. 43542662.

Mr. HÉBERT. Where are you assigned now?

Sergeant STEPHENS. To the Army Marksmanship Training Unit, Fort Benning, Ga.

Mr. HÉBERT. What is your position there, your duty there?

Sergeant STEPHENS. Shooter instructor coach, sir.

Mr. HÉBERT. Sergeant, the subcommittee is giving you full protection, that you will not be involved in anything infringing on your privacy, or any desire that you have when you leave this room, as related to the news media. You do not have to talk, you do not have to say anything, and the subcommittee will protect you in the fullest.

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. When you leave the room, you will leave by that door. You will be met by an officer there who will have with him a representative of the news media. That means radio and television. That individual will ask you if you will consent to be interviewed or consent to have your picture taken. It is your decision to make. If you say no, the officer will escort you away from all those people down there at that end of the hall. The officer will escort you away and you can go on your way without being molested or stopped in any way.

If you care to talk or care to say anything, that is your decision.

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. The subcommittee cautions you that this is an executive session, and nothing that occurs in this room is to be discussed outside of this room.

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. Now, with that understanding, and you also have the privilege of counsel, which I know you do not avail yourself of.

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. But that is your privilege. Now, I will swear you in.

[Witness sworn.]

Mr. REDDAN. Sergeant, how many tours of duty have you had in Vietnam?

Sergeant STEPHENS. One, sir.

Mr. REDDAN. During what period of time was that?

Sergeant STEPHENS. We left Hawaii. I went by boat, I believe it was December 6, 1967, until November 28, 1968, sir.

Mr. REDDAN. Where were you assigned during that period?

Sergeant STEPHENS. I was with the 11th Infantry Brigade. You mean my duty assignment, sir?

Mr. REDDAN. Yes.

Sergeant STEPHENS. I was assistant intelligence sergeant to the 11th Infantry Brigade, and about 3 months of this time I was the intelligence sergeant with Task Force Barker, sir.

Mr. REDDAN. You were the intelligence sergeant with Task Force Barker during its entire period of existence?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. What was the nature of your duties as the S-2 for Task Force Barker?

Sergeant STEPHENS. It was keeping the reports of enemy activity, sir. I also kept an OB map.

Mr. REDDAN. What do you mean by an OB map?

Sergeant STEPHENS. The enemy locations and the units that were reported in the area. And then I kept up with the enemy activities that were reported in our AO.

Mr. REDDAN. What was the source of your intelligence? Where did you get this information?

Sergeant STEPHENS. Well, a lot of our reports came from brigade, sir, from their MI, I suppose, at least.

Mr. REDDAN. Their what?

Sergeant STEPHENS. I don't know their source of information, how they got it. But they would get reports, and then they would forward them up to us. But their reports in this way were late—in other words, they would get it from their—the Duc Pho—I don't know if it was a province or what it was, sir, but it was the Duc Pho, the Vietnamese Army there in Duc Pho, would give them reports, these came in every night.

Also, they had the MI that worked with agents also.

Mr. REDDAN. What do you mean by "MI?"

Sergeant STEPHENS. Military Intelligence, the S-2 that was with the 11th Infantry Brigade. These reports came in nightly, to the 11th Infantry Brigade, S-2. But then we would not receive these until the next day, and a lot of times this was just routine, with a low classification of source of information.

Then we also received information from Major Gavin's unit, at Son Tinh.

Mr. REDDAN. What was Major Gavin's position?

Sergeant STEPHENS. He was an advisor, sir. The district advisor.

Mr. REDDAN. District advisor?

Sergeant STEPHENS. I believe. Now, I am not sure of that, but he was in an advisor capacity, sir.

Mr. REDDAN. How about the province advisor's office? Did you have any liaison with them?

Sergeant STEPHENS. Sir, we didn't have any liaison with, not even with Major Gavin. We didn't have any liaison with him. Just information he had, he would give to us, and what information the ARVN forces got, they would pass on to us. It was not actually any liaison set up between the two, sir.

And as far as the district province, I don't know where it came from, sir. I just know it came to us.

Mr. REDDAN. What did you do with the information?

Sergeant STEPHENS. Well, when the information was brought to us, the information I received from brigade, it came up in a packet, and anything for the S-2, S-3, they put it in a manila folder. When I got information, all reports and everything, I gave them to my S-2 officer and also in turn the S-3 and the colonel would, the commander would read them, and anything, well just about everything had a C-3 priority on it, which was just about nothing. But anyway, it was information to know, and the activities, this is where I would plot.

If they had reported a VC unit or enemy unit in the area, well then this is how I kept the OB map and plotted this and as to where they were and when they were in that location.

Mr. REDDAN. Who was the S-2 and S-3 at this time with Task Force Barker?

Sergeant STEPHENS. Major Calhoun was the operations officer, sir. The S-2 officer changed hands about three times. The first S-2 that went up, he was there only a short time. I don't even, I can't remember his name, but he was there only a short time and he was the brigade assistant S-2 whenever the brigade went to Vietnam.

Mr. REDDAN. Yes.

Sergeant STEPHENS. And then when he left the task force, he went back and stayed with the brigade a short time and then he went on to MACV assignment. Advisor down near Qui Nhon, down below us.

Then an artillery captain, I don't remember his name, he came up and he was the task force S-2 for a short period. And then Captain Lewellyn came up. I don't remember if Captain Lewellyn came up as the brigade S-2 or whether he was assistant to Major Calhoun. I don't remember. It was just a short time.

And then Captain Kotouc came. And he was the task force S-2 for the rest of the time until it was ended.

Mr. REDDAN. Now, where were you physically located during the time you were with Task Force Barker?

Sergeant STEPHENS. LZ Dottie, sir.

Mr. REDDAN. Did you ever go out into the field?

Sergeant STEPHENS. Not many times, no, sir. I did go to the field, yes, sir. A few times. Not a lot.

Mr. REDDAN. Were you ever over in the Son My area, during any operations of Task Force Barker?

Sergeant STEPHENS. Not during an operation, no, sir, not when one of the operations was going on, no, sir, I was not. I was at the TOC.

Mr. REDDAN. Were you ever over there after an operation was completed?

Sergeant STEPHENS. I don't think it was on the ground, except one time, sir, in this area. I had been there, well, several times, in the air. Sometimes like on a recon, I would go to a unit that is in that vicinity or near that vicinity and then would maybe go to Chu Lai.

Mr. REDDAN. Were you out there when Bravo Company was out there, with Captain Michles?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. You were?

Sergeant STEPHENS. In the Son My area, sir?

Mr. REDDAN. Yes.

Sergeant STEPHENS. I went to Captain Michles' company one time, out on this—that is—out in the peninsula there, sir, where the purple building is, An Khe there.

Mr. REDDAN. An Khe?

Sergeant STEPHENS. Yes, sir. I went to Captain Michles' company there one time, yes, sir.

Mr. REDDAN. Were you out in the Son My area around the end of February, when then Captain Trinkle had the Alpha Company pinned down at My Lai 4?

Sergeant STEPHENS. No, sir, I was not. I was in the TOC the day that operation was conducted.

Mr. REDDAN. As a result of the operations of Bravo and Alpha Company out there, do you know whether or not Colonel Barker came to any conclusions as to the size of his job and how the best way to clear the area might be?

Sergeant STEPHENS. The operation you are referring to in February, sir?

Mr. REDDAN. Yes.

Sergeant STEPHENS. The day that Captain Trinkle was wounded, sir?

Mr. REDDAN. Yes.

Sergeant STEPHENS. Well, the operation that took place that day, Bravo Company was in a blocking position when Alpha Company made, started this sweeping, coming across to join up. And then after Captain Trinkle was wounded, and they couldn't get him out before dark, well, then Captain Michles' company was sent across the river to link up. In fact, I think Captain Michles, well, was more or less the ground commander that night, because they linked the two companies up until the next morning.

And from that operation, they felt that one company, going in there, was, well the enemy was just, I don't know, they would either hide, or they would evade some way and get out, and from the operations that had been in there before, they felt that they needed, well, a better blocking position or more support to clean this area out. That was about all. I don't know if that is what you mean.

Mr. REDDAN. Well, now, did you participate in any of the briefings which preceded the March 16, 1968 operation of Task Force Barker?

Sergeant STEPHENS. No, sir. The only thing that I would hear about would be maybe they would come to the map that we had on the wall. It was the S-2, S-3 map. And maybe they would be standing at the map, discussing something or talking about a point, but not any of the briefings, no, sir.

Mr. REDDAN. You didn't attend any of those?

Sergeant STEPHENS. No, sir.

Mr. REDDAN. Well, now, on March 16, were you at your station in the TOC that day?

Sergeant STEPHENS. I was in the TOC, yes, sir.

Mr. REDDAN. Do you recall any of the calls coming in from the field, with respect to the operations?

Sergeant STEPHENS. Well, how do you mean in respect, sir?

Mr. REDDAN. Well, as to what was going on out at My Lai 4.

Sergeant STEPHENS. Yes, sir.

Well, I know the chopper, the gunships, rather, when they were in the area, I remember the gunships calling in that they were, that they, well, they say here goes one and they killed, they got him, they say they got him. They say we got one over here or we got two over here. And this was the "Warlords," that 122 or 123 aviation. And also the

"Dolphins," the 174, their gunships were in the area, also. And well, someone who came on the radio. I assume this was the gunship commander, or someone who came on, and they were trying to move Charlie Company over to an area where they had killed three, I believe it was. In this transmission, they would say that they had weapons, that they killed them, and I know at one time they was trying to move Charlie Company over to a certain area and he was even describing the area.

I remember talking about bushes, that clump of bushes or clump of trees along certain place there. Trying to move them in to get these weapons. They did not. They didn't get the weapons. You could hear Charlie Company, Captain Michles' company. Captain Medina's company, rather, you could hear him sometimes, but them being over the hill from us, most of these transmissions were coming through a relay. You could hear Colonel Barker talking to the company commanders, and you could hear the gunship commanders talking, because they were in there also. But you could not hear the company commanders talking, except sometimes you could hear Captain Medina.

Mr. REDDAN. What time did you report to the TOC that morning?

Sergeant STEPHENS. It was early, sir. I would say, I don't know, I guess 6 o'clock, 6:30.

Mr. REDDAN. You stayed there continuously through the morning?

Sergeant STEPHENS. No, sir; I wasn't in there all the time. I know up until, I would say up until 10 o'clock, or maybe even later. But I know you would be in and out, and when nothing actually was going on, you didn't. But after going in there, I stayed until, I would say around 10 o'clock.

Mr. REDDAN. Was Captain Lewellyn there?

Sergeant STEPHENS. Yes, sir. He was the night duty officer, but he stayed, he made a tape recording of that operation.

Mr. REDDAN. What time did he come into the TOC?

Sergeant STEPHENS. Did he come into the TOC?

Mr. REDDAN. Yes.

Sergeant STEPHENS. He was night duty, sir, he worked that night.

Mr. REDDAN. He was right there when you came on that morning?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. And he had his tape recorder with him?

Sergeant STEPHENS. I don't know if he did or not, sir. He probably went to see whether the—the TOC—and the billets were, where the officer and his NCO's stayed in the same billet there, separately by some equipment we had. But this was about, I guess five steps from the—just a little jump from the billets.

Mr. REDDAN. How much of the proceedings did he tape?

Sergeant STEPHENS. Well, I would say, sir, it was what they would call the hot part, you know, the pickup of the troops, pickup of the companies and the landing, and, well, just about every transmission from the start of the liftoff, or the pickup. I don't know if he had any of the artillery prepared.

I don't know if he had any of these transmissions or not, but I know that he had some transmissions when the ships came in for the pickup. He had some of this. And I don't know how long, how long he recorded that. I have heard the tape since then, but I still don't remember how far up he went. It was a good long tape.

Mr. REDDAN. Was this an unusual thing, to tape these messages?

Sergeant STEPHENS. No, sir. This is the only one that I ever saw, ever heard of him recorded, but there had been some operations that were conducted in this same area before, and, well, you hear a lot of things, especially coming from the armored that we had, Lt. Oely's E Troop. They were all, he would have his tracks and everything else would be on the one net, and there were a lot of good transmissions that came in. I mean, transmissions, as far as combat stories, I guess like this. You could hear the shooting and everything going on, but a lot of them that had made remarks, they wished they had had a tape recording of this. And I don't know if that is why he did it or not, but that is the only time I ever knew of it being recorded.

Mr. REDDAN. Well, now, you say that they wanted to record these remarks that came during the course of the battle; is that it?

Sergeant STEPHENS. Not this one, sir. Previous operations that they had had, I know, I don't remember which operation it was, but I know Lt. Oely's tracks went in one time to a village, I believe it was the same day that Captain Michles got wounded, and the tracks went in and you could hear .50-caliber shooting, you could hear the small arms fire. You could even hear when they would talk over the set, I don't know if they just got carried away and held the mike open, but you could even hear the bullets hitting the tracks and ricocheting. And you could hear hollering there goes one, there goes one, back and forth. Just, well a John Wayne-type movie that you would listen to. But actually it was happening. And that is what they were talking about, said they would like to have on a tape recorder and that. But there was no comments made about anything recording any previous or any future action.

Mr. REDDAN. Well, now, do you recall coming in from Major Watke that morning with respect to civilians in the My Lai 4 area?

Sergeant STEPHENS. Yes, sir, now, I have stated before that this came from Major Watke. But the last time that I was before General Peers' committee, they brought it up in a way that this—that their operations officer, which worked out of a van down below us on the side of the hill, had made a report also.

Now, like I told them, I believe that this was Major Watke. I say it was him because it came from the commander of the Warlords, came from their command ship, which was the only one that was on our task force main frequency. So I would assume that it was him. I don't know that it was him, but I would assume it was him, because I am sure, I am almost sure, I can't swear that it is, but I am almost sure that it came, that I heard the transmission come from him, that they are killing civilians. And also it was brought up at the last appearance I made before General Peers, that it had come from the operations officer, by landline, that the transmission had went into his operations officer, so that maybe where I heard the transmission of Major Watke calling his operations officer, and then him coming through the landline. But I heard, I am almost sure I heard the transmission at that time.

Mr. REDDAN. Do you recall what the transmission said?

Sergeant STEPHENS. All I remember, sir, is that it was these people or your people are killing civilians, or these—there are some civilians being killed or something. I don't know the exact words, no, sir.

Mr. REDDAN. What happened when that message came in? About what time of the day was it?

Sergeant STEPHENS. Sir, I don't know. It was in the morning. But it was on up into the morning. I can't say exactly when. I would say, well, midmorning. It would vary one way or the other.

Mr. REDDAN. Was Major Calhoun in there at that time?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. Did he take any action when the message came in?

Sergeant STEPHENS. Yes, sir. He said when the message came in, he said that we will take care of this, or I will get it taken care of or some words to this effect. I don't remember just—but anyway he just cut it off at that time, because—and then I don't know if he called the colonel or just what happened there, but I know that he more or less cut it off. And then later on, Major Watke came in, as soon as he came in, he came to the TOC, and I remember him coming in the TOC, and I know that Major Calhoun went over and met him at that door as soon as he came in, and then I don't even remember where they went. I don't know if they went back outside or over to the colonel's or where they went. I know they left there. They came right in, in front of the radios and left that area and I don't know where they went and I didn't hear anything they said. I don't know what was said, sir.

Mr. REDDAN. Well, you say Major Calhoun cut him off. What do you mean? He wouldn't let them continue, or—

Sergeant STEPHENS. No, no, sir. Not that. When he—when he made the transmission that these people are killing civilians or there's—or these people are mistreating, he may have not even said killing civilians. But I know he made a transmission something connected with the civilians. And Major Calhoun didn't know, he didn't cut him off, he completed his transmission and then Major Calhoun came back that we will take care of this. Because the reason that I am pretty sure it was on the command net is because at this time, there was a lot of traffic on the command net, or it may have been they were calling his operation, because I know we had some radios in there and he may have been monitoring their frequency. And—but I know that he come back and said we will take care of this. And I am pretty sure that he called the colonel, and asked the colonel to—

Mr. REDDAN. Colonel Barker?

Sergeant STEPHENS. Yes, sir, to see what was going on out there, or did he hear that transmission, or something like that. I don't remember, I don't remember what was said.

Mr. REDDAN. Your recollection is that Major Calhoun relayed this information to Colonel Barker which they had gotten from Major Watke?

Sergeant STEPHENS. I don't think, that is why I am pretty sure it was on the command frequency, sir, because it seemed that Major Calhoun then told us that we will take care of that, and then he contacted the colonel. And then I think the colonel said he heard it. Or I will see about it or something like that.

Mr. REDDAN. Were you monitoring this conversation or could you hear it? Was it an open speaker?

Sergeant STEPHENS. Yes, sir, I could hear it. This was on the radio. We had about 4 or 5, 3 or 4 radios on a table and this was just coming over, on a speaker set up on the table.

Mr. REDDAN. Do you recall what Colonel Barker said?

Sergeant STEPHENS. Sir, I can't be sure. I don't really know. But it seemed that he said he monitored it, or he heard it, or he had seen about it, or, but I can't be sure, sir, what he did say.

Mr. REDDAN. Now, you say Major Watke came into the TOC later that day?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. Sometime during the morning while you were still there?

Sergeant STEPHENS. Well, I was there all day, sir, off and on. But I am pretty sure it was in the morning.

Mr. REDDAN. Now, did you hear any conversation with Major Calhoun?

Sergeant STEPHENS. No, sir. When he came in, I know he came in the door, and when he came in, he may have said something. I am not sure. I am not sure. If he did, I don't remember what. But I know Major Calhoun came over at this time, and Major Calhoun was not on the radio.

He was over on the other side of the TOC. And when he came in, he went over to where Major Watke was, right in front of the door, and then they moved away from that area. I don't know where they went, sir. I didn't hear anything they said.

Mr. REDDAN. Did you hear Major Watke say anything about what are you doing about those civilians? Or words to that effect?

Sergeant STEPHENS. Sir, I am not sure. He could have. He could have. That phrase seems familiar. But—I am not sure. It does sound familiar. But I am not sure, sir, that I heard him say that, or that I heard Major Calhoun say anything to him.

Mr. REDDAN. Well, when Major Watke opened the door, did he holler across the room to Major Calhoun, "say, what are you doing about those civilians I told you about?" Or something to that effect?

Sergeant STEPHENS. No, sir. If he said it, he didn't holler, because I was right on the radio and he just walked in the door and was standing right, I think, sort of—Sergeant Johnson and myself were on the radio at this time, or Sergeant Johnson was on the radio and I was just there. But he didn't holler.

Mr. REDDAN. Do you have any recollection at all as to what he said?

Sergeant STEPHENS. No, sir. I don't—I don't remember, I don't remember anything he said. I am sure he said something, but I don't remember what he said, but I know he didn't holler when he came in.

Mr. REDDAN. Were you close enough to hear, close enough to Major Watke, and Major Calhoun to hear any conversation that they might have had while they were still by the radios?

Sergeant STEPHENS. If they had stayed there, sir. But when he came in, and Major Calhoun came from over on the other side of the TOC, and came over, and then they moved away, sir.

If they said anything there, which I am not sure if they did, but if they did say anything there it was not loud enough. But I was no further from here to the edge of your table from them. But I didn't hear anything they said, sir.

Mr. REDDAN. Well, now after the operation, did Captain Medina come into the TOC?

Sergeant STEPHENS. Yes, sir.

Mr. REDDAN. Do you remember when this was? Was this on the 16th?

Sergeant STEPHENS. No, sir. I am not sure when it was. But I know that he did come in, and I don't remember if it was after the operation, and his unit came back to—came back to the LZ, or if he had been called back for a meeting with the colonel. But it seems that it was the first time that he came back to LZ Dottie, after they had started operations that morning.

Mr. REDDAN. Do you know why he came into the TOC?

Sergeant STEPHENS. No, sir. I am not sure. Like I said, I am not sure if his company had been moved back to LZ Dottie, and he came down to the TOC for the coordinator, or why he was there, or if he came back for a meeting with the company commander. I am not sure.

Mr. REDDAN. Did you hear any of his conversation when he was in there that time?

Sergeant STEPHENS. Yes, sir. The only—

Mr. REDDAN. Who was he talking about? Who was he meeting with?

Sergeant STEPHENS. Well, I'm sure it was me and Sergeant Johnson, sir.

Mr. REDDAN. Yes.

Sergeant STEPHENS. Because the question had been brought up about civilians, I know, that morning of the 16th, and then later on that day, I guess it was, either that day or the next day, that I asked Sergeant Johnson, "Did you hear any more about civilians?" And he said, "I don't know. I ain't heard no more about it."

And so then no one ever said anything about it. So, the day that Captain Medina was in the TOC, he was standing there and they said, I don't know if I said it or Sergeant Johnson, or someone else, but anyway, someone said, was that true about the civilian killing, or words to that effect. And he said, no. He said the only thing—I guess someone had already mentioned it to him, because he said the only thing I can figure out is the incident where he shot the woman in that hole. He said that's the only thing that he can be reporting about, can be talking about, and he said, I don't see how he can say that they are killing civilians, or something like that. He said it's just something that happened, and he said he had no other choice. And he said, I don't see—he said I didn't—he didn't want to do it, and he said, but I didn't have any choice; but he said when this happened, that there was a chopper right over him, and he said he looked up at it, or looked back over his shoulder at it, or something, and he said that's what they would have to be talking about.

I don't see how he can come in here and say we are killing civilians on an incident like this.

Mr. REDDAN. Now, was Major Calhoun there, at that time? Do you know?

Sergeant STEPHENS. Sir, I don't know if he was in the TOC. You mean when Captain Medina was talking?

Mr. REDDAN. Yes.

Sergeant STEPHENS. I don't know if he was in the TOC, at that time, or not, but I know he was in the area.

Mr. REDDAN. Was General Young there, at that time, when Medina was in? Or Colonel Henderson, or Major Watke?

Sergeant STEPHENS. At the time Captain Medina was doing this talking?

Mr. REDDAN. Yes.

Sergeant STEPHENS. No, sir; in fact, there was very few people in the TOC at the time.

Now, when Captain Medina was in the TOC, and he may have been there for a meeting, but at the time, there was only very few people, and he was talking.

Now, they could have been there right along, sir, if it was a meeting, they probably were. And he could have said the same thing to them he did to us, but there was only a couple or three of us there that he was talking to, at that time, and they were not in the TOC.

Mr. REDDAN. Do you remember a message coming in, or monitoring a call to Captain Medina to go back into My Lai 4 and either make a body count or check on civilian casualties?

Sergeant STEPHENS. Yes, sir; I don't—I remember a message—I don't know the exact words of what it was, but this same reference to that, yes, sir.

Mr. REDDAN. Do you remember whether this was on the 16th, the day of the—

Sergeant STEPHENS. Yes, sir; that was the 16th.

Mr. REDDAN. Do you remember who was calling Captain Medina, directing him to go back?

Sergeant STEPHENS. I'm not sure, sir. It could have been—it could have been Colonel Barker, but it seems that if it was Brigade—no. But the word had come not from Colonel Barker. It was not Colonel Barker's decision. The word had come from somewhere else to have this done.

Mr. REDDAN. Now, did you hear anyone come up on the frequency and countermand that order? Did you hear Saber 5 break into that conversation?

Sergeant STEPHENS. No, sir; I don't remember. I know he was, I'm sure he was in the area that day. Just about everyone from the division down was in the area. I'm sure he was; but I don't remember any of his transmissions, sir, no, sir.

Mr. REDDAN. Do you remember any response of Captain Medina's to this order? Was there any conversation back and forth as to the advisability of going back into My Lai 4 to make the body count?

Sergeant STEPHENS. No, sir, I don't remember him saying—like I said, if he made any transmission, sir, I wouldn't—it would have to be relayed up to us. I didn't. I don't remember hearing anything.

Mr. REDDAN. Now, did you hear anything further with respect to civilian casualties at My Lai 4 on that March 16 date?

Sergeant STEPHENS. You mean the body count being sent in, sir?

Mr. REDDAN. About any investigation being made, or about the incident itself.

Did you hear any discussions at all?

Sergeant STEPHENS. No, sir, because that's what I say, that morning this came in, I'm sure it was Major Watke, but it went on then. There was just never anything said about it.

And then I believe it was the next day that I asked Sergeant Johnson, "Did they kill some civilians out there?" or "How many civilians got killed?" and he said, "I don't know, I ain't heard no more about it."

Mr. REDDAN. Did you have any conversations with anyone in the Charlie Company after they got back?

Sergeant STEPHENS. Not that I remember, sir. No, sir.

Mr. REDDAN. You talked to Captain Medina when he got back?

Sergeant STEPHENS. Well, I wasn't—Captain Medina wasn't talking particularly to me, sir. He was just talking to people in the TOC, as a whole. And I had no conversation with him, no, sir. Nothing more than just—

Mr. REDDAN. I thought you said you may have, either you or Sergeant Johnson, may have asked him about the civilian casualties?

Sergeant STEPHENS. Yes, sir, that, and where he was just talking to everyone, and everything. And I don't remember. I may have asked him the question, or someone, I know someone did. And about the civilians, because—and this was after the operation, and nothing had been heard any more about the civilians; and in fact, no one had ever talked about it.

And then that's when we, whoever it was asked him, and then he made this statement, as to what had happened and everything, and that was just—that was all I ever heard, sir.

Mr. REDDAN. And you never were especially curious to ask anybody in Charlie Company about it?

Sergeant STEPHENS. No, sir, I never did ask anybody.

Mr. REDDAN. And nobody told you?

Sergeant STEPHENS. No, sir.

Mr. REDDAN. Did you ever hear that an investigation was being made?

Sergeant STEPHENS. Yes, sir. I heard, then, later that they were going to investigate it, or said it would be investigated, or something like this. And then it went on and I know one day it was—well, I thought it was the CID, sir, that had come down. Someone—I know it was someone that's not used to coming to the—

Mr. REDDAN. How soon after the incident did this take place? That someone came in to make an investigation? CID, or—someone else?

Sergeant STEPHENS. I would say a few days, sir.

Mr. REDDAN. Within a few days?

Sergeant STEPHENS. Yes, sir. It wasn't very long after the incident. It was, I'd say, within a few days. I can't be sure, but I think it was within a few days.

Mr. REDDAN. Did they come into the TOC?

Sergeant STEPHENS. No, sir. Just hardly anyone came into the TOC, even on the day of the 16th when there was so many people from Division all the way down in the area. I don't think any of them came into the TOC, sir. They may have.

Mr. REDDAN. How did you know that they were down there making an investigation?

Sergeant STEPHENS. Because after this—after the operation, or after the day of the 16th, there, it was brought—something about that there is going to be an investigation into what happened out there; or some words to this effect. But still, I don't know. Someone made a remark then, said, well, it's no sweat, or something like that.

So then I do remember seeing someone down there, and I made a remark to someone. I don't even know who I was talking to, but it was someone that worked in the TOC area there, as to who he is and everything; and he said they're investigating what happened out there the other day.

And that was about all that I know about—well, all I ever heard about it. I never did hear any more about it, and no one, well, no one ever asked me about it.

Mr. REDDAN. Could you tell from the insignia on the person's uniform what unit he was attached to, or if it was an officer or an enlisted man that you saw?

Sergeant STEPHENS. No, sir. No, sir. I don't—in fact, I don't even remember what he looked like, but I know it was—well, it was not someone like General Young or General Koster coming by sometime, and Brigade would come. That's about all you would ever see. Or some of the artillery liaisons or something would come by. But it was not someone in the routine visit. But I don't remember what they looked like, sir.

Mr. REDDAN. Did you ever hear that Colonel Barker was to make an investigation?

Sergeant STEPHENS. No, sir. The only—I never heard of Colonel Barker going to make an investigation. The only thing that I remember is like the day that it happened, there, when it was reported, that Colonel Barker would check on it. And I don't know if they meant investigate it, but he was to check on it. Like when Major Calhoun got the message, or the message came in, and Colonel Barker would check on it.

Mr. REDDAN. But you don't know whether he was ever directed to make a formal investigation?

Sergeant STEPHENS. No, sir.

Mr. REDDAN. You never saw him interviewing anyone?

Sergeant STEPHENS. No, sir.

Mr. REDDAN. You never saw any report?

Sergeant STEPHENS. Oh, yes, sir, he did. Now, that may have been what Captain Medina was in there for that day. Now, he did call the—I believe he called the company commanders in, as to what actually happened out there, or I can't say that, sir. I don't know what he was talking about. But I believe he did. I believe he did call the company commanders in to find out what happened out there.

But this all took place out—that may have been what Captain Medina was in there for that day. But as to hearing him being directed to conduct an investigation, I don't know, sir. I don't know why he was interviewing the company commanders.

Mr. REDDAN. That's all.

Mr. HÉBERT. Mr. Gubser?

Mr. GUBSER. No questions.

Mr. HÉBERT. Mr. Stratton?

Mr. STRATTON. No, Mr. Hébert.

Mr. LALLY. I have a couple.

Sergeant, at the time of the transmission about the civilians on the 16th, in the TOC, who do you remember being present there that morning?

Sergeant STEPHENS. Well, Major Calhoun would be there. Major Calhoun, Sergeant Johnson, myself; it was on up in the morning, so actually, when the operation started, they had a TOC full of people. But I don't remember how many of them were in there.

Ravencroft was in there. Captain Lewellyn. I don't know if he was still there or not. He may have already left, sir. And Sergeant Warren, the artillery sergeant.

Mr. REDDAN. Well, do you remember Major Gavin being there that morning?

Sergeant STEPHENS. No, sir.

Mr. REDDAN. Do you remember anybody from Major Gavin's staff at the district advisory headquarters being there that morning?

Sergeant STEPHENS. No, sir.

Mr. LALLY. That's all.

Mr. HÉBERT. Well, I would like to know, Sergeant, in these conversations, you did hear Major Watke say that they were killing civilians?

Sergeant STEPHENS. That they were—I'm not sure, sir, if he said killing civilians. It was something——

Mr. HÉBERT. Well, something that was not in the ordinary course of events, involving civilians?

Sergeant STEPHENS. Yes.

Mr. HÉBERT. And then you later learned that Captain Medina's company was involved in it; you recall Captain Medina having said that he only killed this woman, I think it was, and he wondered why they said something else?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. But was this an unusual thing that occurred, or was it a normal thing?

Sergeant STEPHENS. What?

Mr. HÉBERT. These complaints. Are they normal over there?

Sergeant STEPHENS. Yes. You mean for one——

Mr. HÉBERT. Is it normal or not unusual for an American soldier to make a complaint that civilians are being set upon or mistreated or killed?

Sergeant STEPHENS. Yes, sir, it would be unusual.

Mr. HÉBERT. It's unusual?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. Did you ever hear of any before this one time?

Sergeant STEPHENS. Not from American soldiers.

Mr. HÉBERT. Not from American soldiers.

From whom did you hear it?

Sergeant STEPHENS. When did I hear one before?

Mr. HÉBERT. Yes. From whom?

Sergeant STEPHENS. You would hear it from the civilian population, sir; from the Vietnamese. In fact, an investigation was conducted over an incident that happened right near the LZ Dottie one time. A woman—well, they had hit some booby traps, and then a woman ran from the area and they tried to stop her and they couldn't, so they shot; and then just about everybody complained. They came up to the——

Mr. HÉBERT. You mean the South Vietnamese?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. They complained, said that they just shot a woman?

Sergeant STEPHENS. Well, she was a woman.

Mr. HÉBERT. And they received indemnity when it was proved they did kill civilians, didn't they?

Sergeant STEPHENS. Well, when they proved that they did kill an innocent victim. Now I don't know what happened on that deal, sir.

Mr. HÉBERT. Talking about generalities now, when it was proved that the Americans had killed a South Vietnamese——

Sergeant STEPHENS. Innocent civilians.

Mr. HÉBERT. They paid them money, didn't they?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. More got killed, more money was paid?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. And you heard complaints of this nature?

Sergeant STEPHENS. Before, but there was no complaint, no complaints from any South Vietnamese on March 16 over the incident of March 16, sir. There was no complaint from any civilian made over these incidents.

The only complaint, or only thing said, was by Major Watke.

Mr. HÉBERT. The only thing said.

Are you familiar with a propaganda piece of paper being filed by the province chief alleging 500 were killed?

Sergeant STEPHENS. I saw—I was not, sir. I did not see this before. I was shown this over at the General Peers' Committee. I had not seen that piece of paper before.

Mr. HÉBERT. You had not seen it before, and have no knowledge of it?

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. You were shown it by General Peers' Committee?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. How many times did you appear before General Peers' Committee?

Sergeant STEPHENS. Two times, sir.

Mr. HÉBERT. What was the occasion that you were called back after having appeared the first time?

Sergeant STEPHENS. The first time with General Peers, that was when he was conducting—he was in Vietnam—and then the second time, sir, they said it was to—that they were wrapping it up and they wanted to see me.

Mr. HÉBERT. Clarify something?

Sergeant STEPHENS. Certify a few things here and there.

Mr. HÉBERT. And the clarification was this recording, and asking you who the voice was on the recording, is that correct?

Sergeant STEPHENS. No, sir. They didn't ask me that. He just wanted me to tell my story again, what happened, the same way that I told it before.

Mr. HÉBERT. As I understood you to say this morning, the first time you heard it, you were positive that it was Major Watke? And I got the impression that you weren't so positive the second time.

Sergeant STEPHENS. The first time, the first time that I appeared before their committee, I stated that I was pretty sure that it was what Major Watke had reported. And I'm still sure it was Major Watke that made the report, sir, except that he may have been reporting to his operations officer instead of calling Task Force Barker's operations officer. But I'm sure it was him that made the report.

Mr. HÉBERT. You're sure he made the report?

Sergeant STEPHENS. I'm pretty sure, sir. I can't say that. I can't swear that it was him, but it came from the Warlords, and he was the commander of the Warlords and he was in the air that day.

And then I know that he did come to the TOC. I know that he—when he got back to LZ Dottie, I know he came to the TOC.

Mr. HÉBERT. Now, did I understand you to say that some remarks were made on these tapes which they felt shouldn't have been made? Or did I misunderstand you when you were describing these tapes, which you said sounded like John Wayne-type tapes?

Sergeant STEPHENS. No, sir. I don't—I don't remember saying that there is any remarks made that should not have been made.

Mr. HÉBERT. Or somebody wished they hadn't been made?

Sergeant STEPHENS. Someone wished that they had recorded these remarks?

Mr. HÉBERT. Wished they had recorded them.

Sergeant STEPHENS. The earlier operations, sir.

Mr. HÉBERT. I just misunderstood. I wanted to clear that up.

Now, how long did you remain in the area after the incident of March 16?

Sergeant STEPHENS. I believe I left there April 12, sir.

Mr. HÉBERT. April 12?

Sergeant STEPHENS. I believe so.

Mr. HÉBERT. After you became conscious of this investigation, which was an unusual one, didn't this make an impression on your mind?

Was discussion held after this? This was not a subject of conversation?

Sergeant STEPHENS. Sir, I didn't know that an investigation was even made.

Now, when Colonel Barker—the only thing that I'm familiar with is that Colonel Barker was checking on what was happening out there that day. And as far as the investigation being made, no one talked to me. I didn't even know that one had been made. The only time that I ever saw the investigation was when General Peers showed it to me.

Mr. HÉBERT. This unusual activity, the commanders being called in by Colonel Barker; I presume, this was an unusual thing? Or was it a normal activity, to call the commanders in?

Sergeant STEPHENS. The company commanders, sir?

Mr. HÉBERT. Yes.

Sergeant STEPHENS. No, sir, that would be normal, especially if he had plans.

Mr. HÉBERT. So the calling in of the company commanders, you did not attach that to any incident that happened?

Sergeant STEPHENS. No.

Mr. HÉBERT. And as far as you know, as far as you can recollect, important or not being important, as of now, you know nothing about a so-called massacre at My Lai 4?

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. On March 16?

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. Up to this time, you know nothing about it except what you have read in the newspapers?

Sergeant STEPHENS. And what I have heard——

Mr. HÉBERT. On television?

Sergeant STEPHENS. And what I was told at General Peers' committee.

Mr. HÉBERT. What were you told there?

Sergeant STEPHENS. Yes, sir. Well, they told me——

Mr. HÉBERT. Did they tell you a massacre took place?

Sergeant STEPHENS. They told me that—well, this was the second time I went before the committee, and he told me that now that a massacre took place.

Mr. HÉBERT. They told you that?

Sergeant STEPHENS. They told General—General Peers told me that. I don't remember how it was worded, or anything.

Mr. HÉBERT. And the only knowledge that you have that a massacre took place on March 16 is that General Peers told you a massacre took place, and what you have read in the news media?

Outside of that, you know nothing about a massacre having taken place, though you were on the ground there. You were in the vicinity. You were there.

Sergeant STEPHENS. I was in the LZ Dottie, in the TOC. I was not in My Lai 4, no, sir.

Mr. HÉBERT. How far from My Lai 4 to LZ Dottie?

Sergeant STEPHENS. Well, it's a good way, sir.

Mr. HÉBERT. About 10 or 12 miles?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. All right. It's general area?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. For instance, if anything took place in Washington, D.C., and I live in Alexandria, I would say I was in the area. It's only 11 miles away from here.

So anything that was unusual, certainly it would be a subject of conversation. But you know nothing about any such happening, and you knew nothing about it until it appeared in the papers, and until General Peers told you?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. But you were within the radius of 11 to 12 miles, you were exposed and had contact with the people involved? You probably knew Charlie company and Bravo company.

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. Knew Captain Medina. You knew all these people around. There was ordinary activity of the day, wasn't it?

Sergeant STEPHENS. Yes, sir.

Mr. HÉBERT. And you knew nothing about it? This was not a subject of conversation?

Sergeant STEPHENS. There was never—the only words that I have heard about a massacre, sir, was when I heard it—was when it was in the papers. In fact, the day they were talking about civilians, killing civilians, well, I would say there, everyone—I did—everyone would be thinking on the idea of maybe 10 or 12 or 20, maybe 20 got hurt.

Mr. HÉBERT. The thing that I'm trying to get clear in my mind, Sergeant, is the fact that this is the only time that you know of an American complaining about—

Sergeant STEPHENS. Another American killing a civilian.

Mr. HÉBERT. Another American.

Sergeant STEPHENS. And it dropped there. It wasn't the subject of discussion any more.

Mr. HÉBERT. That was it, wasn't it?

Sergeant STEPHENS. Well, I mean—

Mr. HÉBERT. Those are the facts?

Sergeant STEPHENS. Well, it was, like that was made.

Mr. HÉBERT. Maybe a little rumor, a little stove talk, or something like that?

Sergeant STEPHENS. No sir. It was just not a——

Mr. HÉBERT. A big deal?

Sergeant STEPHENS. Not a big deal, no, sir.

Mr. HÉBERT. All right, thank you very much. We appreciate that.

Mr. STRATTON. Just one question, Mr. Hébert.

Mr. HÉBERT. Yes.

Mr. STRATTON. Sergeant, I understand that you indicated in some earlier discussions that Colonel Barker's plan was to clear the area, is that correct?

Sergeant STEPHENS. Yes, sir.

Mr. STRATTON. That meant destroying everything in sight, and trying to clean out all of the people in there so that it no longer was a Viet Cong area? Is that correct?

Sergeant STEPHENS. No, sir. He didn't mean killing all the people, sir.

Mr. STRATTON. Well, getting rid of them?

Sergeant STEPHENS. No, sir. He didn't mean—didn't mean that. Well, to clean out, would be to get the enemy out. This was a known—and had been, which his reports that we had received—had been a known Viet Cong area. It was known Viet Cong country.

Mr. STRATTON. In other words, there would be no limitations on what you might burn down, killing livestock, things of that kind? This would be a fairly sweeping operation that would try to eliminate practically everything that was there; would that be a fair statement?

Sergeant STEPHENS. No, sir. His idea, sir—in fact, he tried to get them, and he had visited the Quang Ngai—I don't know if it was the province chief, or whoever they had visited, and his idea was to clear this, to clear this area. He would clear this area of the enemy, enemy personnel. And he tried to get them to move these civilian personnel out of this area so there would be no limitation as to what he could do, and who would be there.

There had been no doubt about who was there. Anyone there would be Viet Cong.

Mr. STRATTON. Was there any limitation on destroying hootches, things of that kind?

Sergeant STEPHENS. Well, sir, this operation was no—as far as I know—was no different from any other operation that would be conducted as to the limitation of what they could do and not do.

Mr. STRATTON. Were those limitations?

Sergeant STEPHENS. You just don't destroy anything, sir, unless you get the permission of the province chief to destroy a village or anything of this nature. You have to have this.

Now, he may have had that permission, sir, I don't know.

Mr. STRATTON. I see. All right. That's all.

Mr. GUBSER. One quick question.

Mr. HÉBERT. Yes.

Mr. GUBSER. You're familiar with the general definition of the term "scuttlebutt," aren't you?

Sergeant STEPHENS. Scuttlebutt?

Mr. GUBSER. Yes. Camp gossip, and just talk as between people.

Sergeant STEPHENS. Yes, sir.

Mr. GUBSER. Well, do you remember any conversations, or any scuttlebutt, after this alleged incident on March 16, where it was talked about among—just among the GI's?

Sergeant STEPHENS. Sir, well, I guess what you refer to, a lot of people call it combat stories, and this and that, I know that. After I had returned to LZ Bronco, back at Duc Pho, in the brigade there, well, we had different people from different units in there, and I was with Task Force Barker. We had some from three of the first, and talk about different units, and this and that, and Sergeant Gerberding was the intelligence sergeant, and he was an old 31 man, and naturally he thought it was the best.

Well, I thought Task Force Barker was the best. I thought they had done an outstanding job. And they talked about how many kills they had, and how many weapons, and all this. And Task Force Barker, on its time there, had more kills than any of them. In fact, it was the only outfit in Americal Division that was doing anything for a while. But then someone would make a remark, yes, but they killed civilians, or something like that.

Mr. GUBSER. In other words, you did hear it more than just this once from Major Watke?

Sergeant STEPHENS. Well, you would hear it from—well, like I was talking about, but it was not made in the way that, now, your outfit killed a bunch of civilians. They wouldn't make it that way.

Mr. GUBSER. This was up at Chu Lai, you say, that you heard this?

Sergeant STEPHENS. No, sir, it was at the 11th Infantry Brigade, back at Duc Pho.

Mr. GUBSER. Was Ridenhour there? Did you ever know Ridenhour?

Sergeant STEPHENS. I remember that—

Mr. GUBSER. He's the man that wrote the letter which triggered this whole thing. Wrote the letter to Congress.

Sergeant STEPHENS. No, sir. That must be where I remember his name from, in the papers, or something, because I don't—

Mr. GUBSER. In other words, you never heard him mention this, or—

Sergeant STEPHENS. No, sir. This was in the brigade, the brigade S-2 section there, and it would be just talk, like they would just be sitting talking and it wouldn't be, yes, but I know they killed a bunch of civilians, or anything like that.

Mr. GUBSER. Well, that indicates, though, the fact that that remark was used. That indicates that there was general suspicion that maybe something did happen, that involved Task Force Barker?

Sergeant STEPHENS. No, sir.

Mr. GUBSER. I won't say suspicion, but a general impression that something happened which involved Task Force Barker?

Sergeant STEPHENS. Well, you mean that they think maybe—

Mr. GUBSER. Yes, that's right.

Sergeant STEPHENS. Well, it could, sir. I never thought of it that way.

Mr. GUBSER. All right.

Sergeant STEPHENS. Because I never heard any more about it, and so I just considered—like I said, they said a few civilians. And then

after Captain Medina telling the story he did, and then I never heard any more.

Mr. HÉBERT. You would take it in the framework of six or seven?

Sergeant STEPHENS. I would say a few. And actually, any big operation that's conducted in Vietnam, someone is going to get hurt. In fact, any operation in the world, someone is going to get hurt. And I would think it was like this.

And then after Captain Medina came in and told his story, of this chopper being over him, and saw what he had done and everything, well, I was satisfied. I was perfectly satisfied that nothing happened, and no one ever pushed me about it. And I never heard.

Then when I read the papers—

Mr. HÉBERT. You never heard of any other incidents during the time you were over there, that would come under the description of a massacre of civilians?

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. In the context that we are talking about?

Sergeant STEPHENS. No, sir.

Mr. HÉBERT. All right.

Thank you very much, Sergeant. We appreciate your cooperation. Now, you can leave by that door.

Sergeant STEPHENS. All right. Thank you.

[Witness excused.]

Mr. HÉBERT. We will get Captain Medina up here at 2:30.

[Whereupon, at 1:25 p.m., the subcommittee recessed, to reconvene the same day at 2:30 p.m.]

The subcommittee met, pursuant to recess, at 2:45 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. The subcommittee will be in order.

Captain, I want to instruct you as to your rights here. I know you have been before the full committee. This subcommittee is going to protect your privacy as far as it can protect it. You're not compelled to talk or to give interviews, have your picture taken or say anything. You are under the protection of the committee.

After we finish talking with you today, when you leave you will leave by that door, right behind you, there. Officers will be there. There will be a newsman representing both radio and television and the news media. He will ask you whether you want to talk or not. It's up to you.

If you do not want to talk, you will be escorted out of the building without any further interference at all.

Now, you have been before the subcommittee also, and you know your rights, and you have counsel here. We are not going to delve into testimony as related to what did occur at My Lai 4. In other words, what individuals did what to whom, and how. We are respecting the rights, to protect the Government and protect those who are charged. No prejudicial testimony will come out of here, because they couldn't take our papers and use them in a trial. So we are bending that far over.

All that we are trying to do is establish that something out of the ordinary did take place on March 16, that a complaint was filed, and how the complaint was handled. And that's, in effect, what it is.

As to the guilt or innocence of the people involved, that's not our jurisdiction to judge. That will be up to the courts.

Now, do you have any questions to ask? Mr. Bailey will be allowed to advise you, but not testify for you. We want to protect your rights to the fullest.

And you're the military counsel?

Mr. KADISH. That's right, sir.

Mr. HÉBERT. You were with him last time?

Mr. KADISH. No.

Mr. BAILEY. That was Captain Richardson that was with him last time. He's been assigned now to Fort McPherson, so they assigned a new counsel; but we still have Captain Richardson as well.

Mr. HÉBERT. I see.

Any questions you want to ask? And I will suggest, too, that we will be as concise as we can in our replies, because we have got the long testimony before, when you covered all the ground. But we want to confine ourselves just to these few questions. All right?

All right, I will swear you in.

[Witness sworn.]

Mr. HÉBERT. All right, identify yourself.

Mr. REDDAN. Just your full name and present military address and your current assignment.

TESTIMONY OF CAPT. ERNEST L. MEDINA

Captain MEDINA. My name is Captain Ernest L. Medina, social security number 523-446-488. I am presently assigned to Fort McPherson, Ga., 3d United States Army, with duty with the 609 Transportation Company, 10th Aviation Group, at Fort Benning, Ga.

Mr. REDDAN. Captain, have you had more than one tour in Vietnam?

Captain MEDINA. No, sir, I have not. This was my first tour.

Mr. REDDAN. What period did this cover?

Captain MEDINA. My period of tour in Vietnam covered from December 1 of 1967, to November 29, 1968.

Mr. REDDAN. Where were you physically located when you first went into Vietnam?

Captain MEDINA. When we first went into Vietnam, we landed at Da Nang. From there, we conducted an air move to the airfield at Duc Pho, South Vietnam. My company remained there for a period of a few days, and then we moved to LZ Carentan.

Mr. REDDAN. Where was that located, Captain?

Captain MEDINA. This is approximately 2 kilometers south of LZ Broncho, or Duc Pho, South Vietnam. And we established the fire base for the 11th Infantry Brigade.

Mr. REDDAN. Prior to becoming part of Task Force Barker, did you conduct any operations in the Muscantine area?

Captain MEDINA. No, sir, we did not.

Mr. REDDAN. When did you become part of Task Force Barker?

Captain MEDINA. We first became part of Task Force Barker, I believe the approximate date was the 26th of January.

Mr. REDDAN. 1968?

Captain MEDINA. 1968, yes, sir.

Mr. REDDAN. Now, Captain, although we are primarily interested in what took place around March 16, down in the Son My area, it would be helpful to the subcommittee if you could tell us any ground action which you were engaged in in the Task Force Barker area, so that we could get a feel for the nature of the enemy, the nature of the people, and any particular problems with which the American forces were faced in that Son My area, particularly.

Captain MEDINA. Just within the Son My area, or the Task Force Barker AO, sir?

Mr. REDDAN. Well, the Task Force Barker AO ran how far north? Did it go up beyond LZ Uptight?

Captain MEDINA. Yes, sir, it did. Just a little bit farther north, sir.

Mr. REDDAN. Well, all right. If you could just quickly tell us about your ground operations, prior to March 16.

Captain MEDINA. Yes, sir.

Well, departing LZ Dottie on the 28th of January was the first time that my company conducted any type of search and clear operations within the Muscatine AO, or the Task Force Barker area of operation. The area was heavily mined and booby trapped. We were furnished a map, or an overlay, of known mine fields or places that had been reported as where mines had been located. Mines that had been detonated by American forces stepping on them were all recorded, specific actions that we were involved in, within that area, sir; from LZ Dottie, we moved down into this area here—

Mr. REDDAN. If you could give us the coordinates on the principal points that you're discussing, it would make it a little bit better record for us.

Captain MEDINA. I don't see any grid numbers.

Oh, all right, sir.

Well, the first day that we moved from LZ Dottie, it was approximately the 28th of January, and we detonated our first mine approximately 1,400 or 1,500 meters to the north of LZ Dottie, in this vicinity here, which is approximately grid coordinates, 633, 864.

From there, we continued our search and clear operations to what we referred to as a monastery, which is located in this area here, because of the Buddhist pagoda and monastery that was located at this location.

From there, we began sweeping in a southerly direction. Our original mission was to conduct a sweep of the village of Xuan Loc. I established a night defensive position. That night was the beginning of the Tet offensive. We could see the flames of the incoming artillery on the city of Quang Ngai, on the cities of Binh Son and Son Tinh district.

I was ordered by the task force to move south to the southern task force boundary area of operation. I established blocking positions in the vicinity of 968, 798. Also on the hill located at coordinates 670, 795.

Mr. REDDAN. Excuse me, Captain.

Did you ever get south of the river there? What is that river?

Captain MEDINA. I don't know the name of the river, sir. The southern boundary for the task force ran along the river there, sir.

Mr. REDDAN. Did you go beyond that boundary prior to March 16?

Captain MEDINA. There was one time that we did cross the southern boundary with permission from the task force headquarters.

Mr. REDDAN. I see.

And what area was that?

Captain MEDINA. That was located to the south of My Lai 1, sir, right here, sir.

Mr. REDDAN. The north of My Lai 1?

Captain MEDINA. Yes, sir.

Mr. REDDAN. All right.

Captain MEDINA. Correction, sir. We crossed the little walkway here, which was north of My Lai 5. And at that time, I only placed one squad across the causeway.

Mr. REDDAN. Did you run into any V.C. or any fire, at that point?

Captain MEDINA. Yes, sir, we did.

Mr. REDDAN. Did you have any casualties?

Captain MEDINA. I did not have any casualties, at that particular time.

However, before this, I did have one casualty, in the vicinity of My Lai 3. This was when we first established our second—it was our second blocking position that we established in that area.

Mr. REDDAN. Between the time you became a part of Task Force Barker, and March 16, how many casualties had your company suffered?

Captain MEDINA. I'm not exactly sure, sir. I know that I——

Mr. REDDAN. Approximately?

Captain MEDINA. I had five killed, and the approximate figure for wounded would be somewhere possibly around 45, sir. I'm not definite on that figure.

Mr. REDDAN. Had you engaged in any major actions as part of Task Force Barker, prior to March 16?

Captain MEDINA. There were no large-scale contacts with any large enemy forces, to speak of. Most of the time, we had conducted blocking operations for the other two companies that had operated in the vicinity of the Pinkville area.

Mr. REDDAN. Did you act as a blocking company in the operation at My Lai 4, where Captain Trinkle was wounded?

Captain MEDINA. No, sir, I did not. I was approximately 500 meters south of the north boundary of the task force AO, at that time, in contact myself.

Mr. REDDAN. If we can come up now to the time immediately prior to the March 16 operation, could you tell us, first, what was Commander Barker's attitude, as you would gather it from the instructions and your conversations with him, with respect to the treatment of civilians, the search and clear operations, search and destroy operations, civilian property?

Did you draw any conclusions from your discussions with him, prior to March 16 on these topics?

Captain MEDINA. Sir, with my discussions with Colonel Barker, or instructions that I had received from him, prior to the My Lai operation, we were informed that the area was a free-fire zone. We were informed that if we received fire——

Mr. REDDAN. You're talking now of the AO extension as being the free-fire zone?

Captain MEDINA. I'm talking about the Task Force Barker AC

Mr. REDDAN. I see.

Captain MEDINA. The interest that the task force requested on AO extension into the Second ARVN Division AO, there were no restrictions as to no fire zones. It was designated VC controlled area, and they were free-fire zones.

Instructions from Colonel Barker were that if we received fire from a village, we could return the fire into the village. We could call artillery into the village. We were to be extremely careful to avoid hurting innocent civilians that may be in the village, that we were receiving the fire from.

As far as Colonel Barker's attitude toward the South Vietnamese, he always wanted us to treat them with the proper respect, and to respect them as human beings. He often conducted Medevac operations in the vicinity of LZ Dottie, along Highway 1, having his task force surgeon with the medics go out and conduct medevac.

On one occasion, he sent my company out to check three of the villages where there was a reported bubonic plague epidemic. I went out. We searched the area. We checked it. I had the doctors come in, and we often provided what medical services we could with our medics in the villages, also, sir.

Mr. REDDAN. Did you ever have any discussions with him, or did he ever advise you as to what you were expected to do on a search and destroy operation?

Captain MEDINA. On a search and destroy operation, sir, my understanding of a search and destroy operation is that you search the area which has been designated for that particular operation, and you destroy anything that can be of use to the enemy. Anything that would provide him shelter, food, or anything that he might draw his supplies from.

Mr. REDDAN. Now, coming up to the March 16 operation, did you have any briefings from Colonel Barker, or anyone from the brigade or the division, preparatory to the March 16 operation?

Captain MEDINA. On the March 16—yes, sir, we did have a briefing as to the area that we would be operating in. We had information as to the intelligence background of what we could expect to find at My Lai 4.

Mr. REDDAN. Well, could you tell us when and where this briefing took place, or if there was more than one briefing, where they took place, and who was present?

Captain MEDINA. I believe that—the exact number of briefings. I don't know, sir, because I did go up once with Colonel Barker in the helicopter to conduct an aerial recon, vicinity of My Lai 4. We didn't over-fly the village. We stayed in the task force—

Mr. REDDAN. You say you did not over-fly the village?

Captain MEDINA. No, sir, we stayed in the task force AO, so that they would not have any indication that we were interested in that particular area.

There was a briefing that was conducted by the Task Force 3, which was attended by—Major Calhoun gave the briefing. Colonel Barker was present, Colonel Henderson was present, Captain Michles was present, I was present. Captain Kotouc, who was the Task Force S-2. Possibly a Sergeant 1/C Johnson. And possibly a Sergeant Hall, because I think they are the ones that had brought the easel in with the map. I'm not definite of that, sir, and I believe that's all that were there.

Mr. REDDAN. Where was this briefing held?

Captain MEDINA. It was held at LZ Dottie, sir.

Mr. REDDAN. And this was the day before the operation; or two days? When was it held?

Captain MEDINA. I'm not sure, sir. Somewhere between the 14th and possibly the 15th.

Mr. REDDAN. And who gave the briefings?

Captain MEDINA. The briefing was conducted, as far as operations were concerned, by Major Calhoun. The intelligence aspects were conducted by the intelligence officer, a Captain Kotouc. I believe he was there.

Colonel Henderson talked to us. And I believe that was it, sir.

Mr. REDDAN. Do you know who prepared the operational plans for this March 16 operation?

Captain MEDINA. I imagine that it would have been Colonel Barker and Major Calhoun, sir, along with the staff.

Mr. REDDAN. You have no knowledge of that, yourself?

Captain MEDINA. No, sir, I don't. Major Calhoun was the first to inform me that my company was going to conduct an operation in that area, but I'm sure that—I have no knowledge as to who actually planned the operation, sir.

Mr. REDDAN. What did they tell you was your objective in this operation?

Captain MEDINA. My objective in this operation was to destroy the 48th Viet Cong Battalion, which was located at the village of My Lai 4.

Mr. REDDAN. Was any element of the 48th Battalion farther west than My Lai 4, or did you expect to encounter the entire 48th at My Lai 4?

Captain MEDINA. From the intelligence reports that were given to us, and from my understanding of the operation, the entire 48th Viet Cong Battalion was going to be at My Lai 4 on that particular day, and that is why the operation was being conducted.

I know of no elements of the 48th Viet Cong Battalion that were to the west, sir.

Mr. REDDAN. Were you given any specific instructions or advice during these briefings with respect to the handling of civilians at My Lai 4?

Captain MEDINA. No, sir, I was not. I was informed that the operation was planned at 0730 hours, because the women and children that were from the village of My Lai 4 would be gone to market.

Mr. REDDAN. Do you remember who gave you that information?

Captain MEDINA. I cannot recall specifically, sir, exactly who gave it. It was one of the individuals at that briefing, sir.

Mr. REDDAN. Would that have normally been the intelligence officer's—

Captain MEDINA. I believe that it might have been part of the intelligence report, sir. And I'm not definite on that, sir. I mean, it's—I think that's probably where it would be.

Mr. REDDAN. Were you given any instructions or directions with respect to the destruction of any of the hootches, wells, the killing of any of the animals, destruction of any of the food supplies, anything of that sort?

Captain MEDINA. Yes, sir, I did. When we conducted an aerial reconnaissance of My Lai 4, Colonel Barker told me that we had permission

to destroy the village, to burn down the houses, to destroy the food crop that belonged to the Vietcong, and to kill their livestock.

Mr. REDDAN. Was anyone else in the helicopter with you, at that time?

Captain MEDINA. Well, there were the helicopter pilot, his co-pilot, I believe Captain Earl Michles was with us, at that time, also, sir.

Mr. REDDAN. Was the other company commander with you, too, at that time?

Captain MEDINA. That would have been Captain Michles, sir. He also went, because of the possibility—the situation developed that it would be necessary for him to be combat assaulted to the west of My Lai 4 to establish the blocking position. This would happen, and he was also shown where his LZ would be located.

Mr. REDDAN. Were these instructions given at the time during the briefing we have been discussing previously here, when these other officers were present?

Captain MEDINA. I don't know, sir. I believe they were.

Mr. REDDAN. Did Colonel Henderson give—

Mr. HÉBERT. May I interrupt?

Mr. REDDAN. Yes.

Mr. HÉBERT. Captain, in reply to Mr. Reddan, I think Mr. Reddan directed the question about the briefings and who was present and what instructions were given. And you were referring, Jack, to instructions of Colonel Barker to destroy?

Mr. REDDAN. I was referring to the instructions given by anyone at that briefing, either Colonel Henderson or Colonel Barker.

Mr. HÉBERT. Well now, the Captain has testified that Colonel Barker gave him instructions to destroy the village, to destroy everything.

Mr. REDDAN. While he was airborne in the helicopter.

Mr. HÉBERT. That's what I mean.

Now, the question that I think that you were asking, did you hear him give those same instructions at any briefing, to anybody else?

Captain MEDINA. Mr. Hébert, the only distinct recollection I have of him issuing these instructions to me were in the helicopter. I believe that it was also given at the briefing, by Colonel Barker. I'm not positive, sir. Maybe some of the other people that were there could verify this.

Mr. HÉBERT. You did not hear the same instructions given at any briefing at which you were present?

Captain MEDINA. Mr. Hébert, it may have been given at the briefing, by Colonel Barker, again, but I do remember it given in the helicopter to me, sir.

Mr. HÉBERT. I repeat my question: You were not present when such instructions were given at any briefing, nor do you remember any such instructions being given at any briefing? May or may not doesn't apply, because you either know it or you don't know. You were present or you weren't present.

Captain MEDINA. Mr. Hébert, I don't recall whether it was repeated at a later briefing or not.

Mr. HÉBERT. I'm talking about when you were present; was it repeated, at any time, when you were present at a briefing? Now, you would have to know that.

Captain MEDINA. I don't recall. It might have been. I don't know, sir. Other people that were present at that briefing may be able to verify whether Colonel Barker did this or not, but I don't recall.

Mr. HÉBERT. Were you paying any attention to what Colonel Barker was saying when he was briefing you?

Captain MEDINA. Yes, Mr. Hébert, I was paying attention.

Mr. HÉBERT. Well, then, if you were paying attention, you would know what he said.

Captain MEDINA. Well, sir, it's been a period of over 2 years, and it's very difficult to recall verbatim exactly everything that was said.

Mr. HÉBERT. I'm not asking you to recall verbatim, no more than I'm asking you to recall verbatim what was said in the chopper; but you do remember what he told you in the chopper?

Captain MEDINA. Yes, Mr. Hébert; I do.

Mr. HÉBERT. But you don't remember whether or not he told it at a briefing at which you were present?

Captain MEDINA. Mr. Hébert, I do not recall having received these instructions at a later briefing.

Mr. HÉBERT. Not you. The briefing where a man is giving out instructions. That's what I'm talking about.

Captain MEDINA. Mr. Hébert, I don't recall Colonel Barker——

Mr. HÉBERT. You see, it's important, in the framework of what we are trying to establish. We are not trying to establish what was done. We are trying to establish the conditions and the orders and instructions under which you were operating. That's what we are trying to establish. We want to try to——

Captain MEDINA. Mr. Hébert, I recall the orders that I was given even from Colonel Barker in the helicopter. At no time, at any other briefing, or any instructions that were given by Colonel Barker, at any briefing, were these instructions rescinded, modified, or limited in any way.

Mr. HÉBERT. That is not my question, Captain. My question is: Did you hear Colonel Barker give some instructions to the officers present at a briefing?

Captain MEDINA. Mr. Hébert, I truthfully can't say yes.

Mr. HÉBERT. I'm not saying you're not truthful. I'm trying to find out——

Captain MEDINA. I truthfully can't say yes, he said it, because I don't know.

Mr. HÉBERT. Let me try to help you.

To the best of your recollection, you do not recall him having given some orders at a briefing?

Captain MEDINA. Mr. Chairman, I don't know.

Mr. HÉBERT. Well, to the best of your recollection, you don't know?

Captain MEDINA. Mr. Chairman, I don't know.

Mr. HÉBERT. Then you don't know whether he did give those orders or not at a briefing at which you were present?

Captain MEDINA. Mr. Chairman, I don't recall.

Mr. HÉBERT. You do not recall him having given those orders at a briefing at which you were present?

Captain MEDINA. Mr. Chairman, I don't know, sir.

Mr. HÉBERT. All right. Go on.

Mr. REDDAN. After this briefing which you had received, at which these other officers were present, which you say may have been on

the 14th or 15th of March, did you brief your company as to the nature of the operation and what they were to expect and what you expected of them?

Captain MEDINA. Yes, sir, Mr. Reddan, I did.

Mr. REDDAN. When did this take place?

Captain MEDINA. It was on the evening of March 15, the day prior to the operation.

Mr. REDDAN. And this was at LZ Dottie?

Captain MEDINA. Yes, sir.

Mr. REDDAN. About what time of the day was this?

Captain MEDINA. It was still daylight, sir. I would estimate that it may have been around 1600 or 1630 hours. I'm not positive of the time.

Mr. REDDAN. Was it in the open, or was it in some building?

Captain MEDINA. It was in the open.

Mr. REDDAN. And you brought your entire company together?

Captain MEDINA. Yes.

Mr. REDDAN. Was there any other officer present, not assigned to your company?

Captain MEDINA. Captain Kotouc was there, sir.

Mr. REDDAN. And would you tell us, please, what your orders were to your company, what your instructions were, what you said to them on that evening?

Captain MEDINA. Sir, my instructions to my company were basically along the same lines of a verbal operations order. I covered the enemy situation, that we were going to conduct a combat assault from LZ Dottie, beginning at 0730 hours, into My Lai 4, vicinity of Pinkville. And that intelligence reports indicated that the 48th Viet Cong Battalion was located in My Lai 4. That we were outnumbered approximately 2 to 1.

I was basing this on the figure that a Viet Cong battalion normally runs between 250 and 280 men, sir.

Mr. REDDAN. How many men did you have?

Captain MEDINA. I had 105, sir.

Mr. REDDAN. How many did Bravo Company have?

Captain MEDINA. I don't know, sir.

Mr. REDDAN. Approximately the same number as you?

Captain MEDINA. I don't know, sir.

Mr. REDDAN. All right.

Captain MEDINA. And we were going to conduct a combat assault on My Lai 4, we were going to be outnumbered approximately 2 to 1, and that I wanted them to make sure that they had cleaned their weapons, and took more than their basic load of ammunition with them; and that they could expect to be engaged by a well fortified enemy in My Lai 4, and to be prepared.

I also told them that prior to the operation, that approximately 0720 hours in the morning, there was going to be a 10-minute artillery preparation on the village of My Lai 4, at which time the combat assault would commence. And that we would land at 0730 hours.

And I also told them that the reason this was being conducted this way was that we had been informed that the women and children in My Lai 4 would be gone to market at either Quang Ngai or Son Tinh district at 7 o'clock in the morning.

Mr. REDDAN. Now, what did you tell them about destruction of hootches?

Captain MEDINA. I also told them that the village of My Lai 4 was to be destroyed; that we had authorization to destroy the village, that they could burn the buildings, they could destroy the livestock, and they could destroy the food crops, and that they could close the wells that supplied the drinking water.

I also told them that this would be our chance to get even with the 48th Viet Cong Battalion that had been working the entire area, that these people were probably the ones from the 48th Viet Cong Battalion that had been placing mines and booby traps in our area of operations, the ones that were shooting at us, and we were receiving the small arms fire, the sniper fire from, and this would be our chance to get even with them and to go in and face them and do battle with them.

Mr. REDDAN. Did you say anything to them about the handling of civilians or children, women, that might still be in the village?

Captain MEDINA. No, sir; I did not.

Mr. REDDAN. Had you, prior to this time, ever given any special instructions or had your company ever received any special instructions on the Geneva Pact, the Geneva requirements, and how our troops should conduct themselves with respect to civilians in the country there?

Captain MEDINA. My company, when we arrived initially at LZ Bronco and Duc Pho, South Vietnam, received, I believe, what was a very hurried-up, 1-day or possibly a 2-day orientation course that was conducted by the NCO Academy for the 3d Brigade, 4th Infantry Division, on conducting operations in South Vietnam.

I cannot remember specifically when the last time was that I gave them an orientation on the Geneva Conference, or the rules of land warfare. We were not issued any material or cards to treatment of prisoners or handling your enemy, other than the 5 S's. The search, safeguard, silence, segregate, and speed the enemy to the rear.

I told them that they were to treat the people humanely, that they were not to abuse them.

Mr. REDDAN. Prior to the start of the operation on March 16, did you have any conversation with Colonel Henderson about the operation?

Captain MEDINA. At the briefing that was given, Colonel Henderson told us that one of the failures with the other operations in the area of the Pinkville, with the other two units that had gone in, into the Pinkville, was that American troops were slow to react, and the failure was to close with the enemy. We weren't moving fast enough to close with the enemy.

And the reason was that they were killing the enemy down there, but they couldn't get to the weapon and the body with the weapon fast enough, because the enemy—the women and children, the Viet Cong, as we were withdrawing, would pick up the weapon and run with it.

And he said he wanted us to be aggressive and to move through the area.

Mr. REDDAN. Did he have any personal conversations with you aside from the briefing talk?

Captain MEDINA. No, sir; he did not.

Mr. REDDAN. Did Colonel Barker have any conversations with you after the briefing? I'm talking now about the large briefing where all the members were present, not the one which he gave you in the helicopter.

Captain MEDINA. He might have spoken to me, sir, but he did not give me any further instructions.

Mr. REDDAN. Did you discuss, at all, with your troops, in your briefing to the company, as to how they should proceed after landing at the LZ on the morning of the 16th?

In other words, should they proceed recon by fire, or what was your standard operating procedure?

Captain MEDINA. Well, sir, I did not go into—we all assumed that the LZ was going to be hot, as you do on any normal combat assault, until you get there and you find out whether it's cold or hot.

My instructions to my platoons were that I told them that the first platoon was going to be on the southern half of the village, and the second platoon would be moving on the northern half of the village—and that normal procedure, that we had practiced before, and training in Hawaii, and operations in South Vietnam were that when we conducted a search and destroy operation, you immediately sent—your clear element from each platoon would go through and clear the village, pushing everybody out of the village as rapidly as they could, to an open area on the other side of the village.

Then you would have your search element from that platoon begin moving, making a thorough search of each hootch, house, bunker, tunnel, whatever you have in that area.

Then after the search team moved through, they had been followed by the destroy element, which would burn the buildings, kill the livestock, and things of this nature.

The 3d platoon was going to remain in the vicinity of the landing zone: No. 1 to provide rear security; two, I could move them in any direction, north, south, west, or east, to provide any additional action. They were my reserve attachment, and I was going to remain in the vicinity of the landing zone, and establish the CP, sir.

Mr. REDDAN. Now, you took off from LZ Dottie on the morning of the 16th about what time?

Captain MEDINA. First lift off—it's about a 5 minute flight from LZ Dottie.

Now, sir, this is an estimation. The flight pattern that we took from LZ Dottie to the landing zone. And the artillery preparation was to finish at 0730 hours, and that was the touchdown time for the LZ.

So, backing up from that, sir, I would estimate approximately 5 minutes. The time lift one, 0725 hours.

Mr. REDDAN. Were you in a position to see the impacting of the artillery fire that morning?

Captain MEDINA. Sir, as we were approaching My Lai 4, in the first flight of the combat assault, as we were beginning to make the turn to make the final approach onto the landing zone, I could see, from my position in the helicopter, the artillery rounds that appeared to be landing onto the village, and it appeared that they were firing a mixture of VT fuse and HE quick. I don't know exactly what they fired, because they normally fire HE. But it appeared that they might have

fired HE, because it looked like there were a few air bursts and you could see the pounding and the dust coming up that looked like it was on the village, sir.

Mr. REDDAN. How close were you to the village, at that time, would you say?

Captain MEDINA. At that time, sir?

Mr. REDDAN. And at approximately what altitude?

Captain MEDINA. Well, sir, I don't know what altitude, unless you want me to take a guess.

Mr. REDDAN. Yes, you can just take a guess at it.

Captain MEDINA. Somewhere between 800 to 1,200 feet.

Mr. REDDAN. All right.

Captain MEDINA. We left LZ Dottie, sir. We started flying in this direction here, in a southwesterly direction.

The reason for this is anybody in the area that had seen the helicopters lift off from LZ Dottie, would not know specifically that the combat assault was going to take place east or west of Highway 1. That's why we started flying in a southwesterly pattern. We flew along this direction here, Son Tinh, and I'm not sure whether we got over where the railroad bed is here.

And just about the time we got to the river, we started making our swing around this way, over Quang Ngai; and when I first saw it, sir, it was approximately in this area here.

So that would be—1, 2, 3, 4, 5, 6, 7—approximately 8 or 9 kilometers, sir.

Mr. REDDAN. I see.

Is it at that point that you saw the shells impacting? Or were you closer?

Captain MEDINA. I believe that it was at that location, sir, approximately 8 or 9 kilometers from My Lai 4.

Mr. REDDAN. And then you went on in, and you put down at LZ 1, there, shortly thereafter.

Now, did you receive any fire when you landed?

Captain MEDINA. Sir, when we first got to the landing zone, my initial impression was that the landing zone was cold. I did not feel the familiar crack of the bullet or whining beside you, or cutting the air beside you. I didn't hear the familiar sound of somebody shooting at you.

My initial impression was that the LZ was cold. I reported LZ time at 0730 hours, LZ cold. And shortly thereafter, a helicopter pilot broke in and said, "negative, negative, the LZ is hot, we are receiving fire, you're receiving fire. We have engaged Viet Cong fleeing from the village with weapons."

And they killed the same. And I immediately put the word out that the LZ was hot, that we were receiving fire, and the chopper had killed Viet Cong with weapons.

Mr. REDDAN. Now, did you call in the gunships?

Captain MEDINA. I did not call in gunships, sir, because the combat assault was so planned that we would have double coverage of gunships, which is quite unusual, because normally you only go in with one set of guns per combat assault; but because of the nature of the mission, the operation, what we expected to find there, they felt it would be best to have the double coverage of gunships.

And the gunships immediately before landing on the LZ darted forward, firing their rockets and spraying the area with their minigun, and 40-millimeter grenades, from the gunships, and they continued to circle and fly over the area shooting over the area, sir.

Mr. REDDAN. Did they fire into the village?

Captain MEDINA. From where I was, it looked like they were firing into the village, yes, sir.

Mr. REDDAN. Did any of the artillery prep land on your LZ?

Captain MEDINA. I don't believe so, sir. It looked like there were some artillery shells that had landed in the vicinity of the landing zone, but I don't believe it was on the landing zone, sir.

Mr. REDDAN. Now, when you put down, where did you establish your position?

Captain MEDINA. I established the command post, sir, at the extreme east of the landing zone, right outside the village of My Lai 4, which is approximately right here, sir.

Mr. REDDAN. Here is an aerial photograph, Captain.

If you can orient yourself there with that one, perhaps it might help you. If it's confusing, don't bother with it. I thought it might be helpful to you.

Captain MEDINA. I believe this was—this is what looks to be or appears to be the landing zone right here, sir.

Mr. REDDAN. And you set up your land post where?

Captain MEDINA. Right here, sir. It's not going to be close, sir. It's about right in there, sir.

Mr. REDDAN. Just a bit east of the landing zone?

Captain MEDINA. East, sir, yes, sir. It was on the east side of the landing zone, on the west side of the village, sir.

Mr. REDDAN. And how long did you remain at that post?

Captain MEDINA. Again, sir, an estimation of approximately 45 minutes to an hour.

Mr. REDDAN. And then what did you do?

Captain MEDINA. From there, I had received word that a helicopter had dropped smoke, indicating where there was a Viet Cong with weapons. That was a signal that was being used. That was a signal I had relayed to my people, that when they saw a helicopter drop smoke that would indicate there was a Viet Cong with weapons in that area. And this was to help close with the enemy fast enough to pick up the weapons.

Mr. DICKINSON. Would the color of smoke make any difference?

Captain MEDINA. Sir, we received no instructions as to the use of different colored smoke grenades.

Mr. DICKINSON. Any smoke was the same signal, as far as you were concerned?

Captain MEDINA. Yes, sir.

Mr. DICKINSON. Thank you.

Captain MEDINA. So I moved from this area down to where the helicopter had dropped the smoke grenade, and as I approached the area, the helicopter moved back. As I got there, there was a woman lying there. She did not have a weapon. The helicopter was hovering approximately 15 to 20 feet above her, and the two door gunners on the observation helicopter should have been able to see that there was no weapon there, and that it was a woman. But when I got there they

moved back approximately 50 to 75 meters. And I saw a woman there. There was no weapon.

I started to turn around and I saw her move. I spun around and I fired twice. I assumed that I killed her. And from there I came back to the village of My Lai 4, at approximately 1000 hours, sir. It possibly might have been a little bit later than that, because when I got there, I had an individual that was wounded. We can check the log and find out the exact time that he was evacuated.

Mr. REDDAN. Did you eventually proceed on through the village?

Captain MEDINA. Yes, sir, I eventually proceeded on through the village.

Mr. REDDAN. About what time did you get through to the other side?

Captain MEDINA. At approximately 1100 hours, 1115 hours, sir.

Mr. REDDAN. Well now, at any time during this period, did you get a call from Colonel Barker or from anyone else, stating that a complaint had come in about civilian casualties?

Captain MEDINA. Yes, sir, I did. I received a call over the radio—I believe it was probably from Task Force 3—stating a report that there were some civilians that had been shot; and he told me to make sure that none of my people were killing innocent civilians.

Mr. REDDAN. Would that have been Major Calhoun?

Captain MEDINA. I believe so, yes, sir.

Mr. REDDAN. Did you talk to him directly, or was this message relayed? Could he come down—could he get down on your frequency?

Captain MEDINA. Well, I had a radio that was on the task force frequency, but sometimes there were problems in reaching me in that area. So we had a relay station at LZ Uptight. But I believe that that was a direct communication, sir.

Mr. REDDAN. Where were you when you got that communication?

Captain MEDINA. I was in the vicinity of where the wounded man was evacuated, which is approximately—I would say about right here, sir.

Mr. REDDAN. You had started back up into the village, hadn't you, after the incident with the woman you have just described?

Captain MEDINA. I was on the trail, on the southwest of the village, and I had not actually entered the village, at the time, sir.

Mr. REDDAN. I see.

Now, did you get south of the village, down to that little road that proceeds south to the main road to Quang Ngai?

Captain MEDINA. Marked by the X, sir?

Mr. REDDAN. Yes.

Did you get down into that area?

Captain MEDINA. Yes, sir, I did.

Mr. REDDAN. Did you see any civilian casualties in that area?

Captain MEDINA. Yes, sir, I did.

At the trail junction, on the south side of the village, at the trail junction, there was one infant, I believe it was a male, that had been shot, appeared to be a small arms wound in the stomach. Part of his intestines were protruding.

There were approximately 20 to 25 bodies here along the trail there, sir.

Mr. REDDAN. Could you tell—how close did you get to them?

Captain MEDINA. I was approximately 50, 50 meters or so from them, sir.

Mr. REDDAN. Could you tell from their possessions or anything about them as to whether or not they might have been killed by artillery or gunships or small arms?

Captain MEDINA. I did not go over to examine the bodies, sir. I assumed that they had been killed either by small arms fire, artillery or gunships, sir.

Mr. REDDAN. But you couldn't tell from your observation, whether it would be more likely to be one or the other?

Captain MEDINA. No, sir, I could not.

The reason I say this, sir, is that on my route to where I shot the woman, there were three bodies that were lying along the trail. I don't know the exact area. Somewhere between here and I imagine about over here is where I shot the woman. It's in here.

There were three bodies. There was a man, a woman and I believe it was a girl. And these were not caused by small arms fire. They were caused by large fragmentation, either from artillery or from a rocket from a gunship or 40 millimeter, because they were torn up pretty badly.

Mr. REDDAN. Now, when you saw this group of people that you have just described on the trail south of the village, did you see them before or after you received word from Major Calhoun about reported civilian casualties?

Captain MEDINA. I believe that it was before, sir, because I had gone down here to where the individual was, that had been shot, and from this area I moved back here to where we bandaged him up, tagged him, requested the Medevac which I believe was in this area right here; and if I remember correctly, sir, as I was moving back toward this direction, is when I received the call.

Mr. REDDAN. What, if anything, did you say to him when you received that message?

Captain MEDINA. I didn't say anything. I said that I would immediately put the information out to my platoon leaders to make sure their individuals did not kill civilians.

Mr. REDDAN. Do you recall what Major Calhoun said to you in that message? Did he tell you—you tell me, if you recall.

Captain MEDINA. I don't recall the exact words. I can tell you basically what he said.

Mr. REDDAN. All right, if you will.

Captain MEDINA. By using the call sign, he said, "We have a report that innocent civilians have been shot or killed. We want to make sure that this is stopped, that none of this happens."

Mr. REDDAN. So what did you do then?

Captain MEDINA. I rogered his radio transmission, told him that I would immediately notify my platoon leaders to make sure their people were not killing innocent civilians.

Mr. REDDAN. How did you contact your platoon leaders?

Captain MEDINA. By radio, sir.

Mr. REDDAN. Did you get on the radio yourself or did you have your radio man handle it?

Captain MEDINA. I believe I handled it, sir.

Mr. REDDAN. Do you recall what your instructions were to the platoon leaders?

Captain MEDINA. I used the net call to get the platoon leaders on the net. And I told them that it was reported that innocent civilians had been killed, that I wanted to make sure that none of our people or their people were shooting innocent civilians. I wanted to make sure this word got out to all the people and put a stop to it.

Mr. STRATTON. What time was that, Captain?

Captain MEDINA. It would be after the medevacuation of the individual, and I believe that was somewhere between—about 1025 hours, sir. Somewhere between 1000 and 1025 hours, sir.

Mr. STRATTON. You testified here a moment ago, if I understood you correctly, that you did not enter My Lai village itself until after the incident of shooting the woman had taken place, is that correct?

Captain MEDINA. Yes, Mr. Congressman, that is correct.

Mr. STRATTON. And that was about 10 o'clock?

Captain MEDINA. At approximately 1000 hours, yes, sir.

Mr. STRATTON. So when you got the message from Major Calhoun, you were then in the village, is that correct?

Captain MEDINA. I had not actually entered all the way into the village. I was on the trail that is on the south side of the village, sir.

Mr. STRATTON. And where were your platoon leaders at that time?

Captain MEDINA. I don't know, sir.

Mr. STRATTON. Weren't they in the village, too?

Captain MEDINA. Mr. Congressman, I assume they would be in the village. I would not know their exact location or their whereabouts in the village.

Mr. STRATTON. You said you radioed the instructions of Major Calhoun to the platoon leaders, is that correct?

Captain MEDINA. Yes, Mr. Congressman, that is correct.

Mr. STRATTON. What was the reply?

Captain MEDINA. They rogered the transmission and said that they would put this information out to their people.

Mr. STRATTON. Now, what did you do to follow up on that, when you got into the village?

Captain MEDINA. Well, I didn't do anything to follow up that radio transmission, sir, because I did not see anybody shoot any innocent civilians.

Mr. REDDAN. Did you tell them that you had already observed a number of civilian casualties prior to that time?

Captain MEDINA. No, I did not, sir.

Mr. REDDAN. As you went through the village, did you see any civilian casualties?

Captain MEDINA. Sir, the only ones that I saw that were killed were the three that I described before, the woman that I shot, and the approximately 20 to 25 on the trail there, and the one boy, sir.

Mr. REDDAN. But going through the village you didn't see any?

Captain MEDINA. No, sir; going through the village we found one old man that was—the building was burning, and he was inside, and couldn't walk. I told the people to take him outside and set him on the ground. I left there. We found another individual that was hiding. I believe between the grass walls of the hutch. And I took him with me, out the other side of the village, sir.

Mr. REDDAN. Did you keep him with you until you established your night position?

Captain MEDINA. No, sir; I did not. This individual was an elderly gentleman. We ate lunch on the east side of the village, approximate location here, sir. Somebody brought up a small child—it was a girl, a little girl—to me. And I gave the little girl to the old man, and I gave them some of my C rations, and from there we continued on east to somewhere between here and My Lai 4, possibly somewhere between here and My Lai 4, sir.

Mr. REDDAN. Well, no, that is My Lai 4 that you—

Captain MEDINA. I am sorry, My Lai 5, sir. There was a group of women, children, and old men, and some male VC that had been in a group, and I would estimate the group to be approximately 80. I told my interpreter to tell these people that I wanted them to go to the South Vietnamese Army at Son Tinh or Quang Ngai and report to the refugee camp, that they would be taken care of there.

The man and the little girl, I put in with that group. And they went south.

Mr. REDDAN. Did you see them clear the village, I mean, see this group clear the village on their way south?

Captain MEDINA. No, sir, I did not. You mean the village of My Lai 4?

Mr. REDDAN. Yes.

Captain MEDINA. No, sir, I did not. They started moving back to go down to Son Tinh and Quang Ngai. And I continued on to where we were going to marry up with Bravo Company for the night defensive position, sir.

Mr. REDDAN. Did you see any civilian casualties in any ditches or bunkers on the east side of My Lai 4?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. During the morning's operation, did it ever come to your attention that a helicopter pilot had landed and confronted one of your platoon leaders?

Captain MEDINA. No, sir, it did not.

Mr. REDDAN. Was it ever reported to you that a helicopter pilot had interfered with the ground operations and threatened members of your company?

Captain MEDINA. No, sir, it did not. There was a helicopter that landed that I did see, an observation helicopter, that had a damaged rotor blade, and they stopped, the pilot got out, checked it, got back in and took off. He did not talk to me and he did not talk to anyone from my company, sir.

Mr. REDDAN. Where did this incident take place?

Captain MEDINA. Probably here, sir. Somewhere in here, sir.

Mr. REDDAN. On the east side?

Captain MEDINA. Yes, sir, on the east side of My Lai 4.

Mr. REDDAN. Where were you at that time?

Captain MEDINA. I was just coming out of My Lai 4, sir. We were getting ready to move on towards My Lai 4.

Mr. REDDAN. Did you see any gunship land to pick up any people that day?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. You only saw one helicopter landing?

Captain MEDINA. Yes, sir, this was an OH-23, the light observation helicopter. Your question, sir, was did I see any other—well, you said gunship land.

Mr. REDDAN. Yes, I wanted to know if you saw a gunship land.

Captain MEDINA. No, sir, I did not see a gunship land.

Mr. REDDAN. Did you see a Slick land along with an observation helicopter?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. At no time did you see two helicopters put down?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. Now, after you got through the village, you proceeded on eastward, as I understand your testimony, until you married up with Bravo Company?

Captain MEDINA. Yes, sir.

Mr. REDDAN. Now, did there come a time during the afternoon or any time during that day when you received instructions to return to My Lai 4, either to make a body count or to check on civilian casualties?

Captain MEDINA. I am sorry, sir, I didn't get all of your question.

Mr. REDDAN. Did you receive any instructions to return to My Lai 4 to make a body count or to check on civilian casualties?

Captain MEDINA. Yes, sir, I did.

Mr. REDDAN. What time did you receive that call approximately?

Captain MEDINA. The approximate time would be about 1600 hours, sir.

Mr. REDDAN. Where were you then? How far east of My Lai?

Captain MEDINA. Sir, I was in the night defensive position, which was a cemetery, I believe, referred to as objective 1 here, which is approximately 1,500 to 1,600 meters from My Lai 4.

Mr. REDDAN. Who gave you those instructions?

Captain MEDINA. The task force S-3, Major Calhoun, sir.

Mr. REDDAN. He called you and told you to return. What did he tell you to do?

Captain MEDINA. He called me in the night defensive position, somewhere between 1600 and possibly 1630 hours, and he wanted to know approximately how many innocent civilians had been killed in My Lai 4. And I told him that I had seen approximately 20 to 28. And he said that he wanted me to go back there and make a thorough check, to determine how many innocent civilians had been killed.

Mr. REDDAN. Did the S-3 have the authority, to issue those instructions to you?

Captain MEDINA. That is a real good question, sir. The S-3 is a staff member and not authorized to command. But a lot of times the S-3—it depends upon who he is. With the task force, and Colonel Barker and Major Calhoun, I would say that he would probably be authorized, yes, sir.

Mr. REDDAN. Did he indicate that he was speaking for anyone else?

Captain MEDINA. No, sir, he did not. He said, "I want you to go back."

Mr. REDDAN. He didn't say something like, "Colonel Henderson wants me to run a check on this, or Colonel Barker wants me to run a check on this?"

Captain MEDINA. No, sir, he did not.

Mr. REDDAN. Did you have any conversation with him after that?

Captain MEDINA. Yes, sir, I did.

Mr. REDDAN. What did you tell him?

Captain MEDINA. I told him that I felt that due to the time it was, and what we had to accomplish as far as establishing a night defensive position, the reason being that other units had stayed down there at night and got hit each time that they stayed down there, either by mortar and small ground fire—that it would be better for me to establish a night defensive position.

The distance that I had to travel from the night defensive position to My Lai 4, with security, moving slow, was too great to go there and make a thorough check of the area and come back and complete my night defensive position.

Mr. REDDAN. Well, was the order countermanded?

Captain MEDINA. Major Calhoun came back, and I don't remember the exact words, he told me that he wanted me to go back to My Lai 4 and determine exactly how many civilians had been killed, and approximately that time Sabre 6, using his call sign, came in on the task force net—

Mr. REDDAN. That was General Koster?

Captain MEDINA. Yes, sir.

Mr. REDDAN. What did he do?

Captain MEDINA. Well, I don't know if it was General Koster.

Mr. REDDAN. Did he identify himself as Sabre 6?

Captain MEDINA. Yes, sir.

Mr. REDDAN. All right.

Captain MEDINA. He called and said, he said, "This is Sabre 6." He says, "Negative." He says, "I don't want him going back into that area. There is no need to go back into that mess. How many does he say were killed?" And I told him approximately 20 to 28. He says, "Roger. That sounds about right."

Mr. STRATTON. What was that he said? He said, "That sounds about right?"

Captain MEDINA. Yes, sir.

Mr. STRATTON. General Koster said that?

Captain MEDINA. Yes, sir.

Mr. HÉBERT. Sabre 6.

Captain MEDINA. Sabre 6 said, "That sounds about right."

Mr. STRATTON. Well, Sabre 6 was General Koster?

Mr. REDDAN. That was his call sign.

Do you know where Major Calhoun was when he was giving you these instructions? Was he airborne or back at the LZ?

Captain MEDINA. I don't know, sir. I am assuming he was back at the LZ.

Mr. REDDAN. Now, were you ever given instructions thereafter to go back?

Captain MEDINA. No, sir, I was not.

Mr. REDDAN. Were you ever given instructions or was it implied instructions, if not direct instructions, not to go back?

Captain MEDINA. No, sir, I was not.

Mr. STRATTON. Did Sabre 6 say that the reason you weren't to go back was because that was about right, 20 to 28 civilians? Or did he say that you would be in danger at that hour of the night and possibly booby traps and so forth?

Captain MEDINA. Mr. Congressman, Sabre 6 said over the radio, "Negative, I don't want him going back there, into that mess. What

does he say is the number of innocent civilians killed?" And I told him approximately 20 to 28, sir.

Mr. STRATTON. What did he mean by the "mess?"

Captain MEDINA. I don't know, Mr. Congressman. I didn't question Sabre 6.

Mr. REDDAN. Now, at any time during that day, did Colonel Henderson come out to visit you or talk with you?

Captain MEDINA. On March 16, sir?

Mr. REDDAN. Yes.

Captain MEDINA. No, sir, he did not.

Mr. REDDAN. Did anyone from the brigade—did Colonel Barker ever land his helicopter and come out and talk with you?

Captain MEDINA. No, sir, he did not. He might have landed his helicopter but he did not talk to me, and I did not see him land, sir.

Mr. REDDAN. Did you ever talk to anybody from the brigade or the task force? That is, did they come out in the field to talk to you?

Captain MEDINA. Yes, sir. At the night defense position, the task force S-2 came out to pick up the weapons we had captured.

Mr. REDDAN. That was Captain Kotouc?

Captain MEDINA. Yes, sir. And to give us instructions as to—I believe he gave us instructions as to which way we were to go, to continue the operation. And to make sure that Bravo Company and I, what our defensive posture was going to be, so that he could put it on the tactical maps back at the operation, and to forward that to the brigade so it could be forwarded to division, sir.

They plot all the locations of the night defensive positions and the posture of that unit on the maps at division, brigade and battalion, sir.

Mr. REDDAN. What was your Viet Cong body count for the 16th?

Captain MEDINA. For the 16th, sir, the total combined body count for Bravo Company—

Mr. REDDAN. Just Charlie.

Captain MEDINA. I believe it was 85, sir. Or 80 or 85, sir.

Mr. REDDAN. Who was responsible for reporting the bodies so that they could be totaled? Who would report these?

Captain MEDINA. To be totaled where, sir?

Mr. REDDAN. Well, I mean eventually they were all added up.

What I want to know, did your platoon leaders have the responsibility of reporting to you, or did the responsibility belong to the platoon leaders?

Captain MEDINA. The platoon leaders give it to me. Well, the people, the squad leaders, members of the squad, give it to platoon leaders, to the squad leaders. The squad leaders, depending upon how they work, the platoon sergeant or platoon leader, to me, sir. And I would total the company body count and send it to the task force, where they would total the entire task force body count for that day, sir.

Mr. REDDAN. You stayed in the field for how long?

Captain MEDINA. We were airlifted back to LZ Dottie on the 18th of March, sir.

Mr. REDDAN. Did you return to the LZ Dottie at any time prior to the 18th?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. When you returned to LZ Dottie on the 18th, were you thereafter interviewed by anyone with respect to your March 16 operation?

Captain MEDINA. No, sir, I was not.

Mr. REDDAN. Did any intelligence officer ever interview you within two to three weeks after March 16?

Captain MEDINA. No, sir. No intelligence officer interviewed me. There was an intelligence officer present.

Mr. REDDAN. During an interview?

Captain MEDINA. Yes, sir.

Mr. REDDAN. When did this take place?

Mr. DICKINSON. Before you get into that, have you established what they did on the 17th?

Mr. REDDAN. I was just going to skip over that.

Mr. DICKINSON. Well, could we just go into that?

What did you do on the 17th?

Captain MEDINA. On the 17th, sir, I was instructed to conduct search and destroy operations—

Mr. DICKINSON. You swept south into the extension?

Captain MEDINA. AO here, yes, sir, with one platoon establishing an observation post on Hill 85, because the VC, lots of times, moved back behind the American units once they go through.

I again told the Task Force 3 that I did not think it wise to establish an observation post on Hill 85, because that's behind. It was marked on the map. And he told me that that was the top of the hill, that I should not send the outpost that far up the hill. That way there would be no danger of the mines.

So, I instructed the first platoon to move up to the side of the hill, high enough where they would be able to observe to the rear of Hill 85, in the rear of our movement as we proceeded south, sir.

Mr. DICKINSON. Then you proceeded to make a sweep south?

Captain MEDINA. Yes, sir.

Mr. DICKINSON. And back, and that took up all of the 17th?

Captain MEDINA. Yes, sir.

We were here at approximately 1600 hours, when I received word to pull back because we were almost out of artillery support range for our night defensive position. And we established night defensive position in a graveyard, vicinity of—which would be My Lai 1, sir.

Mr. DICKINSON. Did you meet any resistance of any significance during that sweep? Did you make contact?

Captain MEDINA. We did not receive any resistance. However, we captured three VC—male VC—and one VC nurse.

Mr. DICKINSON. Then it was the next day you airlifted out?

Captain MEDINA. On the 18th.

Mr. DICKINSON. On the 18th?

Captain MEDINA. Yes, sir.

Mr. DICKINSON. And during the 17th, there was no reason why you couldn't have gone—at least a portion of your group made a swing back through My Lai 4, if someone had wanted you to?

Captain MEDINA. No, Mr. Congressman.

Mr. DICKINSON. You had no urgent mission that would require you to make this sweep to the south, nor was the danger to you such during daylight hours of the sort that you couldn't have sent a detail over there to make a count that had initially been requested of you and then changed; would that be correct?

Captain MEDINA. Well, Mr. Congressman, there is none that I know. However, the rifle company that had been brought in to help secure LZ Dottie while the three rifle companies were out in the field, was being combat assaulted to the west of Highway 1; and the reason for this was the prisoner that I had up against the tree and fired the three shots at, that I'm now accused of assault, gave us information that VC had moved, and he gave us the location north of Highway 1.

They conducted a combat assault with that company. So I do not know if that was the reason for moving me back to LZ Dottie on the 18th. I expected to be in the field longer, so I don't know the reason, or what the urgent mission would have been, sir.

Mr. DICKINSON. Well, of course, but so far as you know, you have told us there is no reason you can think of that you couldn't have at least sent a detail back to fulfill the first request, if someone had ordered to do so. That is, make a body count.

Captain MEDINA. No, Mr. Congressman.

Mr. DICKINSON. All right. Thank you.

Mr. REDDAN. Now, you have brought up this assault charge. I hadn't planned to go into it.

Do you want to tell us about it, or not? It's up to you, as far as we are concerned.

Mr. DICKINSON. If he doesn't have any objection, I'd like to know what it was about.

Mr. HÉBERT. We don't want the record to show that. He can tell you off the record.

All right, off the record.

(Discussion off the record.)

Mr. HÉBERT. Let's go back on the record.

Mr. REDDAN. Did there come a time, on March 18, when Colonel Henderson came out to the field to see you?

Captain MEDINA. Yes, sir, there was.

Mr. REDDAN. Did anyone accompany him?

Captain MEDINA. Yes, sir, there were two other people that got out of the helicopter, sir.

Mr. REDDAN. Do you know who they were?

Captain MEDINA. One was a Lieutenant Colonel Blackledge, and the other was a Lieutenant Colonel Luper.

Mr. REDDAN. Do you know what Blackledge's position was, at that time?

Captain MEDINA. Yes, sir, he was the 11th Infantry Brigade S-2, sir.

Mr. REDDAN. And how about Luper?

Captain MEDINA. Colonel Luper was the Commanding Officer of the 6th to the 11th Artillery, sir.

Mr. REDDAN. What was the purpose of the visit?

Captain MEDINA. I received a call, sir, on the radio, to secure a landing zone for the brigade commander. I secured an area. I did not know what the nature of the conversation was, or why he wanted to come in.

He got off the helicopter, the helicopter took off. I asked him and his group to come over where there was like a mound of dirt, so that they would be out of any sniper fire or anything like this. And we got down on the ground. We squatted down, or kneeled down. And he said, "Captain Medina, I'm out here to investigate informally if there were any war crimes committed by your people in My Lai 4."

He says, "Do you have any knowledge of this?" And I said, "No, sir, I do not." And he says, "Captain Medina, the helicopter pilot has stated you killed a South Vietnamese woman." He said, "Is this true?" And I said, "Yes, sir, it is; I did kill a South Vietnamese woman."

He said, "What happened?" I went through the procedure of telling him the incident of how I came to kill the woman, and he says, "Well, that's understandable under the circumstances, why you reacted the way you did."

And he asked me to call the helicopter back down. He got in the helicopter and departed, sir.

Mr. REDDAN. Did Colonel Blackledge take part in the conversation at all?

Captain MEDINA. No, sir, he did not. He did not talk to me or question me.

Mr. REDDAN. Or Colonel Luper?

Captain MEDINA. No, sir, he did not.

Mr. REDDAN. And that was the end of the incident?

Captain MEDINA. Yes, sir.

Mr. REDDAN. Were you ever asked to make a written report of the operations of the 16th, 17th, and 18th?

Captain MEDINA. No, sir, I was not.

Mr. MEDINA. Would you, at the company level, normally file an after action report?

Captain MEDINA. Not written, sir. I have never written an after action report as a company commander, sir.

Mr. REDDAN. Did you make a verbal after action report to anyone?

Captain MEDINA. No, sir, other than that one time, sir.

Mr. REDDAN. Well now, Colonel Barker filed an after action report. Did he discuss the operation with you, prior to making his report?

Captain MEDINA. No, sir. He did not.

Mr. DICKINSON. Excuse me.

From what was said earlier, I understand that the woman that you mentioned had something to do with a conversation between you and Colonel Henderson.

Was she mentioned? Did that have anything to do—was she brought up at all in your conversation with Colonel Henderson?

Captain MEDINA. Yes, she was.

Mr. DICKINSON. Tell us about that. If it's pertinent.

Captain MEDINA. Well, he asked me—he said—Mr. Congressman, do you want me to repeat it, sir?

Mr. DICKINSON. Yes. Tell us what it was.

Mr. HÉBERT. What we're interested in is the conversation, what took place with Henderson.

Captain MEDINA. Sir, Mr. Chairman, Colonel Henderson asked me, he says, "A helicopter pilot has stated that you killed a Vietnamese woman." He said, "Is this true?"

And I said, "Yes, it is." And he says, "What happened? Tell me what happened." So I explained to Colonel Henderson how I came about to kill the woman. And Colonel Henderson says, "Well, under those circumstances, it's understandable why you shot her."

Mr. DICKINSON. I had, in my mind, connected this with the nurse from the previous day. She had nothing to do with it? The woman you referred to was the woman you told us about shooting?

Captain MEDINA. Yes, sir.

Mr. DICKINSON. Fine.

Thank you.

Mr. STRATTON. Did you talk to a Sergeant Smail after you had had your conversation with Colonel Henderson?

Captain MEDINA. No, sir, no, Mr. Congressman, I did not.

Mr. STRATTON. Do you know a Sergeant Smail?

Captain MEDINA. There was a Sergeant Smail in the company, yes, sir.

Mr. STRATTON. And were you friendly with him?

Captain MEDINA. No, sir, no, Mr. Congressman, I was not.

Mr. STRATTON. And you didn't have any conversation with him after Colonel Henderson had spoken to you?

Captain MEDINA. No, sir, I did not.

Mr. STRATTON. You're sure about that, or not to your recollection?

Captain MEDINA. Mr. Congressman, I have read his statement, that he gave to the CID report, which is almost the same as it is in the Harper Magazine article there, sir. And I did not have any conversation with Sergeant Smail. I did not engage—if you will pardon the expression—in bull sessions with him. And I think I probably chewed him out more than a lot of the others. He was not a personal friend, Mr. Congressman.

Mr. HÉBERT. Colonel Henderson told you this was an informal inquiry? He used the word "informal"?

Captain MEDINA. Yes, Mr. Congressman.

Mr. HÉBERT. He did use the word "informal"?

Captain MEDINA. Yes, Mr. Congressman.

Mr. HÉBERT. All right.

Captain MEDINA. He did not read me Article 31, or anything like this, Mr. Congressman.

Mr. HÉBERT. All right.

Mr. REDDAN. Do you know whether Colonel Barker ever made any investigation of this My Lai incident?

Captain MEDINA. Mr. Reddan, when I returned back to LZ Dottie, I came in on the last helicopter. And I was informed by my people that Colonel Henderson had been there and was talking to them as they were coming in. He had departed LZ Dottie by the time that I got there.

Colonel Barker stated that Colonel Henderson had made inquiries to the people as they were coming in, or I don't know if he gathered them all in one group, or as they were coming over in the helicopters, as to if there had been any war crimes or any atrocities. And he asked me if I would check to make sure if anybody had any knowledge of any war crimes or any atrocities. And I told him that I had been questioned, that I was also under investigation for shooting the woman, and I told him that I would inquire.

I inquired. I could find out nothing. At no time did any member of my company ever come up and say that he saw something, or that he did something; and I relayed this information to Colonel Barker.

And he told me to tell my people that there was going to be an investigation into the operation of My Lai 4, and that they should refrain from discussing it among themselves, or to any outsider, unless it was from an investigating team.

Mr. REDDAN. Now, did you ever thereafter see any evidence of an investigation by Colonel Henderson?

Captain MEDINA. Yes, sir, I did.

Mr. REDDAN. What did you observe?

Captain MEDINA. When I appeared before the Peers Committee—

Mr. REDDAN. No, I meant out in the field, at that time.

Did Colonel Henderson have you call in any of your men for his interview, or did he ever ask you for a written statement? Did you actually see Colonel Henderson conducting any investigation?

Captain MEDINA. No, sir, I did not, and I rendered no report and I signed no reports that went forward of any investigation, that I know of, sir.

Mr. REDDAN. Did anyone connected with the action ever tell you that such an investigation was being conducted by Colonel Henderson?

Captain MEDINA. I never heard anything after that, sir.

Mr. REDDAN. Do you remember, after your return to LZ Dottie on the 18th, whether or not you went into the TOC and had any conversation with anyone in there relative to these allegations of civilian casualties at My Lai 4?

Captain MEDINA. Sir. I believe I went into the TOC, and Major Calhoun was there. I was quite perturbed, quite upset, about Colonel Henderson asking my people if there had been war crimes or any atrocities committed, about him questioning me; and I talked to Major Calhoun, you know, I just told him, "Yes, sir", I said, "This is a good way to end up."

And Major Calhoun was there, I believe the people that worked in the TOC were there, sir, but I never discussed anything with them. I was quite concerned. I was quite, I guess—shook up about it.

Mr. REDDAN. Excuse me. I don't want to interrupt you.

Captain MEDINA. I just say, I was quite concerned over the accusations, or the—

Mr. REDDAN. Now, did you, at any time, learn that a helicopter pilot had landed and interfered in any way with the operation of any part of your company?

Captain MEDINA. No, sir, I did not.

Mr. REDDAN. All right. Lieutenant Calley never reported any such incident to you?

Captain MEDINA. No, sir.

Mr. REDDAN. That's all.

Mr. HÉBERT. Mr. Gubser?

Mr. GUBSER. No questions.

Mr. HÉBERT. Mr. Dickinson?

Mr. DICKINSON. Yes, I have a couple of short ones.

Captain Medina, you told us that, in your opinion, there were some 20 to 28 civilians killed on your sweep through My Lai 4, as I recall.

That's your testimony; is that right?

Captain MEDINA. Yes, Mr. Congressman, it is.

Mr. DICKINSON. All right. And that would include the incidental—or maybe I'm phrasing it badly, to say incidental bodies—but the scattered bodies, the one in one place, and three in another place, and then a group in another place.

That was the total count; is that correct?

Captain MEDINA. Yes, Mr. Congressman.

Mr. DICKINSON. And you ascertained this number, or came to this number, by what you saw, plus interrogating your platoon leaders and asking them how many they saw?

Captain MEDINA. Yes, sir.

Mr. DICKINSON. Now, I'm not trying to put words in your mouth, I'm just trying to reconstruct what I understood you to say.

Now, wasn't this an inordinately large number of civilians, a very unusual occurrence for 28 to be killed in one sweep through one village?

Captain MEDINA. Mr. Congressman, I don't know, because I have never been on another operation of this type. I would have nothing to compare it with, other than the Tet Offensive, where I have read there were hundreds of civilians that were killed.

Mr. DICKINSON. Well now, Captain Medina, this was the only operation that you conducted?

Captain MEDINA. No, Mr. Congressman, it wasn't.

Mr. DICKINSON. You were there 1 year, weren't you?

Captain MEDINA. Yes, Mr. Congressman.

Mr. DICKINSON. Weren't you in combat most of that time?

Captain MEDINA. For the first 5 months, sir. Then I went back to Division Headquarters and I worked in the Division Tactical Operations Center, sir.

Mr. DICKINSON. All right. But your experience there, both in the field and at headquarters, must give you some basis of comparison, and some knowledge as to what is usual and what is unusual in civilian casualties, wouldn't it?

Captain MEDINA. Well, I have nothing to compare it with, Mr. Congressman. I found nothing unusual in it, Mr. Congressman.

Mr. DICKINSON. Well now, we've talked to other witnesses, and have other information, that you have to go through the formality of filing—that claims are filed, and then an investigation is made, and then I think it's assigned to—what is it? S-5?

Captain MEDINA. S-5, yes, sir. That does this type of thing. And that if they get more than two or three complaints out of one operation, that this was certainly unusual.

Mr. DICKINSON. You have no basis of comparison and no reason for you to think that 28 was unusual?

Captain MEDINA. Well, Mr. Congressman, I do know that the South Vietnamese will put a claim against the American Government over there for anything.

Mr. DICKINSON. I know, but you saw 28 bodies, you said?

Captain MEDINA. Yes, sir, and from the accusations of any war crimes or atrocities after I left there, I never heard of an investigation. I never thought that there was a massacre or any war crimes committed; and I, myself, feel that if they had been loyal South Vietnamese, of the 20 to 28 that I saw, that they would have gone to the South Vietnamese Government at Quang Ngai and at least asked for the grievance money that was due to them.

Mr. DICKINSON. I understand what you say. And regardless of whether there was any culpability on their part by remaining there, being sympathizers, and so forth, my only point is that I wanted you to tell me if, in your entire experience there, 28 noncombatants killed in one operation, against one hamlet, was not unusual.

And you say you have no way of knowing whether it was unusual or not?

Captain MEDINA. No, Mr. Congressman, there is nothing that—no other operation I can compare it with to say that it was unusual.

Mr. DICKINSON. Well, that's a little hard for me to understand, but I will move on to another point.

Now, when Captain Kotouc—

Captain MEDINA. Well, sir, Mr. Congressman, I have nothing to really compare that with. I mean, as far as my seeing 28 civilians that were not supposed to be there, I felt that this is bad or wrong, because the intelligence information wasn't correct. They were not supposed to be there.

Mr. DICKINSON. Now, that's another point I wanted to raise, and I was out of the room, over on the floor, doing another part of my job, and I don't know if you covered this or not.

Have we covered, during the hearing here, the intelligence you were given as to what you could expect when you arrived there at 7:30? Has that been covered here?

Mr. HEBERT. Yes.

Captain MEDINA. Yes.

Mr. DICKINSON. So you were led to believe that there would be no civilians there, and that anyone you found there, as far as you were concerned, were combatants and were expected to give some resistance to you?

Captain MEDINA. Yes, sir. Yes, Mr. Congressman.

Mr. DICKINSON. How long had you been in the country, at that time? How long had you been a company commander in charge of operations?

Captain MEDINA. Well, I had been a company commander approximately 16 months, by that time, sir.

Mr. DICKINSON. All right.

You had been in combat how long?

Captain MEDINA. Since December 1, sir.

Mr. DICKINSON. December 1. All right.

Well, was there anything remarkable about this sweep of Task Force Barker that would make this thing stand out in your mind more than any of the other combat operations that you took part in? Was there anything unusual about it?

Captain MEDINA. Well, Mr. Congressman, we went into the Pinkville area and we did not meet the resistance that other companies and units had in the past. The number of Viet Cong that had been killed—

Mr. DICKINSON. Well, was there anything unusual about the weapons captured in that operation, that day?

Captain MEDINA. No, Mr. Congressman. They were American weapons that we had given to the South Vietnamese Army.

Mr. DICKINSON. Was there anything unusual about the number of weapons captured that day?

Captain MEDINA. No, Mr. Congressman.

Mr. DICKINSON. I would assume from what you say, then, that you captured as many weapons as you normally would from a body count of the number that you turned in?

Captain MEDINA. Well, Mr. Congressman, I would say that from reports that I have heard while I worked at division headquarters, that it was comparable.

Mr. DICKINSON. It was comparable. All right.

Now, when Captain Kotouc came to see you, it was on what day? The same day, the 16th?

Captain MEDINA. Yes, Mr. Congressman.

Mr. DICKINSON. And what was—tell me again the purpose of his visiting you, by setting his chopper down and alighting and coming out and talking with you. Why did he do that?

Captain MEDINA. Well, Mr. Congressman, he brought some national police, South Vietnam national police with him.

Mr. DICKINSON. How many? Was it a large group, just two or three, or what?

Captain MEDINA. I believe there were nine, sir. I'm not sure of the exact number.

Mr. DICKINSON. All right.

Captain MEDINA. And he also came out to get the defensive posture of Bravo and Charlie companies, since both of us were going to marry up and remain overnight in one position, so that he could get it back to the tactical operations centers and send it up to the division.

Mr. DICKINSON. And did he relate to you a complaint against you or your men that he had earlier that day, as to civilian injuries or casualties?

Captain MEDINA. No, Mr. Congressman.

Mr. DICKINSON. He said nothing about that?

Captain MEDINA. No, Mr. Congressman.

Mr. DICKINSON. All right. No further questions.

Mr. GUBSER. Captain, in light of information which has come to your attention since the alleged incident occurred, is it still your opinion that there were only 28 civilian casualties? Or do you think there could be more?

Captain MEDINA. Well, Mr. Congressman, since I have been formally charged, since—not formally charged, but since I have had charges placed against me—there are certain CID statements that have been made available to us that I have been going over, trying to read and make certain notations on the various statements. Individuals there state various things, as well as various articles that have appeared in Time, Life, and the latest issue of Harper's magazine.

Apparently, something did happen there, of a larger magnitude or proportion than what I saw or what I observed, and what I have reported, Mr. Congressman.

Mr. GUBSER. Thank you.

Mr. HÉBERT. Mr. Stratton?

Mr. STRATTON. Yes.

Captain, you conducted a pre-operation briefing the night of March 15, before you went into My Lai 4, is that correct?

Captain MEDINA. Yes, Mr. Congressman.

Mr. STRATTON. For your men in your company?

Captain MEDINA. Yes.

Mr. STRATTON. Where did this take place?

Captain MEDINA. This took place at LZ Dottie, in front of my CP at LZ Dottie. It was in an old artillery position, and it was on one of the banks of the artillery position.

Mr. STRATTON. Was this in a tent or in the open, or what?

Captain MEDINA. It was in the open, Mr. Congressman.

Mr. STRATTON. And that briefing took place immediately following a funeral service for Sergeant Cox?

Captain MEDINA. Mr. Congressman, I had a memorial service for Sergeant Cox. I cannot remember the exact date when Sergeant Cox was killed, or when the memorial service was held. I have read the article in Harper's magazine, and it indicates that it was the same day that the memorial service was for Sergeant Cox.

Mr. STRATTON. You wouldn't dispute that?

Captain MEDINA. Sir, Mr. Congressman, I don't know. I'm going to have to try and find out when Sergeant Cox was killed.

Mr. STRATTON. From your recollection, I say, you wouldn't dispute it, is that correct?

Captain MEDINA. Oh, Mr. Congressman, I will dispute very much of what Mr. Hersh has written in that article.

Mr. STRATTON. I'm not talking about any article now. I'm just asking you some questions.

Captain MEDINA. I'm sorry, Mr. Congressman, I misunderstood. I thought you were referring to that being the article.

Mr. STRATTON. I'm asking you questions; and what I want are answers to questions.

Would you dispute that it took place after a funeral service? Is it possible that this might have been the sequence, or are you clear that it wasn't the sequence?

Captain MEDINA. Mr. Congressman, it's possible. I'm not clear.

Mr. STRATTON. All right.

Now, could you tell us again your instructions to your men in connection with this operation? I think you answered this before, but could you just run over—I think you went into some detail as to the instructions you got from Colonel Barker, but could you give us your instructions to your men?

Captain MEDINA. Yes, Mr. Congressman.

I instructed my people that we were going to conduct a combat assault at 0730 hours, from LZ Dottie, onto the landing zone vicinity of the village of My Lai 4; that intelligence reports indicated that the 48th Viet Cong battalion was in the village of My Lai 4, and that they were preparing fortified positions; and we could expect to engage them in heavy combat.

Mr. STRATTON. Did you tell them that they were going to outnumber you about 2 to 1?

Captain MEDINA. I emphasized to them, Mr. Congressman, that the estimated number of a Viet Cong battalion runs from 250 to 270, and that we would be going in with 105, and that we would be outnumbered approximately 2 to 1.

Mr. STRATTON. Did you really expect to be outnumbered 2 to 1?

Captain MEDINA. Yes, Mr. Congressman, I did.

Mr. STRATTON. Was the commanding general aware that you were taking on an operation of that magnitude, outnumbered 2 to 1?

Captain MEDINA. Mr. Congressman, I don't know what the commanding general was aware of.

Mr. STRATTON. Is it the practice of our units to go into combat outnumbered 2 to 1?

Captain MEDINA. Mr. Congressman, I do not know.

Mr. STRATTON. Well, from your experience, you were there in command of field operations for several months, were you not?

Captain MEDINA. Mr. Congressman, I can tell you that what is currently being taught at the U.S. Army Infantry School to the career officers at Fort Benning, Ga., and I assume it is on the program of instruction for the Command and General Staff College.

Mr. STRATTON. I am not interested in what is being taught. I am interested in your experience in Vietnam. Did your experience indicate that our units would go into combat expecting to be outnumbered 2 to 1?

Captain MEDINA. Mr. Congressman, the majority of the rifle companies in Vietnam are under strength.

Mr. STRATTON. That doesn't answer my question.

Captain MEDINA. Well, normally, Mr. Congressman, when you conduct a combat assault, you are going against a force of an unknown size.

Mr. STRATTON. Well, it might be unknown, but I say I have never heard of an American force going in outnumbered. We usually go in with at least a margin on our side of 2 to 1. Wasn't that your experience, too?

Captain MEDINA. No, Mr. Congressman, it was not.

Mr. STRATTON. All right. What else did you tell your men?

Captain MEDINA. I told them that the 48th VC Battalion would be in fortified positions, that they could expect to be engaged in heavy combat.

Mr. STRATTON. What did you tell them to do?

Captain MEDINA. I told them to engage the enemy, to kill the enemy. I also told them that we would have gunship support, double coverage of gunship support, and artillery support, to help make up for the difference in the ratio between the two forces.

Mr. STRATTON. You told them to burn the hootches?

Captain MEDINA. Mr. Congressman, I told them to destroy the village of My Lai 4 by burning it, destroying the crops, destroying the livestock and closing the wells.

Mr. STRATTON. And you told them that everybody they encountered there would be a soldier, is that correct?

Captain MEDINA. Mr. Congressman, I did not use the word "soldier." I used the word that all we would expect to find there would be the 48th VC Battalion.

Mr. STRATTON. And the civilians would all be out to market, right?

Captain MEDINA. Yes, Mr. Congressman, that the civilians would be gone at 0700 hours. That is why the artillery was planned at 0720 on the village.

Mr. STRATTON. Did you tell them not to take any prisoners?

Captain MEDINA. No, Mr. Congressman, I did not.

Mr. STRATTON. Did you tell them that we are going to make the village uninhabitable?

Captain MEDINA. I do not know, Mr. Congressman, if I used those words.

Mr. STRATTON. Well, if you told them to burn the hootches and destroy the livestock and plug up the wells, that would be almost the same thing, would it not?

Captain MEDINA. It could be interpreted that way, Mr. Congressman, yes, sir.

Mr. STRATTON. Now, you said that Colonel Barker was an officer who was very careful of civilians, and always wanted the Vietnamese to be treated with proper respect. Did you reiterate that particular instruction to your men before you went in, as a part of that briefing?

Captain MEDINA. No, Mr. Congressman, I did not make any reference to the handling of civilians at My Lai 4 on that operation.

Mr. STRATTON. You didn't suggest the possibility that there might somehow be some civilians and in that case there should be certain special instructions with regard to them?

Captain MEDINA. No, sir. It never entered my mind that there would be any civilians there.

Mr. STRATTON. And the troops generally got the idea that the purpose of the operation was to destroy the area?

Mr. BAILEY. He will not answer that question.

Mr. HÉBERT. Mr. Stratton, I suggest that everything you are asking the captain now we have covered already. You are just putting the questions in a different form. He made a statement on what he said he did, and it is all covered.

Mr. STRATTON. Well, I am trying to get the nature of the instructions to the troops on this particular point.

Mr. HÉBERT. He gave that. He made a statement that way.

Mr. STRATTON. Well, let me switch to another point, then, if I may.

I asked earlier, with respect to the instructions that you got from Major Calhoun, with reference to the shooting of civilians inside the village. You said that you, at that point, were on the southern part. I think we had the photograph there. You were on the southwest portion of My Lai Village. Southwest corner of My Lai Village. You then simply radioed in to your platoon commanders and asked them again—what was it?

Captain MEDINA. I didn't ask them anything, Mr. Congressman.

Mr. STRATTON. Well, I have forgotten exactly what you said you told them.

Captain MEDINA. Oh, what I told my platoon leaders after I had received instruction from Major Calhoun?

Mr. STRATTON. Right.

Captain MEDINA. To insure—or stop any shooting of innocent civilians.

Mr. STRATTON. Right.

Captain MEDINA. I radioed to them, Mr. Congressman, and told them to insure that their people were not shooting and did not shoot any civilians.

Mr. STRATTON. And what response did you get to that message?

Mr. HÉBERT. He has testified to all that already. I don't want to cut you on this, but all this has been gone over. His testimony was he got a roger back on it.

Mr. STRATTON. I just want to make sure whether anything else was said other than just "Roger." Is that all that was replied?

Captain MEDINA. Yes, Mr. Congressman.

Mr. STRATTON. Did Lieutenant Calley say something about having to check out some VC?

Captain MEDINA. No, Mr. Congressman.

Mr. STRATTON. Well, Captain, did you subsequently go into My Lai Village?

Captain MEDINA. Mr. Congressman, I decline to answer that question on the grounds that it has been covered.

Mr. HÉBERT. I will say this, Captain. This is not a valid reason why you can't answer that question. You can take the fifth on it, but you can't make that kind of reply. I will protect the repetition, all right, but unless you want to take the fifth amendment, you will answer the question.

You can't come to the conclusion of why you won't answer.

Captain MEDINA. Mr. Chairman, could my counsel make a statement for the record?

Mr. HÉBERT. No, sir. Counsel is only here to advise you on your legal rights.

Mr. DICKINSON. May I ask an inquiry?

Mr. HÉBERT. Wait a minute.

Mr. STRATTON. I am trying to get an answer here.

Mr. DICKINSON. I didn't know there was a question pending. I beg your pardon.

Mr. REDDAN. You want the question read back to you?

Captain MEDINA. Yes, please.

Mr. REDDAN. Would you read the question back, please?

[The question was read back.]

Captain MEDINA. Yes, Mr. Congressman, I did.

Mr. STRATTON. And what time would that be, approximately?

Captain MEDINA. Mr. Congressman, that would be somewhere between the hours of—it was after the medevac of the individual that had been wounded. It would be somewhere between 1025 and possibly—sometime between 1000 and 1025 hours, sir.

Mr. STRATTON. Now, you were the company commander, and where you were located was therefore, by definition, the company CP, is that true?

Captain MEDINA. Yes, Mr. Congressman, it could be termed that, although I did not officially establish a command post, yes, Mr. Congressman.

Mr. DICKINSON. May I make a parliamentary inquiry?

Mr. HÉBERT. Yes.

Mr. DICKINSON. It is now approximately 10 minutes to 5, and we have been here most of the day, and we have got a very important bill on the floor. It is to me. I want to make a speech on part of it. How long do we—

Mr. HÉBERT. We have two more witnesses.

Mr. DICKINSON. How long will we go today, and when will we meet again?

Mr. HÉBERT. Tomorrow afternoon.

Mr. DICKINSON. Two more witnesses today?

Mr. HÉBERT. Yes, sir.

Mr. STRATTON. Let me ask one other question. Did you conduct any investigation or make any effort to determine whether there had been

any unnecessary killing during the My Lai operation, other than to simply ask the platoon leaders in question?

Captain MEDINA. No, Mr. Congressman, I did not pursue it any further, because of my observations and the report that I had already given, and Colonel Barker told me that there was going to be an investigation conducted.

Mr. STRATTON. That is all I have, Mr. Chairman.

Mr. REDDAN. I have one question.

Mr. HÉBERT. All right.

Mr. REDDAN. Captain, as far as I know, you have not been charged with failing to report any information, have you? Oh, you have. Well, then, I won't ask you the next question.

Mr. LALLY. May I ask a question?

Mr. HÉBERT. Yes.

Mr. LALLY. Captain, I believe I understood you earlier in your testimony to say that Colonel Barker said he had permission to destroy the village, the huts, the hootches, the foodstuffs, et cetera, in the village?

Captain MEDINA. Yes, sir.

Mr. LALLY. Did he say from whom he had obtained that permission?

Captain MEDINA. No, he did not, sir. I assumed it came from the South Vietnamese. That was the normal procedure, and that is who he would have had to have gotten it from.

Mr. LALLY. Was this permission to destroy the hootches and foodstuffs standard operating procedure in your area there?

Captain MEDINA. No, sir, it was not.

Mr. LALLY. This was an unusual incident for this operation?

Captain MEDINA. As far as destroying the foodstuffs and the livestock, yes, sir.

Mr. LALLY. Captain, did you, on that morning of the 16th, observe a large group of people leaving the village, at or about the time of your landing there?

Captain MEDINA. It was shortly after we landed, sir.

Mr. LALLY. That was the group which you previously described as about 80 people?

Captain MEDINA. No, sir.

Mr. LALLY. Oh.

Captain MEDINA. There was another group that, approximately, I believe, 20, 20 to 40 people, that moved out from the village north of My Lai 4, which is located approximately—it is covered, and they moved out this way here, sir.

Mr. REDDAN. I think Mr. Lally is making reference to some testimony which we have had that a large exodus took place at the conclusion of the artillery prep; they moved south to the main road to Quang Ngai and then across to Quang Ngai. Did you observe any such movement?

Captain MEDINA. I did not observe that, but I know of the report.

Mr. REDDAN. But you didn't observe it yourself?

Captain MEDINA. No, sir, I did not.

Mr. LALLY. Captain, was Captain Kotouc the only staff officer from Task Force Barker who came out either to the village, or to your night defensive position that day?

Captain MEDINA. Staff officer from the task force?

Mr. LALLY. Yes, sir.

Captain MEDINA. Sir, Captain Kotouc did not come to the village of My Lai 4. He was the only staff officer that did come out that day, and he came out to the night defensive position, which is labeled "objective" here.

Mr. LALLY. But Major Calhoun never came out either to the village, or to the night defensive position, did he, sir?

Captain MEDINA. No, sir, he did not.

Mr. LALLY. That is all I have.

Mr. REDDAN. At any time after the March 16 operation, did you ever receive any directive, instruction, or suggestion from higher authority that there should be no discussion of what took place at My Lai 4 on March 16?

Captain MEDINA. Sir, Colonel Barker had instructed me to tell the people that they should not discuss this among themselves, or with any outsiders, because there was going to be an investigation conducted, and that they should talk to the investigators.

Mr. REDDAN. Did he say whether he had received any instructions from higher up?

Captain MEDINA. No, sir, he did not.

Mr. REDDAN. And this is the only instruction you received?

Captain MEDINA. Yes, sir.

Mr. HÉBERT. And that was prior to the so-called investigation by the proper authorities in the Army?

Captain MEDINA. The IG, Mr. Chairman?

Mr. HÉBERT. Yes, sir. Now, carrying through further, since this thing has become a cause celebre, and everybody is an authority on it, and writes books and articles on it, and knows everything that has gone on, though they weren't there, has any such suggestion come down—now, I don't mean prior to the Peers Committee—I mean between the interim when this became public and to the time that it became a formal investigation on the part of the Army and the Congress?

Captain MEDINA. No, Mr. Chairman, it did not.

Mr. HÉBERT. All right. Thank you gentlemen very much. We appreciate your appearance.

[Whereupon, at 4:50 p.m., the subcommittee was adjourned.]

The subcommittee met, pursuant to recess, at 4:45 p.m., in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert (chairman of the subcommittee), presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Identify yourself to the reporter.

TESTIMONY OF DENNIS VASQUEZ

Mr. VASQUEZ. I am Dennis Vasquez, Route 3, Williamsburg, Va.

Mr. HÉBERT. Now, the Chair will instruct you as the Chair has instructed other witnesses. The subcommittee will give you full protection, and guard against an invasion of your privacy while you are here.

You do not have to speak to any reporters. You do not have to have your picture taken. You don't have to say anything. This is a decision that you make. I caution you, however, that you are in executive session and what goes on in here is not to be discussed. This is like a grand jury room. When you leave, you will leave through that door in the back there. There will be an officer to meet you there. There will be a reporter representing the news media who will ask you if you care to make a statement. And it is up to you whether you want to do so. If you say "No," he is finished and he leaves, and he can't compel you to.

Now, I caution you one other thing. If he says, well, will you tell us before the cameras, "I don't want to talk," that's tricky. Just don't fall for that. If you don't want to talk, don't talk. If you do want to talk, talk.

Now, stand and I will swear you in.

[Witness sworn.]

Mr. REDDAN. Mr. Vasquez, in March 1968 you were with the 6th Battalion, 11th Artillery, were you not?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Were you assigned as artillery liaison officer for Task Force Barker?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Now, we are particularly concerned with the operation which took place at My Lai 4 on March 16, 1968. Did you prepare any of the artillery overlays in connection with that operation?

Mr. VASQUEZ. Yes, sir, I can't recall whether it was prepared on an overlay, but I did plan preparation for the operation on the map.

Mr. REDDAN. I see; now, where were the shells supposed to impact? If you want to look at that aerial photograph behind you, My Lai 4 is directly in the center.

Mr. VASQUEZ. They were supposed to impact—

Mr. HEBERT. Would you stand aside and use your left hand as a pointer?

Mr. REDDAN. If you would rather look at the large map, you can do that. It doesn't make any difference. Whichever is easier for you.

Mr. VASQUEZ. We were supposed to impact in this general area here along this—

Mr. REDDAN. Along the west side of the village?

Mr. VASQUEZ. Right, sir.

Mr. REDDAN. Were any of them to impact south of the village?

Mr. VASQUEZ. No, sir.

Mr. REDDAN. Or on the village itself?

Mr. VASQUEZ. No, sir, just on—there was an LZ along this tree line there.

Mr. REDDAN. They were to impact along the tree line as well as the LZ?

Mr. VASQUEZ. A portion of it.

Mr. DICKINSON. That was the LZ?

Mr. VASQUEZ. It was in this general area. I can't pinpoint it exactly, but somewhere in this general area here, in this rice paddy, right there.

Mr. REDDAN. Were any of them to impact inside—when I say inside, I mean on the village side of the tree line?

Mr. VASQUEZ. No, sir.

Mr. REDDAN. Now, were you airborne over the area on the morning of March 16, when the initial marking round was fired?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. And where did it land?

Mr. VASQUEZ. I can't really determine from this photo map, but from here it was in this general direction here.

Mr. REDDAN. Approximately how far north of the village did it land?

Mr. VASQUEZ. I would say about 1,000 meters.

Mr. REDDAN. Now, were you airborne with Colonel Barker at that time?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Were you in contact with the artillery at LZ Uptight?

Mr. VASQUEZ. Yes, sir, with the fire direction personnel.

Mr. REDDAN. Did you give them corrections to crank into their firing?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Did they fire a further marking round, or did you tell them to begin immediately to fire for effect?

Mr. VASQUEZ. I believe that—this may not be—I really can't recall, but I think it was a correction to fire for effect.

Mr. REDDAN. And did you observe the results of the fire?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Could you tell us where the shells impacted?

Mr. VASQUEZ. They impacted, of course, in the LZ, and in various other points in this area here. Along here.

Mr. DICKINSON. You are indicating the village. Did you intend to do that?

Mr. VASQUEZ. No, sir.

Mr. DICKINSON. Did some fall within the village?

Mr. VASQUEZ. Some did fall within the village.

Mr. REDDAN. Can you be more specific as to where they did fall within the village? As you observed them?

Mr. VASQUEZ. I think some fell in here, here, generally in this upper northern tip there.

Mr. REDDAN. Now, did any of them fall in the southwest corner of the village?

Mr. VASQUEZ. No, sir, I don't recall seeing any there.

Mr. REDDAN. Did any of them impact on the eastern side of the village?

Mr. VASQUEZ. No, sir, I don't recall seeing any there. I don't think so.

Mr. REDDAN. At what altitude were you flying and at what distance from My Lai 4 were you when you were making these observations?

Mr. VASQUEZ. Well, we were actually orbiting up around this area, and then usually back behind the road here, and that was the general area we were, back behind this road here, observing, at an altitude, vertical altitude from the ground of about 1,400 feet, I think it was. Between 1,200 and 1,400 feet. And we were just orbiting around this one direction and then the other. I would say it was about—at a distance from the village of about—probably—well, back behind this road here. I would say about 1,500 feet or something like that, or maybe more, because it would be looking on a slant.

Mr. REDDAN. Do you feel that you were in a good position to observe the impacts?

Mr. VASQUEZ. Yes; I could observe the rounds from there well.

Mr. REDDAN. Did you ever relay any further instructions back to the artillery to make any further corrections in their firing?

Mr. VASQUEZ. No, sir, I don't recall making any other instructions to the artillery.

Mr. REDDAN. How many rounds would you say landed on the village?

Mr. VASQUEZ. I would say about between 10 and 20 rounds.

Mr. DICKINSON. That is on the village itself?

Mr. VASQUEZ. Right, sir.

Mr. REDDAN. Well, if the rounds weren't supposed to land there, wouldn't you have had any requirement to tell them to put in corrective changes in their fire?

Mr. VASQUEZ. Well, in the preparation this would be almost impossible because they were limited to a time sequence.

Mr. REDDAN. How much time did they have to fire?

Mr. VASQUEZ. I think they had about 4 or 5 or 6 minutes, something like that.

Mr. REDDAN. Well, I don't understand why you wouldn't have had time to call in further corrections, if you saw them landing on the village.

Mr. VASQUEZ. Well, the landing was scheduled to land at a specified time, and once the preparation was started, you just practically have to cancel the whole operation if you try to stop, you know, alter the time sequence.

Mr. REDDAN. Have you testified before the Peers Committee relative to this preparational fire?

Mr. VASQUEZ. Yes, sir. I don't think they were questioning the preparation so much as what happened, what occurred after the preparation.

Mr. REDDAN. Weren't you questioned about whether any of the artillery shells impacted on the village itself?

Mr. VASQUEZ. Yes, sir, I think so. I was questioned on that.

Mr. REDDAN. Do you recall whether your testimony before them differed in any way from your testimony here today?

Mr. VASQUEZ. No, sir. I don't recall where there was any difference in the testimony.

Mr. REDDAN. If anyone testified that some of the shells impacted in the southwest side of My Lai 4, would you dispute that?

Mr. VASQUEZ. Yes, sir, I would have to dispute it.

Mr. REDDAN. It was your observation that they were in the north-western side rather than the southwestern side?

Mr. VASQUEZ. Yes, sir. Because this was—

Mr. REDDAN. The western part of the village?

Mr. VASQUEZ. Because this was the location of the LZ here. So it would have to be a very erratic round, you know, or some mistake by the piece, to put it there.

Mr. REDDAN. Your first round was a thousand meters off, of course?

Mr. VASQUEZ. Yes, sir.

Mr. REDDAN. Now, did you have any responsibility for making a report that any of those shells landed on the village itself?

Mr. VASQUEZ. No, sir. To the best of my knowledge, I didn't have any, you know, requirement, because this was—I don't know if it

was considered an actual village or what. But it had been given, in other words, we had been given clearance to fire in that area for the preparation.

Mr. REDDAN. Had you been given clearance to fire on the village itself?

Mr. VASQUEZ. No, sir.

Mr. REDDAN. Did you thereafter ever hear an allegation that there had been civilian casualties as a result of artillery fire in My Lai 4 that day?

Mr. VASQUEZ. No, sir. Never did hear that. It was given to me by relay through the forward observer that there had been very considerable casualties as a result, which was what I forwarded to the battery and Uptight.

Mr. REDDAN. Well, were you with Colonel Barker all that day?

Mr. VASQUEZ. No, sir. As soon as the preparation was over, when I returned to Uptight, I returned there and remained at Uptight.

Mr. REDDAN. Were you in the TOC that day?

Mr. VASQUEZ. Yes, sir, for a portion of the day I was, yes, sir.

Mr. HÉBERT. Any questions?

Mr. STRATTON. No.

Mr. DICKINSON. Let me ask you one question. When you said that the interrogation that you had before concerned what occurred after the prep fire, what did you mean? Was there some other activity you were engaged in, or that the artillery was engaged in, after the cessation of the original prep fire?

Mr. VASQUEZ. No, sir. There was no artillery fired, but the Peers inquiry was concerned with whether I had any knowledge of any massacre occurring in the village.

Mr. HÉBERT. Did you have any knowledge or do you have any knowledge?

Mr. VASQUEZ. No, sir. Well, I do have knowledge, when I read it in the papers.

Mr. GUBSER. That is not necessarily knowledge.

Mr. DICKINSON. Until you read it in the newspapers recently, though, as long as you were in Vietnam, did you know of, or hear of, or hear rumors anything about a massacre or any civilian atrocities committed at My Lai 4?

Mr. VASQUEZ. No, sir. I never did hear about any massacre while I was there.

Mr. DICKINSON. All right, thank you.

Mr. REDDAN. I just have one other question. How long did you remain the artillery liaison officer with Task Force Barker?

Mr. VASQUEZ. I think I was there until April.

Mr. REDDAN. Now, if there were any findings that artillery fire had killed civilians at My Lai 4 on that day, should this matter have been brought to your attention?

Mr. VASQUEZ. Yes, sir. Well, I really can't say because I was not a commander of any units, so—

Mr. REDDAN. But you were the liaison?

Mr. VASQUEZ. Right, sir.

Mr. REDDAN. And as I understand it SOP for the artillery group was that if civilians were killed by artillery fire, they had certain special procedures they had to follow to investigate them. Now, if there

was a finding that civilians had been killed, would this normally have been brought to your attention?

Mr. VASQUEZ. Not necessarily, sir, because it would depend on who made the initial finding. Usually it would have been the forward observer.

Mr. REDDAN. How about a finding by Colonel Henderson that artillery fire had killed civilians at My Lai 4 on March 16? Should that have been brought to your attention?

Mr. VASQUEZ. I don't see where the findings made by a colonel—no, if he knew it, what could I do about it?

Mr. REDDAN. You could send it back to your colonel, back at the battery.

Mr. VASQUEZ. Right, sir, but, see, the colonel would have been Colonel Henderson's next step.

Mr. REDDAN. Do you know whether Colonel Henderson made such a report to the artillery group? Or to your commanding officer?

Mr. VASQUEZ. Not to my knowledge, no, sir.

Mr. REDDAN. All right.

Mr. HÉBERT. Thank you very much.

Mr. STRATTON. Yes, sir.

Mr. HÉBERT. Yes, sir.

Mr. STRATTON. I was out here for part of the time. Perhaps you answered this before. Did Colonel Henderson ever ask you about the possibility of casualties from artillery fire?

Mr. VASQUEZ. No, sir.

Mr. STRATTON. What was the name of the battery—is it the battery commander or battalion artillery commander who is located down there at Duc Pho?

Mr. VASQUEZ. The name of the battalion commander?

Mr. STRATTON. Wasn't there an artillery headquarters down there?

Mr. VASQUEZ. Yes, sir. Well, the battalion commander at Duc Pho is—in other words, —

Mr. STRATTON. What was his name?

Mr. VASQUEZ. It was my commander, too, Colonel Luper.

Mr. STRATTON. Colonel Luper?

Mr. VASQUEZ. And his job was to provide Colonel Henderson with artillery reports, plus be his adviser.

Mr. STRATTON. Right. Now, did you ever hear that Colonel Luper received a report on his evening briefing, on the night of March 16, that there had been excessive civilian casualties, possibly from artillery fire, and was concerned about that?

Mr. VASQUEZ. No, sir.

Mr. STRATTON. As liaison officer, would you not have kept in touch with the headquarters there?

Mr. VASQUEZ. Yes, sir. I am sure they would have informed me if that had been the case.

Mr. STRATTON. They never called you up to see if there was anything to it?

Mr. VASQUEZ. No, sir.

Mr. STRATTON. That's all. Thank you.

Mr. HÉBERT. Thank you very much.

Mr. LALLY. Mr. Chairman, may I ask him one or two questions?

Mr. HÉBERT. Yes.

Mr. LALLY. Mr. Vasquez, you attended the briefing before this operation, did you not?

Mr. VASQUEZ. Yes, sir. I wasn't there for the entire briefing. I was only there for—you mean the day prior to the operation?

Mr. LALLY. The day prior, yes, sir.

Mr. VASQUEZ. Right. I was there for a short—in other words, for part of the briefing. Not the entire briefing.

Mr. LALLY. What instructions, if any, were given at that briefing regarding the destruction of hootches and property during the operation?

Mr. VASQUEZ. I didn't—as long as I was there, no mention was made of any property, hootches or anything like this. And the only thing that was mentioned was that, first of all, I think it was Colonel Henderson was the first one that talked, and explained the purpose, the reason for the operation, and what enemy unit was supposedly there. And I think he gave the commanders a pep talk; he told them to make sure they closed in with the enemy, at this time, because they had failed to do it in the past.

Mr. LALLY. Did Colonel Luper at any time subsequent to this operation question you about the artillery fire during the operation?

Mr. VASQUEZ. No, sir.

Mr. LALLY. I have no further questions.

Mr. HÉBERT. All right. Thank you very much, sir. I appreciate your appearance and cooperation. [Witness excused.]

[Whereupon at 5:25 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 5:30 p.m. in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser and Mr. Dickinson, members of subcommittee. Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Identify yourself for the reporter.

TESTIMONY OF CAPT. DENNIS H. JOHNSON

Captain JOHNSON. Captain Dennis H. Johnson.

Mr. HÉBERT. Where are you stationed?

Captain JOHNSON. At the United States Army Aviation Company, Fort Bliss, Texas.

Mr. HÉBERT. Now, Captain Johnson, I will give you the instructions we have given all witnesses. I know you are represented by counsel, which is your privilege and your right. The subcommittee will protect your privacy completely and fully. We are not allowing anybody to invade that privacy. When you leave the room, you will leave by that door. You will be confronted there by an officer. You will also have there a newspaper reporter, who represents the whole news media. That reporter will ask you if you care to make a statement, or if you object to being photographed. That decision is your decision. If you say you will talk or you will answer his questions, that is up to you. If you say no, that you do not want to be interviewed, you do not want any pictures of you taken, you will be protected to leave and nobody will interfere with you at all. You have our full protection.

Now, the counsel is allowed to be here. The counsel is allowed to advise you. The counsel cannot testify or make any statement. But he is here to protect this witness' legal rights.

Now, I caution you, also, that you are in executive session, and nothing that occurs in this room is to be discussed outside of here. You understand that?

Major RAY. Yes sir.

Mr. HÉBERT. Any questions that you want to ask?

Captain JOHNSON. Yes, sir. May I request advice from my counsel during this session at any time?

Mr. HÉBERT. At any time that you consider advice necessary from the counsel. But he can only advise you. He cannot feed you an answer.

Major RAY. Yes, sir.

He has an opening statement. With your permission, he would like to read it.

Mr. HÉBERT. That's fine. He can make the opening statement, but as a lawyer you know what the right of counsel is in this type of a hearing, I am sure. I think you have been supplied already with the rules of the committee?

Major RAY. Yes, sir.

Mr. HÉBERT. Fine. So if you will stand now and be sworn. [Witness sworn.]

Mr. HÉBERT. Now, you have a statement you would like to make? You may read it.

Mr. REDDAN. Before doing so, will you identify yourself for the record, major?

Major RAY. Major Paul H. Ray, Judge Advocate General Corps, United States Army, appointed counsel for Captain Johnson.

Captain JOHNSON. Sir, I would like to make a statement. It is a matter of public record that as a result of the testimony before the Peers inquiry, I was informed on March 17, 1970, by the Deputy SJA, 1st Army, U.S. Army, that I was criminally charged with alleged violation of Article 92, Uniform Code of Military Justice, failure to obey lawful regulations.

The Staff Judge Advocate of 1st Army has undertaken a preliminary investigation of my charge through the medium of an Army prosecution team, prior to his recommendation to the Commanding General, 1st Army, on the disposition of my charge.

The maximum penalty imposable for this charge is a dismissal from the U.S. Army, confinement for 2 years, and total forfeiture of all pay and allowances. In view of the seriousness of the charge, the possible prejudice to my family and myself resulting thereto, and the legal proceedings which have been initiated against me by the U.S. Army, I consequently respectfully decline to answer any and all questions arising from this charge, by invoking my privilege against self-incrimination under the fifth amendment of the Constitution of the United States, and that such questions and answers would deny me due process rights, under the fifth and sixth amendments to the Constitution of the United States.

Mr. HÉBERT. All right, thank you very much. The statement is acceptable, and your plea is acceptable.

Mr. REDDAN. Of course, Captain, I am sure your counsel has advised you that you cannot invoke the fifth amendment to an entire inquiry. It has to be invoked with respect to each question when it is asked.

Therefore, we will ask you questions. If the questions are of such a nature that you feel that you cannot answer them, for the reasons you have just given, you must invoke the fifth amendment at that time, to each question.

Mr. HÉBERT. And you don't have to go through the whole statement, counsel. In other words, just advise him if he can answer or cannot answer.

Major RAY. Yes, sir.

Mr. HÉBERT. And that will suffice to say he declines to answer as previously stated.

Major RAY. Yes, sir.

Mr. REDDAN. Captain, how many tours of duty have you had in Vietnam?

Captain JOHNSON. Sir, I respectfully decline to answer.

Mr. REDDAN. Well, now, just a minute, Captain, before you decline to answer. I am sure your counsel has instructed you that the fifth amendment cannot be invoked facetiously or without good cause. If you have real reason to believe that the answer to the question propounded will in fact cause you to give incriminating evidence against yourself, you may then invoke it. However, it cannot be used as a device to refuse to answer questions which will not incriminate you. Have you been so instructed by your counsel?

Captain JOHNSON. May I speak with my counsel?

Mr. REDDAN. Yes; surely.

Captain JOHNSON. Sir, I have had one tour in Vietnam.

Mr. REDDAN. During what period of time was that, sir?

Captain JOHNSON. Sir, I respectfully decline to answer.

Mr. REDDAN. On what grounds?

Major RAY. The same previous grounds, sir, the fifth amendment.

Mr. REDDAN. Were you at any time assigned as an intelligence officer?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you attend any briefing operations of Task Force Barker?

Captain JOHNSON. Sir, I respectfully decline to answer on the grounds of the fifth amendment.

Mr. REDDAN. Did you conduct any briefing sessions yourself in connection with any Task Force Barker operation?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you have any intelligence with respect to the presence of noncombatants in the area of My Lai 4, on March 16, 1968?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you participate in any way in the assault by Task Force Barker on My Lai 4 on March 16, 1968?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you accompany Captain Medina on March 16, 1968 at My Lai 4?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you on March 16, 1968, enter the village of My Lai 4?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you on March 16, 1968, observe any civilian casualties in My Lai 4?

Captain JOHNSON. Sir, I respectfully decline to answer, under the provisions of the fifth amendment.

Mr. REDDAN. Did you on March 16, 1968 hear any radio transmissions relative to civilian casualties in My Lai 4?

Captain JOHNSON. Sir, I respectfully decline to answer, under the provisions of the fifth amendment.

Mr. REDDAN. Did any of the Task Force Barker officers land by helicopter at My Lai 4 on March 16, 1968?

Captain JOHNSON. Sir, I respectfully decline to answer, under the provisions of the fifth amendment.

Mr. REDDAN. On March 16, 1968, did you hear any radio transmissions in which Captain Medina was directed to return to My Lai 4, to make a body count?

Captain JOHNSON. Sir, I respectfully decline to answer, under the provisions of the fifth amendment.

Mr. REDDAN. Did you hear any radio transmission countermanding an order to Captain Medina to return to My Lai 4, on March 16, 1968, for the purpose of making a body count?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Did you have any requirement to report your observations of events at My Lai on March 16, 1968?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. REDDAN. Were you ever interrogated or interviewed by any investigator while you were in Vietnam concerning the alleged incident at My Lai on March 16, 1968?

Captain JOHNSON. Sir, I respectfully decline to answer, under the provisions of the fifth amendment.

Mr. REDDAN. Those are all the questions I have.

Mr. STRATTON. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. STRATTON. Could I ask a question? Captain, do you know a Sgt. Duong Minh?

Captain JOHNSON. Sir, I respectfully decline to answer—

Mr. STRATTON. Mr. Chairman—

Captain JOHNSON [continuing.] Under the provisions of the fifth amendment.

Mr. STRATTON. Mr. Chairman, I would like to get some clarification of the point that the counsel made earlier, that this amendment cannot just be taken on a wholesale basis.

Mr. HÉBERT. You tell me what is the basis of your question and I will make a ruling on it.

Mr. STRATTON. Well, I understand that Sergeant Minh had some conversation with Captain Medina, which would have no bearing whatsoever on Captain Johnson. But I was interested to know whether the captain knows the sergeant.

Major RAY. Sir, may I make a comment on this?

Mr. HÉBERT. I will make the ruling.

Major RAY. I just wanted to comment on Sergeant Minh, sir, who he was.

Mr. HÉBERT. Never mind who he was.

Major RAY. Yes, sir.

Mr. HÉBERT. The fact remains the witness has refused—has taken the fifth amendment—to even say what day he was in Vietnam. If he is forced to answer that question, it would place him in Vietnam at a time Captain Medina was there, and that is not in his own interest. And he does not have to answer that question.

Mr. STRATTON. That is all I have.

Mr. GUBSER. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. GUBSER. Captain Johnson, did you refuse to answer any questions put to you by the Peers Investigating Committee?

Captain JOHNSON. Sir, I respectfully decline to answer under the provisions of the fifth amendment.

Mr. HÉBERT. Any other questions? Thank you very much, Captain.

[Witness excused.]

[Whereupon, at 5:45 p.m., the subcommittee recessed.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Thursday, April 16, 1970.

The subcommittee met, pursuant to recess, at 2:10 p.m. in room 2339, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Mr. HÉBERT. Identify yourself for the reporter.

TESTIMONY OF SGT. ROY D. KIRKPATRICK

Sergeant KIRKPATRICK. Command Sgt. Maj. Roy D. Kirkpatrick.
Mr. HÉBERT. Where are you attached?

Sergeant KIRKPATRICK. Right now I am assigned to the 2d Battalion, 63d Armored, 3d Infantry Division, Fort Riley, Kans.

Mr. HÉBERT. You are accompanied by counsel?

Sergeant KIRKPATRICK. Yes, I am, sir.

Mr. HÉBERT. Counsel, identify yourself, please.

Captain DICELLO. Capt. Francis P. Dicello, Office of the Post Judge Advocate, Fort Myer, Va.

Mr. REDDAN. Sergeant, is the captain here at your own request?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Have you been charged?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Are you under investigation?

Sergeant KIRKPATRICK. Not to my knowledge, sir.

Mr. HÉBERT. Sergeant, the committee will give you full and complete protection of your privacy. As we explained to every witness, you do not have to talk to newspaper reporters unless you want to.

When you leave, you will leave through that door. The officer will be out there, and if any reporter or anybody comes up to you and asks you if you have anything to say, you do not have to say anything, if you do not wish to do so.

I would caution you, however, that this is an executive hearing, and what goes on in this room is the same status as a grand jury investigation, and you are not to discuss what takes place in here.

I think that about covers it. I just wanted to tell you this, to be sure you understand that you do not have to talk to anybody if you don't want to.

Now I will swear you in. Rise please.

[Witness sworn.]

Mr. REDDAN. Sergeant, have you been furnished a copy of the rules of the subcommittee?

Sergeant KIRKPATRICK. I have, sir.

Mr. REDDAN. Have you had more than one tour in Vietnam, Sergeant?

Sergeant KIRKPATRICK. No, sir, I have not.

Mr. REDDAN. When were you in the country?

Sergeant KIRKPATRICK. I was in the country commencing the 26th of November 1967, until approximately November 24, 1968.

Mr. REDDAN. And where were you physically located?

Sergeant KIRKPATRICK. The brigade was based at Duc Pho. That was my home base.

Mr. REDDAN. The 11th Brigade?

Sergeant KIRKPATRICK. 11th Brigade, yes, sir.

Mr. REDDAN. And that was your normal duty station, Duc Pho?

Sergeant KIRKPATRICK. That was the home base. I had two separate assignments while with the 11th Brigade. My initial assignment was as the operations sergeant for the 11th Brigade, and in June of 1968, then I was sergeant major for the 4th Battalion, 3d Infantry.

Mr. REDDAN. As of March 16, 1968, you were the operations sergeant of the 11th Brigade, is that right?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Did you take part or did you participate in any way in the planning for the March 16 operation?

Sergeant KIRKPATRICK. No, sir. Only by assisting in the reports and the preparation of the operations maps, in the initial preparation of it. As far as planning or directives, no, sir, I was not physically in that portion.

Mr. REDDAN. It might be well if you tell us in the beginning just what your duties were as operations sergeant.

Sergeant KIRKPATRICK. As operations sergeant for the 11th Brigade, my primary duty was supervisor over the enlisted personnel that were assigned to the three sections. This encompassed the supervision of posting of maps, supervision of manufacturing of reports, and maintaining of journals, and supervision of putting out overlays and operations orders.

Mr. REDDAN. What sort of overlays?

Sergeant KIRKPATRICK. The daily journals.

Mr. REDDAN. The daily journals of the brigade?

Sergeant KIRKPATRICK. As far as the brigade TOC was concerned, yes, sir, the operations portion.

Mr. REDDAN. Now, were journals sent to you from Task Force Barker?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. For your maintenance?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Of the division?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. The only ones then which you are talking about are the TOC journals for the brigade?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Now, you say you participated, or you were responsible for the preparation of overlays.

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Would these include artillery overlays?

Sergeant KIRKPATRICK. No, sir. Those were manufactured by the Field Art Coordinator, and provided to us already prepared.

Mr. REDDAN. I see.

Would you normally get artillery overlays for any operation of the brigade?

Sergeant KIRKPATRICK. Only for posting on our operations board, and for inclusion in files of operations orders when they were manufactured.

Mr. REDDAN. Would you normally have gotten the artillery overlays for the operation of Task Force Barker to be conducted on March 16, 1968?

Sergeant KIRKPATRICK. No, sir. I would not have—you are speaking of this specific operation?

Mr. REDDAN. Yes.

Sergeant KIRKPATRICK. No, sir, I did not get that overlay.

Mr. REDDAN. I mean would you normally have gotten an overlay of that sort for that type of operation?

Sergeant KIRKPATRICK. Me personally, sir?

Mr. REDDAN. Yes. Would it come to you as the operations sergeant for the brigade?

Sergeant KIRKPATRICK. No, sir. But if it came to the duty officer, or to the duty people in the TOC, then it would come to me, had it come in after the operation was completed, and they had completed all their posting on it, where I would have included it in the file.

Mr. REDDAN. Do you recall whether or not such an overlay came to you in connection with the March 16 operation of Task Force Barker?

Sergeant KIRKPATRICK. No, sir, I do not recall that.

Mr. REDDAN. Do you recall when you first learned of the proposed operation of Task Force Barker in the Son My area scheduled for March 16, 1968?

Sergeant KIRKPATRICK. Yes, sir. It would have been between 24 and 48 hours prior to the operation. Then only by way of requiring aircraft and making sure that we had our people coordinating the aircraft, getting the area AO extension, as they called it.

Mr. REDDAN. Did your duties require you to do anything in connection with the obtaining of the AO extension?

Sergeant KIRKPATRICK. Nothing other than insuring that the TOC duty people who had the direct contact with division got the AO extension cleared.

Mr. REDDAN. I mean was it your responsibility to see that those TOC people did get that AO extension?

Sergeant KIRKPATRICK. My personal responsibility, sir?

Mr. REDDAN. Yes.

Sergeant KIRKPATRICK. No, sir, it was not.

Mr. REDDAN. Had they not gotten it, would you have been required to do anything?

Sergeant KIRKPATRICK. Probably, sir, I would have been required to have made a trip or at least get on the telephone and make personal contact with the people up there, which would have possibly influenced or got answers for my S-3, which had the responsibility.

Mr. REDDAN. Now, did you have any contact with the 2d ARVN Division Headquarters concerning the civilian population, anticipated in My Lai 4 on the morning of March 16, 1968?

Sergeant KIRKPATRICK. I personally did not, sir.

Mr. REDDAN. Do you know whether any such information was received by the 11th Brigade on this subject?

Sergeant KIRKPATRICK. I attended staff briefings, which indicated that they had information indicating the residents of that area—I

speak of residents, reported to be the 48th main force battalion, with their dependents, I guess would be the proper word, supposedly residing in the peninsula area, which My Lai 4 is part of.

Mr. REDDAN. What about them?

Sergeant KIRKPATRICK. Well, the fact was that they were down there, but as I recall the briefing, the anticipated presence of their being in that area at the time of the operation was not—they were not expected to be there.

Mr. REDDAN. When and where did this briefing take place, do you recall?

Sergeant KIRKPATRICK. The briefing that I attended was at Duc Pho, in the brigade TOC, or the brigade briefing room, which is just outside or just adjacent to the brigade TOC.

Mr. REDDAN. Do you recall anyone else who was present during that briefing?

Sergeant KIRKPATRICK. Basically, sir, all the liaison officers from the brigade, and the normal staff that attended all the daily briefings.

Mr. REDDAN. Were any representatives of Task Force Barker there that day?

Sergeant KIRKPATRICK. I can't say for certain that there were, sir. It was normal to have a liaison officer from Task Force Barker attend these briefings, but there were times when aircraft availability precluded his being there and I couldn't say that he physically was present.

Mr. REDDAN. Do you recall who gave you the briefing with respect to the civilian population in the Son My area?

Sergeant KIRKPATRICK. No, sir. Specifically, I cannot—it would have been one of two people. It would have either been the S-2, or it would have been the S-5, both of which frequently took part in briefings conducted, or in the daily briefing.

Mr. REDDAN. Do you recall whether you had any intelligence from the 2d ARVN Division Headquarters to the effect that there were no civilians in the area?

Sergeant KIRKPATRICK. I can't answer that question honestly, sir. I had no physical knowledge of such. Coffee cup chatter indicated—

Mr. REDDAN. Don't rush on your answer, Sergeant. Just think about it a moment, and see if you can recall whether or not any intelligence did come in from the 2d ARVN Division on this point.

Sergeant KIRKPATRICK. On the specific point of the dependents not being present?

Mr. REDDAN. As to the possibility of civilians being or not being in the My Lai 4 hamlet on the morning of March 16, 1968.

Sergeant KIRKPATRICK. I have no knowledge of specific intelligence, sir, in that area. My job function again pertained to the operations portion, rather than the gathering of intelligence, and that portion always came to me secondhand, the intelligence portion.

Mr. REDDAN. Did you get any secondhand intelligence on that?

Sergeant KIRKPATRICK. Again as I say, the briefing which indicated the dependents were not supposed to be in the area, and then coffee cup chatter, as you have among noncommissioned officers and personnel, indicated that they were not supposed to be present.

Mr. REDDAN. You think that the S-2, you say, gave you this intelligence briefing on the civilians?

Sergeant KIRKPATRICK. It would have either been the S-2 or S-5, sir.

Mr. REDDAN. Do you recall approximately what he said about the presence of civilians?

Sergeant KIRKPATRICK. I couldn't quote him, sir.

Mr. REDDAN. No; I don't expect you to quote him, but just the sense of his remarks.

Sergeant KIRKPATRICK. Basically, it was expected that the civilians were to be absent from the villages or from the hamlets in that area because this was the normal marketing time for them to all go to market, and from past experience, it had been observed that they normally took their children with them when they left, and the indication that I got from the briefing was that these people would normally be absent from that area when we had expected to conduct our operation or our landing into that area.

Mr. REDDAN. Do you recall whether this information was given during the briefing in response to some questions which were raised during the briefing?

Sergeant KIRKPATRICK. No, sir, I don't recall just exactly how it came up.

Mr. REDDAN. Can you tell from your present recollection of what took place that day why this information was given to you during the briefing? Did they explain why they were giving you this information?

Sergeant KIRKPATRICK. I possibly should explain to you that the attitude of our commander, Colonel Henderson, required as complete a knowledge on any operations as he could possibly get, and in these briefings he had people that were directly involved with a specific function tell the group that attended the briefing what they knew of the operation, and what they had done in their planning procedures.

Mr. REDDAN. Well, now, during this briefing at that time, was Colonel Henderson the CO?

Sergeant KIRKPATRICK. Yes, he was.

Mr. REDDAN. He had just taken over that day, then, is that right?

Sergeant KIRKPATRICK. I am not certain it was that exact date that Colonel Henderson did relieve General Lipscomb.

Mr. REDDAN. The record shows he took over on the 15th of March.

Sergeant KIRKPATRICK. Then this would have probably been that day, yes, sir.

Mr. REDDAN. Did Colonel Henderson say anything to the briefers or to the assembled people in the briefing with respect to civilians or the lack of civilians that might be in My Lai 4 on March 16?

Sergeant KIRKPATRICK. I don't recall any specific mention from Colonel Henderson toward that, sir.

Mr. REDDAN. Then as I understand your testimony, you are saying that the briefer, as far as you know, just included this intelligence because Colonel Henderson wanted him to be as complete as possible on anything that might be involved in this operation scheduled for the 16th, is that it?

I am not trying to put words in your mouth, I am trying to see if I understand what you are saying.

Sergeant KIRKPATRICK. Would you restate yourself, sir?

Mr. REDDAN. Maybe you had better restate it yourself, as to just why you feel that the briefer told the assembled people there that it was anticipated that the civilians would not be in My Lai 4 at the time of the assault on March 16, because this was their normal market day and they would have left the hamlet.

Sergeant KIRKPATRICK. Well, as I explained earlier, Colonel Henderson required thorough briefings, and people in the specific area, operations, intelligence, S-5, which was the civil affairs officer, were required to expound to one completeness of their knowledge anything that would influence or affect any of our impending operations or operations that we had conducted that did affect them.

Mr. REDDAN. Was this part of Colonel Henderson's duties prior to his becoming the commanding officer of the 11th Brigade?

Sergeant KIRKPATRICK. Colonel Henderson's duties prior to his becoming the commander of the 11th Brigade at that particular time were those of the deputy commander for the brigade.

Mr. REDDAN. And did he, as deputy commander, require these things that you are telling us about now?

Sergeant KIRKPATRICK. Yes, sir. The staff answered to Colonel Henderson as far as their operation for their organization, and he guided them in their preparation of material for briefings, and assisted them wherever possible. He was quite thorough on this.

Mr. REDDAN. Well, now, did his thoroughness include any directions to the assembled people, persons there, who would be involved in the March 16 operation, as to what they should do in the event there were civilians found there that morning? That some civilians didn't go to market that day?

Sergeant KIRKPATRICK. Again, sir, I don't recall Colonel Henderson making a specific comment on that nature.

Mr. REDDAN. As I gather, then, he went along with the assumption that there would be no civilians, and nothing was said as to what the troops should do in the event they did encounter civilians?

Sergeant KIRKPATRICK. You are asking me to make an assumption of what Colonel Henderson—

Mr. REDDAN. No, I am just asking you to tell me what he said. Did he say anything about what should be done in the event civilians were found there?

Sergeant KIRKPATRICK. Again, sir, I don't recall Colonel Henderson making any statement directly towards that specific subject.

Mr. REDDAN. Did anyone else address himself to that particular anticipated problem?

Sergeant KIRKPATRICK. I don't recall that, sir.

Mr. REDDAN. Now, on the 16th of March, 1968, were you on duty at the brigade TOC?

Sergeant KIRKPATRICK. No, sir. My formal duty station was not in the TOC per se. I had an administration office, a drafting room, and the TOC personnel that I was required to overall supervise, so I pretty much floated from one place to another, insuring the presence and the continuation of the paper flow and the operation.

Mr. REDDAN. Now, were you in the TOC, the brigade TOC, during the early stages of the Task Force Barker operation on the 16th of March?

Sergeant KIRKPATRICK. In and out, sir.

MR. REDDAN. Did you hear any transmissions with respect to whether or not the LZ's were hot or cold?

Sergeant KIRKPATRICK. We got the reports from Task Force Barker that came in, that indicated the LZ's were cold.

MR. REDDAN. And that meant they were not receiving fire?

Sergeant KIRKPATRICK. Yes, sir.

MR. REDDAN. Now, were these reports coming in from the Charlie Company LZ?

Sergeant KIRKPATRICK. No, sir.

MR. REDDAN. I don't mean coming from them, but I mean were these reports concerning Charlie Company's landings?

Sergeant KIRKPATRICK. They concerned Charlie Company's landings and Bravo Company's landings, sir.

MR. REDDAN. The reports that you received indicated that neither Charlie Company nor Bravo Company received fire on landing?

Sergeant KIRKPATRICK. To the best of my knowledge, the LZ's were cold, sir.

MR. REDDAN. Did you receive any subsequent message to the effect that one of the LZ's became hot?

Sergeant KIRKPATRICK. We had, throughout the course of the morning, there were messages received that Charlie Company was receiving some fire. Specifically when and just which platoon, or which element of Charlie Company, I can't say right now.

MR. REDDAN. Now, these messages that came in concerning the operation, were these logged into your TOC journal?

Sergeant KIRKPATRICK. The ones that were directed to the task force headquarters, yes, sir. Or to the brigade headquarters.

MR. REDDAN. Well, did any of them come in that were not directed to the brigade headquarters?

Sergeant KIRKPATRICK. That gave reports on the operation?

MR. REDDAN. Yes.

Sergeant KIRKPATRICK. None that we received, sir.

MR. REDDAN. So that all of them you received were logged in?

Sergeant KIRKPATRICK. Yes, sir. We took our messages from the Task Force Barker Headquarters, and the reports that they relayed to us. We were almost 30 miles distant from the operation.

MR. REDDAN. Well, now, were you monitoring any nets other than the Task Force Barker net?

Sergeant KIRKPATRICK. Yes, sir. We monitored the air-ground operations net.

MR. REDDAN. Now, with whom would you be in contact? Would this cover the Aero-Scouts, for instance?

Sergeant KIRKPATRICK. Yes, sir.

MR. REDDAN. Would it cover the gunships from Duc Pho?

Sergeant KIRKPATRICK. When they come up on our frequency, sir. Not normally would the gunships be on our frequency, unless they were specifically directed to come up—the ground unit and the gunships come up on a common frequency for purposes of control and allowing the ground commander to maintain control of his troops without being interrupted by the controlling of the gunships.

MR. REDDAN. But you would be monitoring the Aero-Scouts frequently?

Sergeant KIRKPATRICK. No, sir. They would have to be on our air-ground frequency to be able to monitor them.

Mr. REDDAN. How about Colonel Barker's transmissions, when he was airborne? Would you be monitoring those?

Sergeant KIRKPATRICK. There was the chance we could monitor them, yes, sir. When we had this swing radio, as we called it, which was in the operations TOC, free radio that we attempted to monitor as much of the operations as we could. However, it was not continuously on Task Force Barker's operation. It was—we had three other battalions that we keyed into, maintaining contact with them.

Mr. REDDAN. Did you monitor Colonel Henderson whenever he was airborne?

Sergeant KIRKPATRICK. We had the brigade frequency that was monitored continuously, yes, sir.

Mr. REDDAN. How about the division frequency? Did you monitor that also?

Sergeant KIRKPATRICK. Yes, sir. The division—we were required to be checked into the division operations frequency, which was on a secure net.

Mr. REDDAN. Now, did any messages come in to the TOC that you know of, concerning civilians moving out of My Lai 4?

Sergeant KIRKPATRICK. I specifically did not hear that transmission. To the best of my recollection, there was a report from the air controller who indicated a large group of Viet Cong moving east from My Lai 4 during the morning hours.

Mr. REDDAN. Was anyone ordered to intercept them, do you know?

Sergeant KIRKPATRICK. The Bravo Company, sir.

Mr. REDDAN. Did you hear this transmission yourself?

Sergeant KIRKPATRICK. No, sir, I did not hear it.

Mr. REDDAN. How did you gain this information, this intelligence?

Sergeant KIRKPATRICK. This was information that was fed in at the end of the day's operation. It gave an operation summary.

Mr. REDDAN. And this would be included in the TOC journal?

Sergeant KIRKPATRICK. No, sir, it would not necessarily be included in the TOC journal. We had requirements to manufacture a daily summary that we had to forward to the division.

Mr. REDDAN. This would be then in the daily summary?

Sergeant KIRKPATRICK. It should be, sir.

Mr. REDDAN. Now, during the morning of the 16th, did you hear a transmission from a chopper pilot, apparently in contact with ground troops?

Sergeant KIRKPATRICK. I monitored one over the air-to-ground frequency that was a statement or a transmission directed to some station—I don't have any knowledge, I didn't catch the call to it—from an airborne station, which went something in this manner: "If you shoot that man, I will shoot you."

Upon hearing this, I approached the duty officer in the TOC, and we—

Mr. REDDAN. Who was that?

Sergeant KIRKPATRICK. To the best of my knowledge it was Captain Henderson, sir. Captain Henderson, the TOC duty officer, got on the telephone, called the Task Force Barker TOC to query what was going on. If I might be a little basic in language, our language: "I wonder what in the hell is going on there?"

The transmission gave no specific inference to who was going to shoot who, and which type of category it would be.

Mr. REDDAN. You didn't know who was making the transmission, and to whom it was going?

Sergeant KIRKPATRICK. No, sir.

Mr. STRATTON. How did you know it was on the ground, Sergeant?

Sergeant KIRKPATRICK. We could not monitor the ground stations return call, sir. The only stations that we were able to monitor on that net were the airborne stations. We were some 30 miles distant from the operation itself.

Mr. REDDAN. This was the air-to-ground net.

Mr. STRATTON. I thought you said you got the impression that this conversation took place on the ground.

Sergeant KIRKPATRICK. No, sir.

Mr. STRATTON. It was just on the air-to-ground net?

Sergeant KIRKPATRICK. It was on the air-to-ground net, sir.

Mr. STRATTON. I see. All right.

Mr. REDDAN. And did Captain Henderson get any response from—

Sergeant KIRKPATRICK. I am sure he did, sir. My duties took me out of the TOC then, back to the administration area, and I didn't personally get a feedback on that specific comment.

Mr. REDDAN. Did you ever attempt to get any further information on this?

Sergeant KIRKPATRICK. Not specifically, sir, I did not dig back and personally inquire into what type of an answer they got, or—it may have been passed to me that they were checking into it. I don't recall specifically.

Mr. REDDAN. Was this entered in your daily summary?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Why not?

Sergeant KIRKPATRICK. Because common practice and regulations don't allow us to enter rumor, or invalidated transmission, into our daily journal. This was an eavesdrop message, so to speak, one of which we set up to only keep ourselves a little more fluent as to what was going on, and you just can't journal that type of a statement. It is invalidated.

Mr. REDDAN. Well, now, from the nature of the intercept, would it be fair for you to assume that this was a call from a chopper connected with the Aero-Scouts?

Sergeant KIRKPATRICK. Those were the only ones that we had operating at the time. It would be safe to assume that.

Mr. REDDAN. Do you know whether or not any report of this—even though it was invalidated and you had reason to believe it came from the Aero-Scouts—was made to the Aero-Scout commander?

Sergeant KIRKPATRICK. I understood much later the pilot who made the transmission approached his commander.

Mr. REDDAN. Well, that is true. What I am trying to find out is whether anything went from the brigade up, as a result of this intercept that you are telling us about?

Sergeant KIRKPATRICK. From my TOC, sir?

Mr. REDDAN. Yes.

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Do you know whether or not Colonel Henderson passed any of this information either to Colonel Holladay or Major Watke or anyone?

Sergeant KIRKPATRICK. I have no knowledge of whether he did or not, sir. The call they made from the TOC in my presence was made to Task Force Barker inquiring basically as I stated before, trying to find out what was going on.

Mr. HÉBERT. Captain, don't prompt the witness.

Captain DICELLO. Well, Mr. Chairman, I think he left out something that he talked over with me.

Mr. HÉBERT. Don't prompt him.

Captain DICELLO. All right.

Mr. REDDAN. Do you recall hearing any transmissions that day or seeing any reports of transmissions in the TOC about civilian casualties or indiscriminate firing of our troops at My Lai 4?

Sergeant KIRKPATRICK. We had a report on some civilian casualties, as I recall, in the daily summary, of some being killed by artillery fire. I had no knowledge until very recently of indiscriminate shooting.

Mr. REDDAN. Where would you have gotten your report for inclusion in your summary about civilian casualties due to artillery fire?

Sergeant KIRKPATRICK. From my daily summary from the big standpoint?

Mr. REDDAN. Yes.

Sergeant KIRKPATRICK. I would have gotten it from the brigade S-2 section, sir. They maintained the reports on number of PW's captured, VC, or NVA, number of innocent civilians that had been separated out from the VC suspects. This sort of data came from the S-2.

Mr. REDDAN. Now, did you, as the operations sergeant, have any responsibility for reporting civilian casualties other than their inclusion in your daily summary?

Sergeant KIRKPATRICK. I personally had no such responsibility, other than to insure that the brigade TOC duty personnel notified the higher TOC, which was Americal Division TOC, of casualties that we either personally received as a result of our troops, or of the VC or civilian casualties that were had. These transmissions were made, relayed immediately upon receipt of the message, and many times prior to the time they were journaled.

Mr. REDDAN. Did you have any requirement for reporting civilian casualties by artillery fire, to the artillery group commander?

Sergeant KIRKPATRICK. No, sir. Colonel Luper was with the brigade commander in the area that day.

Mr. REDDAN. And who was Colonel Luper?

Sergeant KIRKPATRICK. He was the artillery battalion commander and also brigade artillery officer.

Mr. REDDAN. Well, of course, I am trying to find out whether or not there were any channels established for getting this type of information back to the artillery commander.

Sergeant KIRKPATRICK. Which artillery commander, sir?

Mr. REDDAN. The ones who were firing the preparation on this day from LZ Dottie.

Sergeant KIRKPATRICK. Colonel Luper was the brigade artillery officer, and he was on site during the operation with the brigade commander.

Mr. REDDAN. Well, that's true, but you may or may not have known of this, and I am just trying to find out if there were any channels through which this information should have been passed up from the

brigade to the artillery group up at LZ Uptight, or the commanding officer of that group?

Sergeant KIRKPATRICK. There were no channels from our headquarters requiring such a transmission, sir.

Mr. REDDAN. All right.

Now, did you subsequently hear that there were any other civilian casualties at My Lai 4 on the 16th, other than those killed by artillery fire?

Sergeant KIRKPATRICK. No, sir, I was not aware of them.

Mr. REDDAN. Did you hear from any source whatever concerning the civilian casualties that may have been caused by gunships?

Sergeant KIRKPATRICK. I don't recall them, sir.

Mr. REDDAN. Did you subsequently hear that there was to be any investigation made of the operation of Task Force Barker on the 16th?

Sergeant KIRKPATRICK. Later, approximately 10 days, 2 weeks after the operation, one of my typists was required to work for Major McKnight on a special report. On the completion of that report, Major McKnight one morning came out and said he was going to Americal Division with a report that Colonel Henderson had manufactured, reference an allegation by a pilot on mistreatment of civilians, as I recall. He had the report in hand and I have no knowledge of what was in it.

Mr. DICKINSON. Let me interrupt just a minute. Is the word "manufactured," is that your word, or is—

Sergeant KIRKPATRICK. That apparently is my word, sir.

Mr. DICKINSON. Well it is rather significant.

Sergeant KIRKPATRICK. I am sorry if I used the term.

Mr. DICKINSON. I just wanted to know if this is what you really meant to say, if this is what you heard him say or just your word. Did he mean to say this is something he prepared or manufactured, as meaning to make a complete fabrication?

Sergeant KIRKPATRICK. In the terminology that I meant it, it was one that he had, as a result of investigation, produced.

Mr. DICKINSON. All right, thank you.

Mr. GUBSER. You don't mean it in the sense that he made up something out of thin air?

Sergeant KIRKPATRICK. No, sir, absolutely not.

Mr. GUBSER. All right.

Mr. REDDAN. Let's go back to the beginning on that, if you will, Sergeant, and tell us, in as much detail as you can recall, just how you came to know about the requirement for a clerk-typist or I forget what title you gave them, to type a report for Major McKnight.

Sergeant KIRKPATRICK. Well, as I recall, the S-3 either asked me for a clerk or—

Mr. REDDAN. The S-3 was Major McKnight?

Sergeant KIRKPATRICK. Yes, sir. Or the clerk approached me. I don't specifically recall the exact circumstances of how the clerk was provided. The clerk may have approached me and told me that he had to work for Major McKnight, to identify his location, where I wouldn't be accusing him of being absent for some unknown reason.

This was not abnormal for the S-3 to require a clerk for specific jobs.

Mr. REDDAN. What was the specific job he required the typist for?

Sergeant KIRKPATRICK. I have no knowledge, sir. Again, I didn't question him.

Mr. REDDAN. Well, now, I want you to be very, very careful about your answers on this, Sergeant, because we want to make sure, just as sure as we can, that this record is accurate.

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Now, you recall having been interviewed on this matter by the subcommittee staff at an earlier date, do you not?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. And if it would be helpful to you, I would be very happy to refer to the transcript of your testimony at that time and ask for your comments on your testimony.

Let me go back here a little bit.

I asked you this question :

Mr. REDDAN. Did it ever come to your attention that there were civilian casualties at My Lai 4 that day?

Sergeant KIRKPATRICK. Later.

Mr. REDDAN. How much later?

Sergeant KIRKPATRICK. Some time around the 1st of April, I recall. There was an investigation.

Mr. REDDAN. By whom?

Sergeant KIRKPATRICK. As I recall the Colonel of the 6th of 11th Command—his name slips me right now, and Major McKnight, ran an investigation to an alleged indiscriminate shooting that was put in by one of the pilots from the Warlord people. I did not see the content of this investigation.

Mr. REDDAN. How did you learn about it?

Sergeant KIRKPATRICK. I learned about it when I had to provide a clerk to Major McKnight for the typing of this report.

Mr. REDDAN. When did Major McKnight come to you and tell you that he was to make an investigation?

Sergeant KIRKPATRICK. No, sir, not as such, he did not officially come to me—

Mr. REDDAN. I mean unofficially.

Sergeant KIRKPATRICK. He said he needed a clerk to do some typing for a report.

Mr. REDDAN. Did he tell you what type of report?

Sergeant KIRKPATRICK. No, sir, not at the time. When the report was completed it was all under cover and marked accordingly, classified, and—

Mr. REDDAN. What classification was given to it?

Sergeant KIRKPATRICK. As I recall the report carried a secret classification.

Mr. REDDAN. Do you know how thick it was? Can you describe the report?

Sergeant KIRKPATRICK. No, sir. As I say, it could—it could be confidential—it was classified.

Mr. REDDAN. I wonder if it was 2 pages, 10 pages—

Sergeant KIRKPATRICK. No, I suspect it was quarter of an inch thick, which would have been several pages.

Mr. REDDAN. Did it have affidavits attached to it?

Sergeant KIRKPATRICK. I don't know what was in the report, sir. All I saw of it was this, and a cover sheet, and Major McKnight saying he was going to take the report of this alleged atrocity up to Division.

Mr. REDDAN. Did he say who had ordered him to make the investigation?

Sergeant KIRKPATRICK. Colonel Luper, the Colonel who is the Artillery Commander—no, as I recall, he did not. I got the impression that as a result of this pilot making the accusation that Colonel Henderson had directed the report.

Mr. REDDAN. How did you get the idea that this report dealt with indiscriminate firings?

Sergeant KIRKPATRICK. Well, that was the result of the Pinkville operation. That was in the line of chatter with Major McKnight, about the report. He said: "I will take this report of this alleged killing of civilians up to division now, from the"—probably—I probably asked him, "When did this take place," and he said, "During Pinkville."

Mr. REDDAN. Now, is that substantially accurate?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. So then I gather you did have some conversations with Major McKnight as to what this report was about?

Sergeant KIRKPATRICK. Just over the coffee cup. The type of chatter—

Mr. REDDAN. Well, I don't care.

Sergeant KIRKPATRICK. Officially—

Mr. REDDAN. I don't care where it was.

Sergeant KIRKPATRICK. Yes, sir, there was some chatter.

Mr. REDDAN. All right; now tell us in as much detail as you can, Sergeant, just what Major McKnight told you about this report, and about what he was going to do with it, and so forth.

Sergeant KIRKPATRICK. Basically it was just as stated there, sir. It's quite a while back to recall exact wording. We had our discussion about that, about the report, in that he stated that it was reference the alleged indiscriminate shooting or alleged atrocity. Again, the specific words, I can't qualify right now. There are too many months passed in between.

Mr. REDDAN. Prior to this time had you heard of atrocities or indiscriminate killings at My Lai 4 on March 16?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. When he told you about this, what did you say to him?

Sergeant KIRKPATRICK. As I recall, I asked him if this has to do with that pilot making a transmission, and I got an affirmative answer on that, as best I recall.

Mr. REDDAN. What did he say? I mean, this is the first time you heard of indiscriminate killings or atrocities at My Lai 4. Major McKnight takes the trouble to tell you about it, because he's been using one of your clerk-typists for about a week, as I understand, typing this thing up. And when he tells you what this is about, did you express any more interest in it than you have indicated here?

Sergeant KIRKPATRICK. Sir, I might explain, as I did the last time. I carry a top secret clearance. I know my limitations to my access to classified material. And the paper was uncovered. I couldn't query him about the content of the paper, because I had no real reason to know what was in there, unless being directly approached to have knowledge of it. Major McKnight and I had a good understanding on that position. The subject matter, the subject of the report, was unclassified. The content of the report itself, he was not able to discuss.

Mr. REDDAN. Well, he is the one who volunteered this information?

Sergeant KIRKPATRICK. Only by the subject.

Mr. REDDAN. Yes; and to whom was the report addressed?

Sergeant KIRKPATRICK. I don't know, sir. I didn't see it.

Mr. REDDAN. To whom did he say he was taking it?

Sergeant KIRKPATRICK. As I recall, he said he was taking it to division, to Americal, as we used the common terminology.

Mr. REDDAN. Was it in a folder when you saw it, or did it have a cover sheet on it, blank cover sheet?

Sergeant KIRKPATRICK. As I recall, it had a cover sheet on it, and again, it could have been a confidential cover sheet, but I seem to see a red and white cover sheet, which would have been a secret cover sheet.

Mr. REDDAN. Now, were you given a copy of this report to maintain in the files of the brigade?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Do you know whether or not a copy was maintained?
Sergeant KIRKPATRICK. I have no actual knowledge of such a report being maintained.

Mr. REDDAN. Did you ever have any discussions with the clerk-typists who typed the report?

Sergeant KIRKPATRICK. No, sir, not reference the report.

Mr. REDDAN. Was more than one man assigned to the typing of the report?

Sergeant KIRKPATRICK. From my office, no, sir.

Mr. REDDAN. Do you know whether anyone from any other office was assigned to it?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Could you tell us the name of the person who typed the report?

Sergeant KIRKPATRICK. No, sir, I have been searching for that name yet, and the name slips me. It was a Polish type name.

Mr. REDDAN. Do you remember the first name?

Sergeant KIRKPATRICK. No, sir, I don't.

Mr. REDDAN. Did he have a nickname?

Sergeant KIRKPATRICK. I called him Alphabet, sir.

Mr. REDDAN. You called him Alphabet? Was this a general nickname?

Sergeant KIRKPATRICK. The last part of his name was Ski, and several people called him Ski. But that's the best I have been able to do, sir. I just can't pull his name up.

Mr. REDDAN. How many typists did you have in your section?

Sergeant KIRKPATRICK. Three, as I recall. Two or three. The number fluctuated as people rotated.

Mr. REDDAN. Do you recall specifically what his title was? What his rank was?

Sergeant KIRKPATRICK. His rank was a Specialist 4, sir.

Mr. REDDAN. Specialist 4?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. Could you describe him physically? Was he tall, short?

Sergeant KIRKPATRICK. Roughly 5 foot, 8, 160 pounds. Dark hair. Wore glasses. His previous assignment had been with the Chief of Staff's Office, 5th Army. Prior to coming to 11th Brigade.

Mr. REDDAN. Should his name presently be listed in the morning reports for that time?

Sergeant KIRKPATRICK. He would have been on the headquarters company roster in that particular time.

Mr. REDDAN. All right. Do you know whether Colonel Luper had anything to do with this investigation?

Sergeant KIRKPATRICK. In actuality or officially, knowing whether he had anything to do with it, I have none.

Mr. REDDAN. Unofficially, what do you know?

Sergeant KIRKPATRICK. There were many meetings between Colonel Luper and Major McKnight during this specific time that I had provided a typist. I surmised the two of them worked together on the investigation, or the preparation of this report.

Mr. REDDAN. Did Major McKnight ever tell you who directed him to make the investigation?

Sergeant KIRKPATRICK. I don't recall that he ever did.

Mr. REDDAN. Do you know whether or not the report reached any conclusions as to civilian casualties or atrocities at My Lai 4?

Sergeant KIRKPATRICK. I had no prior knowledge of it until the meeting that we had here, the last time I appeared before you, in which you showed me the report, which came to a conclusion.

Mr. REDDAN. No; you saw Colonel Henderson's report. You didn't see Major McKnight's report. I have never seen Major McKnight's report.

Sergeant KIRKPATRICK. That was the report you provided me. I assumed that was the same report.

Mr. REDDAN. No, that's a report of Colonel Henderson's.

Mr. DICKINSON. Can we go off the record here?

Mr. REDDAN. Yes.

[Discussion off the record.]

Mr. DICKINSON. What you are attempting to produce now, if I understand it correctly, Mr. Reddan, is what caused Major McKnight to make this report?

Mr. REDDAN. Yes. I am trying to find out about the report, what he did with it, and we will try to locate the report.

Mr. DICKINSON. Yes.

Mr. REDDAN. This is what we are trying to do.

Mr. DICKINSON. Well, this is the first I had heard of the McKnight Report. May I ask a question?

Mr. REDDAN. Yes.

Mr. DICKINSON. What was Major McKnight's job again?

Sergeant KIRKPATRICK. He was the operations officer of the 13th for the 11th Infantry Brigade.

Mr. DICKINSON. He wouldn't normally make a report like this unless he was requested to do so, would he?

Sergeant KIRKPATRICK. Not normally.

Mr. DICKINSON. I mean, this is not something that he would normally do on his own initiative?

Sergeant KIRKPATRICK. No, sir.

Mr. DICKINSON. You don't know by whom he was directed or requested to make such a report, is this correct?

Sergeant KIRKPATRICK. I don't recall having specific knowledge of that. Again.

Mr. DICKINSON. You knew?

Sergeant KIRKPATRICK. I worked under an assumption that he was directed to do so by somebody.

Mr. DICKINSON. But you don't have even an impression of who directed him to do it?

Sergeant KIRKPATRICK. Well, he worked in and answered to the Brigade Commander.

Mr. DICKINSON. Who was?

Sergeant KIRKPATRICK. Who was Colonel Henderson.

Mr. DICKINSON. Colonel Henderson. And it was on the basis of this that you thought this might be either the Henderson Report, or a part of the Henderson Report?

Sergeant KIRKPATRICK. Yes, sir.

Mr. DICKINSON. Because he reported to Colonel Henderson?

Sergeant KIRKPATRICK. Yes, sir.

Mr. DICKINSON. Thank you.

Mr. STRATTON. Well, Sergeant, if you put it the other way around, if Colonel Henderson had been asked to make a report on some operation in which his brigade was involved, would it not be likely that he would turn that mission over to his operations officer, Major McKnight, who would write the report, have it typed up and eventually get it signed by the Colonel?

Sergeant KIRKPATRICK. This would not be uncommon. This would be a normal manner for a commander to get his reports prepared for his signature.

Mr. STRATTON. Did you see on the report that you saw anything that indicated that it was for Major McKnight's signature or that it was specifically from Major McKnight to somebody else?

Sergeant KIRKPATRICK. Oh, no, sir. Again, the report was under a cover sheet, and I have no knowledge as to whom it was addressed to, or who signed it.

Mr. HÉBERT. All right.

Mr. REDDAN. How long did it take to type this report, Sergeant?

Sergeant KIRKPATRICK. As I recall, he worked with Major McKnight for 3 or 4 days, off and on. I don't specifically recall the exact time frame now.

Mr. REDDAN. Would it have been as much as a week?

Sergeant KIRKPATRICK. It could have been.

Mr. HÉBERT. As far as you know—and this is a rather difficult question to answer, Sergeant, because you would not be present at all times—but as far as you know did Colonel Henderson have conferences with Major McKnight during this week's preparation of this report?

Sergeant KIRKPATRICK. Well, they frequently had conferences, sir, with reference to continuing operations and so it is quite probable that the manufacture of this report was discussed or could have been discussed.

Mr. HÉBERT. But they were in contact with each other during this week?

Sergeant KIRKPATRICK. Yes, sir, frequently. They had daily contact.

Mr. HÉBERT. All right.

Mr. REDDAN. Since appearing before this committee last time, have you had any conversations with anyone about this McKnight report?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Have you had any conversations with Major McKnight?

Sergeant KIRKPATRICK. No, sir. I haven't seen Major McKnight since I departed Vietnam.

Mr. REDDAN. Have you had any conversations, or did you testify any further before the Peers group after you were before this committee?

Sergeant KIRKPATRICK. No, sir.

Mr. REDDAN. Has anyone from the military discussed this matter with you? The McKnight report?

Sergeant KIRKPATRICK. No, sir.

Mr. GUBSER. Sergeant, if you were to see this clerk-typist's name in print, do you think you might recognize it?

Sergeant KIRKPATRICK. I think I would, sir. As I recall, it started with a "C." But I just am unable to put that name together and bring it out.

Mr. GUBSER. Do you remember from what part of the country he was? What his hometown was?

Sergeant KIRKPATRICK. As I recall, he was from the Chicago area. His wife was a WAC. As I say, he had worked before for the Chief of Staff for the Fifth U.S. Army just prior to coming to Hawaii, before we shipped overseas together. Now, he went home on emergency leave, and was subsequently reassigned. He never returned to the brigade.

Mr. GUBSER. Was he a career man?

Sergeant KIRKPATRICK. No, sir, he was not.

Mr. GUBSER. He was a draftee?

Sergeant KIRKPATRICK. Yes, sir.

Mr. HÉBERT. Mr. Stratton, do you have any questions?

Mr. STRATTON. Yes. Sergeant, I have just checked over the record that Mr. Reddan read to you a moment ago, a portion of which he read to you a moment ago, of your previous testimony before the staff. I don't believe that you have referred to this today, but you said that in your conversation with Major McKnight over these alleged killings—you said a moment ago that this was a discussion over a coffee cup—that he would take the report to the division, which you have already testified to. Then you said, and perhaps it is in here later, that you discussed whether the pilot should have been court-martialed or should have been given a DFC.

Now, could you explain that a little bit, please?

Sergeant KIRKPATRICK. Well, as we chatted while he waited for his transportation—as I recall he was waiting for his helicopter to arrive for him to take this report to Americal—my comment about the transmission, this is the pilot who made the transmission about, "If you shoot him, I will shoot you," or words to that effect—the point came up about that, whether he should have been given a DFC or been court-martialed. The reasoning behind this, and probably the reasoning for such a statement, the pilot was assigned to a military mission, for a specific job. And to break a station and even though humanitarian-wise he did a tremendous thing, at great risk, he took a chance of causing a mission to go astray or to lose a mission, or lose a very effective weapon, which is essential to the protection of the combat troops.

Mr. STRATTON. How so?

Sergeant KIRKPATRICK. Any helicopter in Vietnam is essential, regardless of its size or its design. They are just so hard to replace, and they are so critical to the operation and to Americal specifically, because we just didn't have that many. They were extremely hard to come by, and they had to be utilized correctly. And it is a personal observation that at this point for a man to—

Mr. STRATTON. Who were you talking about? Which helicopter pilot was this?

Sergeant KIRKPATRICK. I don't have the name.

Mr. STRATTON. Where did the DFC come from?

Sergeant KIRKPATRICK. It is my understanding that Mr. Thompson was awarded the DFC, or recommended for the DFC.

Mr. STRATTON. Thompson is the one you are talking about then?

Sergeant KIRKPATRICK. Mr. Thompson is the one that I have come to understand is the one who made the allegation or made the report.

Mr. STRATTON. I am going back to your conversation with Major McKnight, while you were waiting for the chopper to come in, and you were talking about a DFC. Now, you knew then that the person——

Sergeant KIRKPATRICK. No, sir.

Mr. STRATTON [continuing]. Who had been involved in the incident was being recommended for a DFC, I take it?

Sergeant KIRKPATRICK. The point came up very much as easy gossip. I don't think there was anything derogatory meant in this.

Mr. STRATTON. I am not talking about that. But I mean you were aware of the fact that somebody was being put in for a DFC?

Sergeant KIRKPATRICK. I was not at that particular time, sir.

Mr. STRATTON. That's what you testified you spoke about.

Sergeant KIRKPATRICK. Well, we did speak of it, but it was not from having knowledge or having actual knowledge of a DFC award going in.

Mr. STRATTON. You mean you just mentioned the DFC out of whole cloth?

Sergeant KIRKPATRICK. You would, much like, "what is he trying to do, become a Medal of Honor winner?" We've used this term a number of times.

Mr. STRATTON. Well, now, Sergeant, my recollection when you testified here a moment ago was that you said that all you knew was that you heard a transmission over the air to ground net, somebody said, "If you shoot him, I will shoot you." You didn't know who it was, you never heard anything more about it?

Sergeant KIRKPATRICK. Yes, sir.

Mr. STRATTON. Now, you are telling us that a few days later, you stood on the helicopter pad and discussed with Major McKnight the question of whether this particular incident which you say jeopardized the loss of a helicopter should have warranted a court-martial, instead of the Distinguished Flying Cross, which was what Mr. Thompson was awarded.

Now, obviously you must have known a good deal more about this incident than what you said a moment ago you knew?

Sergeant KIRKPATRICK. No, sir. I didn't, really.

Mr. STRATTON. Well, you knew that something took place. You knew that a helicopter was involved. Don't tell me that you never knew anything more about that transmission, where one person said, "Don't shoot him or I will shoot you," you never found another thing out about it, but yet you could carry on a conversation with Major McKnight on the ground about whether a helicopter pilot should be court-martialed or get a DFC. You must have known something more about it or you wouldn't have gotten into that conversation.

Captain DICELLO. Mr. Chairman, is the inquiry going from inquiry right now to an accusation that my client has lied?

Mr. HÉBERT. There is no accusation, Captain. Mr. Stratton is merely trying to establish what the witness knows, and unless his rights are——

Captain DICELLO. Well, his rights are that Mr. Stratton right now has implied, very concretely, that the testimony which he prior gave, he gave just a moment ago, was inaccurate to this committee and may have been very well a withholding of information, or a fabrication.

Based on that, I would like to confer with him before he gives his next answer, with your permission.

Mr. HÉBERT. All right.

[Counsel and witness conferred.]

Mr. DICKINSON. Mr. Chairman, may I say a word? Captain, this is just Mr. Stratton's way. He doesn't really mean to impugn the integrity of the witness. This is just his way of interrogating, and if you stay around a little while you will learn it is just his way. All he wants to ask is, what additional information, if any, came to your knowledge between these two times. Something must have or else you wouldn't have had anything to base your remarks on. So with that—

Captain DICELLO. I can see that.

Mr. DICKINSON. So just answer the question.

Sergeant KIRKPATRICK. I think I would—

Mr. STRATTON. I am trying to get the story, that is all.

Sergeant KIRKPATRICK. Mr. Stratton, I think if you will recall, I said when Major McKnight came out with the report, he stated, "I am taking this report to Americal," or words to the effect, this report of this alleged atrocity to Americal.

I think, as I recall, I also stated, "What atrocity?"

He said, "Well, it is the alleged shooting or indiscriminate shooting of civilians by a helicopter pilot." I believe under this testimony here I have also stated that—

Mr. GUBSER. You mean allegation?

Sergeant KIRKPATRICK. Tying that in with the report of what I heard, "If you shoot him, I will shoot you." That is all, sir, that I know about it.

Mr. STRATTON. What did you hear about what happened at this time, when somebody said, "If you shoot him, I will shoot you"? You must have heard something more about it? Now what did you hear about it?

Sergeant KIRKPATRICK. No, sir, I did not. The inquiry went out from the staff duty officer. He was in fact my superior officer. He had no requirement to come back to me and give me a specific answer. He may have known of an atrocity. I have no knowledge that he did.

Mr. STRATTON. Well, now, Sergeant, with all due respect to my colleague at the other end of the table, just let me conduct my interrogation my own way.

Mr. DICKINSON. Let me apologize for the record.

Mr. STRATTON. When you testify in some detail about your recollection to a particular incident, in which you are telling us that you felt a helicopter, one of the most vital weapons in Vietnam, is being endangered, and the person who endangers that weapon perhaps ought to get a court-martial instead of a decoration, that did not stem simply from one overheard transmission of which you never heard another single thing.

Now, 2 and 2 just do not add up to that particular combination.

Sergeant KIRKPATRICK. You asked me how much more I knew between the timeframe of the transmission and the time that I had knowledge of the report, sir. I had nothing prior to this.

Mr. STRATTON. Well, as I say, I just can't accept that you would stand there and talk with Major McKnight about the details of jeop-

ardizing a helicopter—there was nothing in the transmission which you said you just heard once, “If you shoot him, I will shoot you,” about endangering a helicopter, a pilot, a Distinguished Flying Cross, or anything else. Now, how do you get one out of the other unless you have not given us the full story of what you heard about that incident?

Sergeant KIRKPATRICK. I think we have got a misconception coming, I would like to have that part of the testimony read back for clarification, if I might, sir.

Mr. HÉBERT. Certainly. Let me put it this way, and say to you and say to Mr. Stratton, also, with all due deference to both of you, I would ask that Mr. Stratton continue his own way of interrogating. It is his right and his privilege. But I would be a little more cautious in being accurate of what you say the witness said, and how you bring these conglomerations together. I know you don't want to confuse the witness. But at the same time let's be fair to everybody. And the witness, as I understood your statement, Mr. Stratton, it will be read back, you have put him discussing the helicopter with Major McKnight on the pad.

My understanding of the testimony he gave was an off-the-cuff remark that he should be court-martialed instead of getting the DFC. That was a remark. However, when you come back to ask the question, you put all this other matter into it, which I didn't understand him to say.

Mr. STRATTON. Well, Mr. Chairman—

Mr. HÉBERT. All I want to know is exactly—

Mr. STRATTON. I am just trying to get the full story, Mr. Chairman.

Mr. HÉBERT. I know.

Mr. STRATTON. As to what the Sergeant understands. Now, my understanding of the testimony that he gave a moment ago, and I could be wrong, was that he referred to this transmission from a chopper pilot, “If you shoot, I am going to direct fire on you,” or something like that.

Mr. HÉBERT. His direct testimony, as I recall what the Sergeant said, he intercepted this, and he described it as eavesdropping, intentionally or not. He heard coming over an air transmission, “If you shoot him, I will shoot you.” Those are the exact words, and I think the testimony will reflect that. He testified that he did not know who the pilot was, or who sent the message from the air.

Now, this is his testimony. Now, he comes back—

Mr. STRATTON. And I think he also testified that he didn't know under what circumstances it took place.

Mr. HÉBERT. He didn't say that, now. He said, “What in the hell is going on up there?” He is 30 miles away from this thing. And he said, “What in the hell is going on up there?” So he didn't know what was going on up there. And again the connotation that he didn't know under what circumstances it was. You are technically accurate, but perhaps I am overkilling in trying to protect the witness, who is at a complete disadvantage to us. That is the way. There is nobody more vicious than I am on cross examination. I will admit that.

Mr. STRATTON. Mr. Chairman, we are all familiar with the incident involved. My point is that if all you have is this transmission, and you don't know another thing about what took place, and you never

heard anything more of it, I don't see how you can testify that you talked at a subsequent time about whether the pilot should have been court-martialed or given a DFC.

Mr. HÉBERT. Well, that is your opinion, to which you are entitled. The witness has said he had no further—the witness is under oath; he knows he is under oath, and if he wants to stand on his testimony, that's it.

Mr. GUBSER. May I ask a question I think is pertinent right here? Would you yield?

Mr. STRATTON. Yes, I am through.

Mr. GUBSER. Did you have knowledge at the time you had this conversation on the helicopter pad that Warrant Officer Thompson had been put in for a DFC?

Sergeant KIRKPATRICK. No, sir.

Mr. GUBSER. I guess I am confused. I wish you would straighten me out.

Sergeant KIRKPATRICK. That is the reason I think we have a misconception going on here, where I attempted to explain the critical item of helicopters, as a result of subsequent information that I found out after I left Vietnam.

Mr. GUBSER. We are talking about Warrant Officer Thompson now, aren't we?

Sergeant KIRKPATRICK. I believe Warrant Officer Thompson was the one who made the accusation.

Mr. GUBSER. When did you first learn he had been put in for a DFC?

Sergeant KIRKPATRICK. After I had come back here to the States, and this whole story broke out in the news.

Mr. GUBSER. In other words, you had no knowledge at the time of this conversation on the helicopter pad that he had been put in for a DFC?

Sergeant KIRKPATRICK. No, sir. I did not.

Mr. GUBSER. When was this statement made by someone that—

Sergeant KIRKPATRICK. Major McKnight and I, as we were standing there talking—I don't recall the total of everything that we said there, but, again, in trying to help the committee and everybody, to my total recollection, as I possibly could, I brought this statement forward. It was an offhand type statement, made when I asked if that had anything to do with the remark that I had heard, over the radio. And he said, well, yes, it is about the helicopter pilot with the transmission.

Mr. GUBSER. When was this conversation?

Sergeant KIRKPATRICK. This was on the pad, when he had the report in hand, closed up, like this, waiting for the helicopter to come in.

Mr. GUBSER. But you had no idea, nor did the man you were talking to have any idea that he had been put in for a DFC, and in fact he hadn't been put in for it at that time, had he?

Sergeant KIRKPATRICK. I don't know when he was in for it and I have no knowledge of whether Major McKnight knew he was being recommended or not.

Mr. GUBSER. But wasn't this more or less a passing facetious remark?

Sergeant KIRKPATRICK. Yes, sir.

Mr. GUBSER. Like if I said, "I suppose he will be put in for the DFC for it," and somebody else could answer, "Well, maybe he ought to be." It would be that kind of a conversation.

Sergeant KIRKPATRICK. That was the kind of a conversation, yes, sir.

Mr. GUBSER. Just in passing, in making conversation, but it was not based upon any concrete knowledge?

Sergeant KIRKPATRICK. No, sir.

Mr. GUBSER. That he had been put in for it?

Sergeant KIRKPATRICK. No, sir. I had no knowledge until I arrived back here in the States and this story broke out that—

Mr. GUBSER. I think that kind of clears up a little bit of what Mr. Stratton was trying to get at.

Mr. STRATTON. Mr. Chairman, could I ask another question?

Mr. HÉBERT. Yes.

Mr. STRATTON. May I go back, Sergeant, to your previous testimony. Did you learn anything about the transmission, "If you shoot him, I will shoot you"? Did you learn any further details about what occurred when that transmission came in?

Sergeant KIRKPATRICK. To the best of my knowledge, no, sir.

Mr. STRATTON. During your time in Vietnam?

Sergeant KIRKPATRICK. To the best of my knowledge, no, sir. Not that I can recall now. You will have to refresh my memory.

Mr. STRATTON. Now, let me read to you the actual transcript that took place when you were being questioned by Mr. Reddan:

Mr. REDDAN. Now, the killing of civilians at My Lai, this is something brand new to you, when he mentioned it. That was the first time you heard about it?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. This was, in effect, an allegation of a war crime?

Sergeant KIRKPATRICK. Yes, sir. I asked him when did it happen, and what was the report, and he said, Well, it was reported by a helicopter pilot, a charge that was made by him, and so this tied my initial call-back, in that I had questioned in my own mind.

Mr. REDDAN. How much discussion did you have with Major McKnight?

Sergeant KIRKPATRICK. Very little.

Mr. REDDAN. Did you ask him when he found out?

Sergeant KIRKPATRICK. No, sir, I didn't question him.

Mr. REDDAN. Did he tell you?

Sergeant KIRKPATRICK. No, sir. He didn't tell me what he had found out, or what the determination of the report was. And in the portion of the conversation that I recall, there was some mention that was made whether the pilot should have been court martialed or whether he should have been given the DFC, and it depends upon your outlook as to whether the pilot did right or wrong in his evacuation of the people. One, he was put on station for support of the combat troops, and if you wanted to look at it from a point of charge, he did, in fact, violate that station, he left it, and to the essence of committing his helicopter into situations that could have led to its destruction and thereby weakened the military cause, by the other token.

Mr. REDDAN. Is this the conversation you had with Major McKnight?

Sergeant KIRKPATRICK. No, sir. The initial conversation was whether we should court martial him or give him the DFC.

Mr. REDDAN. Where did this conversation take place?

Sergeant KIRKPATRICK. In the office, as I recall. An offhand-type of conversation.

Mr. REDDAN. Were you right in Major McKnight's office? Was your desk right in Major McKnight's office?

Sergeant KIRKPATRICK. In the same tent, yes, sir.

Mr. STRATTON. Now, this goes into further detail about evacuation of people. How did you know that much about this particular incident, is my question, if you never heard anything more than just that one isolated transmission?

Sergeant KIRKPATRICK. As I attempted to explain a minute ago, sir, I knew nothing of any atrocity, other than just one specific allegation,

which I knew only by title at the time Major McKnight told me he was taking this report to the division.

I think you have a question here of location of where our conversation was. Helicopter pad or in the tent. The helicopter pad was within 25 or 30 meters of where the tent was. It was not abnormal for me to walk with Major McKnight to the helicopter pad.

Mr. STRATTON. I am not concerned about the 25 meters.

Sergeant KIRKPATRICK. I just want to get that point cleared.

Mr. STRATTON. I am trying to find out how you could discuss the question of the evacuation of people if you don't know anything about a helicopter pilot landing and evacuating people.

Sergeant KIRKPATRICK. Major McKnight and I, neither one of us discussed that one point, sir. I only discussed it with Mr. Reddan, and I believe his point of question here was to explain what did I mean by court-marital or a DFC. How could this be? Only from strictly a military personnel aspect was I attempting to explain a personal opinion, sir, of which knowledge I gained only after I returned to the States, and reading from material that has been——

Mr. STRATTON. Let me go back here.

Mr. REDDAN. Is this the conversation you had with Major McKnight?

Sergeant KIRKPATRICK. No, sir. The initial conversation was whether we should court-martial him or give him the DFC.

Now, you knew enough about it to know that there was some question whether he should be court-martialed or given the DFC. You must have known more than just that one transmission?

Sergeant KIRKPATRICK. I am sorry, sir. I think you have missed the point of what I meant.

Mr. STRATTON. That is all I have, Mr. Chairman.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. I have no questions.

Mr. HÉBERT. Mr. Dickinson.

Mr. DICKINSON. No questions.

Mr. REDDAN. I just have one question I want to clear up.

Mr. HÉBERT. All right.

Mr. REDDAN. Sergeant, a little while ago you mentioned the Henderson report, and I don't want the record to be fuzzy on this point. Now, the Task Force Barker operation that we are concerned with took place at My Lai 4 on March 16, 1968. My recollection of your testimony, and you can correct me if I am wrong, is that Major McKnight came to you to get one of your typists, about 10 days after that. Is that about right?

Sergeant KIRKPATRICK. That's approximately correct, sir.

Mr. REDDAN. So that would bring it up to the latter part of March?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. And that your recollection is that it took 3 or 4 days, maybe a week, to type up this report?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. So that would bring us up roughly to the first part of April. The latter part of March, first part of April, somewhere in there?

Sergeant KIRKPATRICK. Yes, sir.

Mr. REDDAN. And the so-called Henderson Report is dated April 24, 1968, which is in the third week of April. So would you think it would

be likely that the so-called Henderson Report of April 24, 1968, is the same report that Major McKnight took up to the division, around the first part of April?

Sergeant KIRKPATRICK. It doesn't fit within the time frame, as I recall it, sir.

Mr. REDDAN. Looking at this report, which you have seen before, the Henderson Report?

Sergeant KIRKPATRICK. Yes.

Mr. REDDAN. As to size and general appearance of the thing, would you say that this is the same size as the report you saw Major McKnight with that day, that he took up to division?

Sergeant KIRKPATRICK. It is extremely difficult to recall back that time. It could have been that size or a little thicker, sir.

Mr. REDDAN. I have no further questions.

Mr. LALLY. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. LALLY. Sergeant, do you ever recall hearing a radio transmission regarding the return of Charlie company to My Lai 4, on March 16?

Sergeant KIRKPATRICK. No, sir. I have no recollection of such a call.

Mr. LALLY. Did you, in your job as operations sergeant for the brigade, have any contact with the advisory staff to 2d ARVN Division, particularly the G-3 advisory staff at 2d ARVN Division?

Sergeant KIRKPATRICK. No, sir, not I, personally. We had to work through Americal headquarters, to work with the advisory section. Officially, I had no specific duties to, or requirements to contact them.

Mr. LALLY. Who on the brigade staff would have had the official liaison contact with the 2d ARVN advisory staff?

Sergeant KIRKPATRICK. When we had operations that had been cleared by Americal Division, to work with the ARVN soldiers, then it would have been normal for the commissioned officer, normally for the S-3, if it were a brigade level operation, to make direct coordination, direct liaison with them.

For the operation itself, we would probably assign a liaison officer that would remain at the ARVN, with the ARVN Headquarters, in order to assure continuity of the operation.

Mr. LALLY. While you were in Vietnam, Sergeant, did you ever see any Viet Cong propaganda leaflet alleging a large number of civilian deaths resulting from this March 16 operation?

Sergeant KIRKPATRICK. No, sir.

Mr. LALLY. No further questions, Mr. Chairman.

Mr. DICKINSON. I would like to ask something off the record.

[Discussion off the record.]

Mr. HÉBERT. Thank you, gentlemen, very much.

[Witness excused.]

[At 3:40 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 3:45 p.m. in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert presiding.

Mr. HÉBERT. The subcommittee will give you full and complete protection as to your privacy and invasion of that privacy by news media. You do not have to talk to any newspaper representative, nor do you have to allow yourself to be photographed under any circumstances.

You will leave by this door, and an officer will be there at the door, and if any newspaperman or news media representative comes up and asks if you want to make a statement it is up to you. If you say, "No," that is the end of it. If you want to talk, you can talk. That is your business.

I must caution you, however, that you are in executive session of a congressional hearing, and what goes on here is not to be discussed outside of this room. You have the right of counsel, which, obviously, you didn't care to bring with you today. But the committee will protect you at all times. And we are just seeking information. This is not a trial, this is an inquiry. If you will stand I will swear you in.

[Witness sworn.]

Mr. REDDAN. Will you identify yourself for the reporter. Give your name and present military address.

TESTIMONY OF MAJ. GLEN D. GIBSON

Major GIBSON. Maj. Glen D. Gibson, presently assigned to headquarters, 6th U.S. Army, Presidio, San Francisco, Calif.

Mr. REDDAN. Have you had more than one tour in Vietnam, Major?

Major GIBSON. No, sir, I have had one tour.

Mr. REDDAN. During what period?

Major GIBSON. I arrived in Vietnam in September 1967 and departed in September 1968.

Mr. REDDAN. Where were you located and what were your duties?

Major GIBSON. I was located at the town of Duc Pho, and my duties for the first 4½ months I was there were operations officer for the 147th Assault Helicopter Company. The last approximately 8 months, 7½ months, I was the commanding officer of this company.

Mr. REDDAN. Now, as of March 16, 1968, then, were you the commanding officer of the 147th Assault Helicopter Company?

Major GIBSON. That is a fact, sir.

Mr. REDDAN. What did your company do with respect to supporting operations of such units as Task Force Barker?

Major GIBSON. We provided helicopter support for these type operations, mainly carrying combat troops into assault positions, picking them up, returning them to friendly positions or LZ's. Then we provided helicopter service for command and control, for resupply, communications systems. Just about any activity that can be accomplished with a helicopter, we supported and provided.

Mr. REDDAN. This would include gunships as well?

Major GIBSON. Yes, sir.

Mr. REDDAN. Directing your attention specifically to the operation of Task Force Barker on March 16, 1968, in the Son My area, when did you first learn that this operation was to be conducted, and that you were to support it in any way?

Major GIBSON. If I may answer that by making one statement that will clarify it just a little.

I do not remember anything particular about March 16.

Mr. REDDAN. Yes.

Major GIBSON. And any particular operation. Nothing stands out in my mind about the operation on March 16. Now, I probably learned of this operation, the support of this operation—it was a continuous

daily support that we provided. We assisted, and other units provided support also.

I probably learned the day before the operation that we would have aircraft involved in this because we had it every day. It was continuous.

Mr. REDDAN. How would you learn of this?

Major GIBSON. We would receive a mission alert, or our daily missions or tasks that we were going to perform the next day, and aircraft to be assigned to support units, were passed down from my battalion headquarters and their operations section, 14th Aviation Battalion.

As soon as they received information from the Americal Division aviation office, where all of the requests went in on a daily basis, they would alert various companies that were going to be required to support, and before the evening was over, they would make final assignments of missions and this type of thing.

Mr. REDDAN. This came out of the division, then, rather than the brigade?

Major GIBSON. Yes, sir. See, another point of interest that would make a clarification on this thing. We were part of the 14th Aviation Battalion, which was in direct support of the Americal Division, and all mission assignments except of an emergency nature.

Now, if the brigade commander, because we were colocated with the 11th Brigade, 60 miles south of the division headquarters and my battalion headquarters, if there was a mission of emergency nature, medevac or some unit was in trouble that needed immediate support, then he would contact me and we would go on with the mission, while notifying our higher headquarters.

But the routine missions came through the division to the aviation battalion, then to the companies.

Mr. REDDAN. Now, upon receiving that mission, would you normally participate in the briefings which might take place the day prior to the operation?

Major GIBSON. We tried to have a representative from the company attend the briefing on details of the next day's operation. Generally one of three people would be called upon to go to this. Myself, my operations officer, or my assistant operations officer, whoever was available would generally go to these briefings.

Mr. REDDAN. Did you know Colonel Barker?

Major GIBSON. Yes, sir. I was acquainted with Colonel Barker.

Mr. REDDAN. Do you recall whether you attended the briefing at LZ Dottie given by Colonel Barker the day before the March 16 operation?

Major GIBSON. To my recollection I did not attend such a briefing, sir. I do not recall attending such a briefing.

Mr. REDDAN. Have you had occasion to refresh your recollection as to what support you gave Task Force Barker on that day, and if so, can you tell us what it was?

Major GIBSON. As I stated before, I do not remember the day, or what went on that day or anything about the operation. But in the various investigations that I have testified in since then, it has come to my attention that I provided, or my company, the 147th provided, five or six lift helicopters, troop-carrying helicopters, and probably two gunships to support the insertion of the infantry that morning.

And during the day, I believe that it has been established that one of my helicopters provided command and control for Colonel Barker.

Mr. REDDAN. Was it normal practice for you or someone on your staff to monitor or keep in touch with operations in which your ships were involved?

Major GIBSON. Yes, sir. We had radio net that was established, and we monitored in our company operations continuously, particularly on operations where we were lifting troops into an area. Now, on an hourly or continuous basis, during the day and night, we had a common channel that any of our aircraft could come up on if they wanted to advise us of something or assistance and things like this, and we could give instructions on it.

But as far as monitoring all of the command frequencies that these aircraft might be working on, we didn't do that on a continuing basis. But during a combat assault we generally monitored the frequency which the air-ground net was operating on, providing it was within the range of our net.

Mr. REDDAN. Did you maintain any liaison during an operation with the Aero-scouts?

Major GIBSON. No, sir.

Mr. REDDAN. Did it come to your attention or did any message come into your headquarters on March 16 which suggested that perhaps there were indiscriminate firing and the killing of civilians in My Lai 4?

Major GIBSON. It did not, sir.

Mr. REDDAN. Did an allegation ever come to your attention that there were a number of civilian casualties that may have been caused by gunship fire?

Major GIBSON. No, sir, never.

Mr. REDDAN. Had there been such allegations, should they have been brought to your attention?

Major GIBSON. I would hope they would be brought to my attention, sir, and there had not been any in the past, and so there was no precedent, but I feel sure if anything had happened like that, that it would have been brought to my attention.

Mr. REDDAN. In any event, if such allegations were made, they should have been brought to your attention?

Major GIBSON. They definitely should have, yes, sir.

Mr. REDDAN. And what would you have done with them?

Major GIBSON. I would have initiated an investigation.

Mr. REDDAN. A formal investigation?

Major GIBSON. Well, I would have notified my battalion headquarters and actually battalion headquarters would probably be the one that initiated an investigation on it, or requested it.

Mr. REDDAN. But you say that no such allegation ever came to your attention?

Major GIBSON. No, sir.

Mr. REDDAN. At any time?

Major GIBSON. Not relating to the March 16 My Lai operation, no, sir.

Mr. REDDAN. Were you ever requested or directed by anyone to interview any of your crews or pilots of your ships that participated in the March 16 operation of Task Force Barker to determine whether there

were any untoward accidents or any untoward happenings at My Lai 4 on that day?

Major GIBSON. I was never requested to do such, no, sir.

Mr. REDDAN. Did you ever have any conversations with Colonel Henderson in which he asked you to interview any of your men?

Major GIBSON. I have had a lot of conversations with Colonel Henderson. At no time did I ever understand him to ask me to interview my men concerning this incident.

Mr. REDDAN. Did you ever hear or did you ever learn that Colonel Henderson was making an investigation, or had made an investigation of the My Lai 4 incident?

Major GIBSON. No, sir.

Mr. REDDAN. Do you know whether any of your men were ever interviewed by Colonel Henderson, or anyone on behalf of Colonel Henderson in connection with any investigation he may have been making?

Major GIBSON. To my knowledge none were ever interviewed.

Mr. REDDAN. Had he ever interviewed any of them, did you have any procedure whereby they should have reported this fact to you?

Major GIBSON. I am sure they would have reported it to me, yes, sir, if they had been interviewed.

Mr. REDDAN. Would it have been in accordance or in violation with your SOP for Colonel Henderson to go directly to your men without first advising you?

Major GIBSON. Well, of course, there was nothing in the SOP or any regulation that would prohibit a bird colonel, brigade commander, from going directly to my people and asking them questions. I am sure that he would have afforded me the courtesy of advising me of what he was doing. I feel that this is a fact.

Now, particularly if it was a formal type inquiry, investigation. Now, out in the field someplace, at lunchtime or something, where a helicopter crew is sitting or stopped, and they come along and just have a general discussion or something, and maybe questions arise here, informal, and not even direct and not explained, this may have happened. I don't know. Or could happen. But if he was going to interview some of my personnel, specifically for what we are talking about here, I feel he would have afforded me the courtesy of telling me, yes, sir.

Mr. REDDAN. Were you ever interviewed by Major Luper or Major McKnight on this subject of civilian casualties at My Lai 4?

Major GIBSON. No, sir. I was never interviewed by anyone concerning this. The first that I ever heard of My Lai 4, or this operation, or an alleged incident at this time, was last spring of 1969, when the Department of the Army IG contacted me and asked me to testify.

Mr. REDDAN. Your testimony, then, is that at no time during your tour of duty in Vietnam did you ever hear, officially or unofficially, that there may have been unnecessary killing of civilians at My Lai 4 on March 16?

Major GIBSON. That is a correct assumption, sir.

Mr. REDDAN. You never heard any allegation of a possible massacre?

Major GIBSON. No, sir.

Mr. REDDAN. You never heard any allegation that civilians may have been killed by artillery or gunshot fire?

Major GIBSON. No, sir.

Mr. REDDAN. Was it your normal practice to have debriefings of pilots after an operation?

Major GIBSON. Pilots turned in an operational sheet that was given to them when the mission was assigned; the missions were typed out or penciled out on a piece of paper, mimeographed form, and told them the details of the mission, where they were going, this type of thing, what they were supposed to do, who they were supposed to contact.

At the end of this form was a debriefing section where they were to answer particular questions, write out any remarks on it. And when they come back from the mission, they come to operations, hand this to the operations officer, at which time he would glance over it, ask them any questions he had about it, maybe ask them questions that he may have had about the day's operation that had come to his attention during the day.

Now, as far as setting someone down and having a formal debriefing, they were not. But there were continuous informal debriefings, yes, sir.

Mr. REDDAN. Did you review these—

Major GIBSON. After-mission reports, yes, sir, I did.

Mr. REDDAN. You reviewed those yourself?

Major GIBSON. I reviewed those.

Mr. REDDAN. Did any of them contain any reference to observations at My Lai 4 on March 16, which would suggest that they saw civilian casualties?

Major GIBSON. I saw no reports that would indicate this; no, sir.

Mr. REDDAN. Had the pilots observed any dead civilians in the area, should that have been reported in the normal course of reporting?

Major GIBSON. Yes, sir. I think particularly if there was any magnitude of casualties indicated. Maybe one or two or something like this, maybe they couldn't recognize whether it was civilian or combatant, I don't know. But if there had been an obvious large number, I am sure they would have.

Mr. REDDAN. At what altitudes would your ships normally operate over a combat area such as My Lai 4?

Major GIBSON. Below 1,000 feet, sir.

Mr. REDDAN. As low as 400 or 500 feet?

Major GIBSON. Generally, yes, sir. Command and control ships usually stayed between 800 and 1,000 feet. Generally the rule of separation over there was fixed-wing aircraft, talking about observation aircraft, forward air controllers, flew at 1,500 feet above. Helicopter traffic usually maintained no higher than 1,000 feet and below.

Mr. REDDAN. Did you have any floor under which they would normally not operate?

Major GIBSON. Not really. We discouraged, naturally, flying around on a treetop level, this type of operation. Generally 500 feet was the accepted altitude, minimum altitude, unless you were landing or taking off, or the gunships were making gun runs. This affords you several things.

Mr. REDDAN. Do you know from your examination of the records since this time, since March 16, 1968, how long your ships remained airborne in the My Lai 4 area on that day?

Major GIBSON. It has been indicated to me, and it sounds logical, that the ships that were involved that day on the combat assault that

morning made two lifts into the landing zones that had been established in this area. They landed in the first landing zone around 7:30 in the morning. They completed the second landing approximately 15 or 20 minutes later. And the bulk of the ships departed the area, went on to other assigned missions for the day.

Now, the one command control ship that was flying, I believe it was flying command control for Colonel Barker that day, remained in the area the rest of the day.

Mr. REDDAN. How about your gunships?

Major GIBSON. The gunships supported the—and it was again, this is logical, they supported the two combat assaults. In other words; their main mission in combat assaults is to provide the troop-carrying ships with protection during the time they are landing and taking off, and in the unloading of troops on the ground.

After the last troopships had departed the areas, the gunships remain around at the discretion of the force commander—in this case it would undoubtedly have been Colonel Barker—to see if any of the ground troops encounter very heavy fire or get into any real difficult situation immediately after they have landed and started into the assault.

Then the gunships can be called in to assist. Now, we are talking about the gunships generally with a full load of ammunition will only fly about an hour, hour 10. An hour 20 at the maximum. So generally this takes up the time for about two landing assaults, hang around for 10 minutes or so to see how the ground situation develops, and then they are released to go refuel and stand by back at whoever they have been designated to stand by.

Mr. REDDAN. Do you know approximately how long they were over the area?

Major GIBSON. I can't tell you how long they were over the area that day, no, sir.

Mr. REDDAN. From the records which you may have?

Major GIBSON. It has not been indicated to me, no, sir.

Mr. REDDAN. Did you have any direction or order for your pilots or crews as to the use of gunship fire in a hamlet area?

Major GIBSON. Yes, sir. We continued on a continuous basis to emphasize the importance of not involving noncombatants or apparent civilians in any firefight or anything like this. To avoid areas that had them. And only in an extreme crisis would they ever fire into an area where they thought noncombatants were.

And personally, I can't think of a case where it ever happened. And this is the main reason that we insisted on, when they were picking landing zones for assaults to put the troops in, of having these landing zones a distance from inhabited areas.

In other words, you don't run up right against the side of a village or something. Of course, there were two reasons for this. One is that in order to prepare the landing zone, which we did with ART, Air Force attack aircraft, and in the last 30 seconds of the assault, with our gunships, we want to fire on this area and to suppress any enemy that might be in the area, that might be set up, to protect and allow the troops to get out of the helicopters.

If you hit up against an inhabited area, you are going to have to shoot at an inhabited area, so we did not do this.

Mr. REDDAN. This is exactly what you had on this My Lai 4 operation.

Major GIBSON. I don't believe the LZ's were right up against the village, sir.

Mr. REDDAN. They were so close you couldn't get them much closer, and the purpose of it was, in the past they had received too much fire from this place, and they wanted to put the suppressing fire on and not have the men running across rice paddies trying to get to the village.

Now, aren't you familiar with the landing zone pattern for this My Lai 4 operation?

Major GIBSON. I can't tell you exactly where they were, no, sir. But at the time it was planned, it didn't appear to me that they were right up against the village, no, sir. They were a few hundred yards from the village.

Mr. REDDAN. Haven't you testified before the Peers committee?

Major GIBSON. Yes, sir, I certainly have.

Mr. REDDAN. Did they show you maps and overlays as to the location of landing zones with respect to the village?

Major GIBSON. They had a map similar to the one you have here. And they had landing zones indicated on it, which, again, it didn't impress me as being right up against a village. I don't see the landing zones indicated on this map, sir.

Mr. REDDAN. There, on the large map, you see the LZ.

Major GIBSON. LZ 1, right here.

Mr. REDDAN. That is Charlie Company there?

Major GIBSON. Yes.

Mr. REDDAN. The pink is the LZ. That is it right there. And My Lai 4 is just—

Major GIBSON. This area here.

Mr. REDDAN. Yes.

Major GIBSON. Yes, sir. OK. It would appear here—I assume these are 1,000-meter grids.

Mr. REDDAN. That is right.

Major GIBSON. It would appear here you were within—depending on where they landed in the LZ, if we went around the road network here—you were 200 or 300 meters from the village. And this is my impression of the operation all the time. It always has been.

Mr. REDDAN. Well, now, has it come to your attention that gunships were called in to strafe the west side of the hamlet along the tree line?

Major GIBSON. I am not aware of any such activity, no, sir.

Mr. REDDAN. Well, would that have been a proper use of the gunships?

Major GIBSON. It would have—to lay down fire where the aircraft actually landed and the village would have been. Not into the village necessarily.

Mr. REDDAN. Well, I am suggesting that the gunships may have put the fire along the west side of the village, and I am asking you if our troops were receiving fire from that area, wouldn't that have been a proper use of gunships?

Major GIBSON. It would have, yes, sir.

Mr. REDDAN. There is nothing wrong with shooting the enemy?

Major GIBSON. No, that is for sure.

Mr. STRATTON. But you have no recollection of that, Major?

Major GIBSON. No recollection of exactly where they fired on the ground, sir.

Mr. STRATTON. Do you have any recollection of this operation?

Major GIBSON. No, sir, I do not have any specific recollection of this operation.

Mr. STRATTON. Where would you have been while this was going on?

Major GIBSON. It appears this day—now, again, I must emphasize this is a—as it went through and happened, as far as the aviation and I was concerned, we did this every day. Routine operation. Nothing came up that would indicate it wasn't going to be routine. After it happened, nothing came up that indicated that it wasn't routine. And it appears from checking my activities record the only thing I have is my flight record for that day—at the time I went to Chu Lai.

This was a Saturday, as I determined on the calendar. Saturday morning was the battalion commander's conference for the 14th Battalion, and I do believe that this is where I was this morning.

Mr. STRATTON. Well, now, we have had a report, as Mr. Reddan indicated, that when the troops landed there was a report that the landing zone was cold, and then somebody started to receive fire, and they shouted that the landing zone was hot.

And at that point, according to this testimony, since they were receiving fire from these bunkers and hootches along the side of the village, they called for a run by the gunships to suppress this fire, which they then carried out.

Subsequently, there was a question of whether there had been too many civilians killed as a result of this operation. And the suggestion was made that perhaps some of them were killed by this suppressive fire by the gunships. Is it your testimony that as far as you were concerned nobody ever raised the question of whether any of the ships under your command in this operation ever killed anybody or not?

Major GIBSON. No one ever brought any such incident to my attention for the complete time I was in Vietnam. No one ever came to me and said, "We think—we were receiving fire, we killed some civilians." They did not, no, sir.

Mr. STRATTON. Well, if they had been seriously concerned about whether an undue number of civilians had been killed by the gunships, you would have been the fellow to whom they would have come, would you not?

Major GIBSON. I feel certain they would have directed this to me, to my attention, yes, sir.

Mr. STRATTON. Thank you.

Mr. HÉBERT. Mr. Gubser,

Mr. GUBSER. Was Warrant Officer Thompson in your command?

Major GIBSON. No, sir, he was not.

Mr. GUBSER. Did you know him?

Major GIBSON. I did not know him, no, sir. I know who he is now. But I did not know him prior to then. I probably have seen him. He probably knows me.

Mr. GUBSER. To what outfit was he attached?

Major GIBSON. I believe he was attached to the 123d Aviation Battalion, which is the Americal Division Battalion. Not part of the 14th Aviation Battalion. They have their own organic aviation.

Mr. GUBSER. When you plan an operation that involves both your outfit and this aviation outfit attached to Americal Division, what coordination is there between the two aviation units?

Major GIBSON. If two companies are going to be represented in a lift, combined operation, then representatives from both companies are asked to attend the briefing on the lift. Now, in addition, depending on the size of the lift, all pilots that are going to be participating generally rendezvous at the pickup zone or predetermined rendezvous point and are given a briefing on what is going to happen.

This is usually done within an hour of the actual operation.

Mr. GUBSER. And you didn't attend this briefing?

Major GIBSON. I did not, no, sir.

Mr. GUBSER. Who did, in your place?

Major GIBSON. Well, in this case again I don't remember, but it has come up through various investigations that a Lieutenant Millikan, who was my designated representative for this lift that day, this is what the record reflects, and he attended this, along with a Mr. Garber, who is now Captain Garber, as the leadership for this operation.

Mr. GUBSER. And they would have been briefed along with Warrant Officer Thompson, is that right?

Major GIBSON. Yes, sir, I feel this would be true. Thompson, if he was actually flying one of the lift ships, now, I don't know that this is a fact either, if he was flying one of the lift ships that participated in the lift then he should have been there prior to the beginning of the lift and there would have been some sort of briefing.

Mr. GUBSER. You never heard of Warrant Officer Thompson until all this erupted?

Major GIBSON. No, sir, I never did.

Mr. GUBSER. Last year?

Major GIBSON. That is right.

Mr. GUBSER. That is all. Thank you.

Mr. HÉBERT. Further questions?

Mr. LALLY. Since the investigation began, Major, have you identified the pilots from your organization that flew on this particular day?

Major GIBSON. Only from what I have been told by members of various boards. They have advised me that so and so was flying. And again, the two names I related here, I have been told were in the leadership on this operation. And it makes sense, these two people were designated as qualified to act as flight leader.

Mr. LALLY. Are these the only two you have identified?

Major GIBSON. The only ones that have been brought to my attention. And I believe—and again, I am just saying what someone related to me—that Mr. Lind was either the aircraft commander or the pilot on the command and control ship that day, that was flying: Colonel Barker. Other than that, I haven't correlated any names.

Mr. LALLY. Did Mr. Lind make any report to you of having seen bodies out there that were possibly noncombatants?

Major GIBSON. He did not, no, sir.

Mr. LALLY. He did not. Nothing further.

Mr. HÉBERT. Any more, gentlemen?

Mr. LALLY. Do you know whether Mr. Millikan and Mr. Garber, in their testimony before the Peers group, stated that they had observed bodies in the My Lai area?

Major GIBSON. No, sir, I have no idea of what their testimony was. I have seen no one from my company that has appeared before any of these boards since I left Vietnam.

Mr. REDDAN. Major, do you know whether or not Colonel Barker or anyone connected with Task Force Barker contacted your helicopters on the morning of March 16, 1968, and advised them that there were no restrictions on the door gunners in the placing of the helicopter suppressive fire in the area?

Major GIBSON. I can't testify that I know whether he did or not issue such instructions. It was generally, again if I may enlighten you with the procedure, it was generally—this was one of the things that was brought up in the final briefing, where all of the pilots attended, was whether there would be door guns firing as you approached the landing zone. And this was one of the things that the ground forces commander, the determination that he made.

He would say, "OK, the door gunners can fire as you approach the landing zone, and while you are unloading troops." Or "No, we don't want any firing."

Mr. REDDAN. Well, now, what was the decision with respect to the March 16 operation?

Major GIBSON. I really can't tell you, sir. I have had no indication one way or the other.

Mr. REDDAN. Do you know whether or not, after the completion of the artillery preparation, at about 0729 hours, gunship suppressive fire consisting of rockets and machinegun fire were placed on the LZ and probably on portions of My Lai 4?

Major GIBSON. No, this is after the troops are on the ground, sir?

Mr. REDDAN. No.

Major GIBSON. Before?

Mr. REDDAN. This is following the completion of the artillery preparation, at about 0729 hours. Gunship suppressive fire, consisting of rocket and machinegun fire, was placed on the LZ and probably on portions of My Lai 4.

Major GIBSON. I don't know that to be an exact fact. I will state that that would be the proper procedure, yes, sir. Now, I say, as I said before, that after the artillery has stopped, the gunships, as the lift ships approach, start their approach, descend to land, and during the time that they are on the ground, debarking troops, the gunships, if it has been authorized to be a hot LZ—in other words, they are authorized to fire in there—they lay suppressing fire around the LZ, so this would be an accepted practice.

Now, whether they fired into the village, that is not an accepted practice.

Mr. REDDAN. Well, is it an accepted fact? I don't care what the practice was.

Major GIBSON. The fact, I don't know, sir. I wasn't there.

Mr. REDDAN. Did you have any interest in what your boys were doing when you weren't there?

Major GIBSON. Certainly did, sir.

Mr. REDDAN. All right. Now, did you get reports as to whether or not they did fire into the village?

Major GIBSON. I received no reports indicating that they fired into the village.

Mr. REDDAN. And if they did fire into the village, you did not receive accurate reports, is that correct?

Major GIBSON. That is affirmative, yes, sir.

Mr. REDDAN. Do you know whether or not your gunships were credited with any VC kills that day?

Major GIBSON. In looking over the day's operations, there was no—I recall no outstanding number of kills accredited to the gunships. Now, it was quite often in day-to-day operations that two or three or four were accredited to gunships. Maybe as high as six. I wouldn't consider that something out of the ordinary. But any time that the gunships—now, again, the infantry is the one that reports these.

We make no body count or anything like that. At the end of the day the infantry intelligence or operations calls over and says, "OK, it has been reported by the ground commander that your ships got five kills today." And we accept that. There was no number out of proportion to the normal routine operation.

In other words, 15 or 20, or something like that, was not reported, to my recollection.

Mr. REDDAN. Is there any reason why your gunships don't report it themselves?

Major GIBSON. There is no way they can confirm a kill, sir.

Mr. REDDAN. If they hit somebody with a rocket—

Major GIBSON. Well, they might put "suspect." But again it is the ground forces who determine the KIA's.

Mr. REDDAN. But they would avoid making any reference to any possible kills, is that right?

Major GIBSON. No; I don't think they would avoid that.

Mr. REDDAN. I am just trying to understand how it is operated. Major, I think you are trying to stay away from something here, and you are telling me what the theory is and I want to know what the practice is.

Major GIBSON. Yes.

Mr. REDDAN. Now, we know that gunships killed personnel on this day, and these were alleged VC kills. Nothing wrong with it.

Major GIBSON. Yes, sir, I understand that.

Mr. REDDAN. And I am trying to find out how these things are supposed to be reported.

Major GIBSON. Well, as I say, when the gun teams come back, they fill out their after-mission reports, and they may indicate to whomever was debriefing them—the operations officer, generally—that "It looked like we got three or four kills today."

Again, as you say, if you hit somebody with a rocket, that looks like you killed him. But again, the hard figure we use came from whomever we were supporting, the credit that they gave us.

Mr. REDDAN. Now, if in the support of their ground troops it was necessary for them to put rockets and gunship fire on the hamlet or inhabited area, should they have reported that fact?

Major GIBSON. Yes, sir, they should have.

Mr. REDDAN. I have no further questions.

Mr. HÉBERT. Thank you very much, Major. I appreciate your cooperation.

[Whereupon, at 4:20 p.m., the subcommittee was recessed.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Friday, April 17, 1970.

The subcommittee met, pursuant to adjournment, at 10:10 a.m., in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Gubser, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel, and Mr. John Lally, assistant counsel.

Mr. HÉBERT. Identify yourself for the reporter.

TESTIMONY OF MICHAEL C. ADCOCK

Mr. ADCOCK. My name is Michael C. Adcock.

Mr. HÉBERT. What is your present position?

Mr. ADCOCK. I work for Uniroyal Tire Corp.

Mr. HÉBERT. You are out of the service now?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. Now the subcommittee wants to inform you of your rights before the subcommittee.

The subcommittee will give you full protection as to your privacy. We will protect you from invasion of that privacy by news media, photographers, or reporters.

If you do care to make a statement when you leave here, that's your decision, not ours. You do not have to. We do not advise you to do it or not to do it. This is something that you make a decision on. But we assure you of full protection of your privacy. There will be no photographers running up to take pictures of you, or reporters placing microphones in front of you, because the officer will meet you when you leave. When you leave, you leave through that door.

Now, you read the rules? You have been furnished with the rules of the committee?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. You know you have a right to counsel?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. You do not want counsel.

Stand and be sworn.

[Witness sworn.]

Mr. REDDAN. Mr. Adcock, how many tours of duty have you had in Vietnam?

Mr. ADCOCK. One, sir.

Mr. REDDAN. What was your rank at that time?

Mr. ADCOCK. Sergeant, E-5.

Mr. REDDAN. Sergeant E-5?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. All right.

And where were you stationed?

Mr. ADCOCK. In Duc Pho.

Mr. REDDAN. In what capacity? What were you doing?

Mr. ADCOCK. I was Colonel Henderson's RTO, brigade commander, RTO.

Mr. REDDAN. You were his radio telephone operator?

Mr. ADCOCK. That's correct, sir.

Mr. REDDAN. When did you first undertake that responsibility?

Mr. ADCOCK. The day General Lipscomb left Vietnam. The change of command.

Mr. REDDAN. That was on March 14 or 15?

Mr. ADCOCK. Yes, sir, 15.

Mr. REDDAN. The 15th. The day before the My Lai operation?

Mr. ADCOCK. That's correct, sir.

Mr. REDDAN. As Colonel Henderson's radio telephone operator, what were your duties?

Mr. ADCOCK. I flew with him on his helicopter when he flew, and operated the console of radios for him. And also, when he landed in the field, I got out with him.

Mr. REDDAN. You got out with the handset, did you?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. What frequencies were you able to monitor with your console?

Mr. ADCOCK. We could monitor, I think, four or five frequencies. We would monitor brigade headquarters' frequency, and usually the frequency of the unit doing the operation.

Mr. REDDAN. The ground net?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. How about the task force TOC? Were you in direct contact with them?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Were you also in direct contact with the division TOC?

Mr. ADCOCK. No, sir.

Mr. REDDAN. How about the Aero-Scout ships engaged in the operation?

Mr. ADCOCK. No, sir; I wasn't. The pilot and copilot of the chopper were.

Mr. REDDAN. Now, were you airborne with Colonel Henderson on March 16?

Mr. ADCOCK. Yes, sir; I was.

Mr. REDDAN. Do you remember when you took off from Duc Pho that morning?

Mr. ADCOCK. Not the exact time; no, sir. It was quite early.

Mr. REDDAN. Did you go directly to the My Lai area, or did you go up to LZ Dottie?

Mr. ADCOCK. I don't remember distinctly, sir. I believe we went to Dottie first.

Mr. REDDAN. Were you there when the first ship took off?

Mr. ADCOCK. I believe so, yes.

Mr. REDDAN. How soon did you get over the My Lai 4 area?

Mr. ADCOCK. We arrived at the My Lai 4 area just before the troops landed. We saw the last part of the preparation.

Mr. REDDAN. Could you see where the shells were impacting?

Mr. ADCOCK. From the artillery?

Mr. REDDAN. Yes.

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Behind you is an aerial photograph of the My Lai 4 hamlet.

Can you orient yourself on that map there?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Could you indicate where the landing zones were, and where you saw the artillery shells impacting?

Mr. ADCOCK. The best I remember, the artillery shells landed in this area in here.

Mr. REDDAN. Just immediately west and adjacent to the hamlet; is that correct?

Mr. ADCOCK. Yes, sir. The landing zone was in this little clear space here, right in here.

Mr. REDDAN. Could you estimate how close that would be to the hamlet itself?

Mr. ADCOCK. Possibly, approximately 100 yards from the edge of the hamlet.

Mr. REDDAN. Did you see any of the artillery rounds land in the hamlet itself?

Mr. ADCOCK. No, sir.

Mr. REDDAN. They were landing just on the LZ?

Mr. ADCOCK. Now, I got at the area right at the end of it.

Mr. REDDAN. You got there right at the end.

About how many shells did you see land?

Mr. ADCOCK. Just very few.

Mr. REDDAN. Did you see any gunships run a strafing round maneuver through there?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Where were they firing?

Mr. ADCOCK. Along either edge of the LZ, along this edge of the village, along this edge here.

Mr. REDDAN. Were any of them firing along the tree line of the hamlet?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Do you know whether or not there was a fighting bunker along that tree line?

Mr. ADCOCK. I don't know, sir.

Mr. REDDAN. Did you observe any enemy fire as you were coming in there, or when you were observing?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you hear any transmissions as to whether the LZ's were hot or cold?

Mr. ADCOCK. I believe the transmission we got was that the LZ was cold.

Mr. REDDAN. Did you have on a headset, or did you have a hand phone?

Mr. ADCOCK. I had a headset on, yes, sir.

Mr. REDDAN. Did you hear that transmission?

Mr. ADCOCK. I believe so. I'm not sure.

Mr. REDDAN. At what altitude were you at this particular time, when you came on station there? Just approximately?

Mr. ADCOCK. Approximately 500 feet.

Mr. REDDAN. And how long did you stay in the My Lai 4 area?

Mr. ADCOCK. I have no idea, sir.

Mr. REDDAN. I mean, would you say half an hour, 1 hour, 1½ hours, 2 hours?

Mr. ADCOCK. Approximately an hour.

Mr. REDDAN. Approximately an hour.

Now, when you came up, from which direction did you approach the hamlet, when you were coming up to it that morning for the first time?

Mr. ADCOCK. Dottie was over here.

Mr. REDDAN. Yes, Dottie is up there at the top of the big map.

Mr. ADCOCK. Yes, and we came in from the south.

Mr. REDDAN. You came in around from the south. You came up the road from Quang Ngai, going east?

Mr. ADCOCK. Something like that.

Mr. REDDAN. As you came up on the hamlet, did you see any bodies, at any time?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Describe them for us, if you would. What you saw, and you can indicate on the aerial map there approximately where you saw them.

Mr. ADCOCK. The only time I saw a group of bodies was right along here in this—

Mr. REDDAN. You're pointing to an area just east of the hamlet. About how far to the east of the hamlet?

Mr. ADCOCK. I don't know, sir.

Mr. REDDAN. Would you say 200 yards? Three hundred yards?

Mr. ADCOCK. About 300. Two hundred fifty, three hundred.

Mr. REDDAN. Before we get to that, did you see any bodies on the little access road running south from the hamlet, down to the main road to Quang Ngai?

Mr. ADCOCK. Yes, sir, there was a few.

Mr. REDDAN. What did you see there?

Mr. ADCOCK. When the troops went in, the people escaped down this road.

Mr. REDDAN. Did you see people coming out of My Lai 4?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. How many would you say you saw coming out?

Mr. ADCOCK. I don't know, sir. It was a continuous stream for a good bit.

Mr. REDDAN. What is your best estimate?

Mr. ADCOCK. Possibly a hundred.

Mr. REDDAN. Possibly a hundred.

And this exodus from My Lai 4 was when, at the end of the artillery prep, or when did you see them coming out of there?

Mr. ADCOCK. Yes, sir, about a little after the end of the artillery prep.

Mr. REDDAN. You saw people starting to come out of the village then, maybe a hundred, maybe a little more, a little less?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. And they were heading south on that small access road, is that right?

Mr. ADCOCK. That's the majority. That's the route the majority of them took.

Mr. REDDAN. Were any of them going in any other direction?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Where were they going?

Mr. ADCOCK. Well, initially, they didn't come out the side the troops were coming in. They went out the other three directions. A few went out this way, to the north, not very many, and just a few more to the east. Most of them were coming out the route along the south here.

Mr. REDDAN. Could you tell whether any of them were VC?

Mr. ADCOCK. I couldn't tell, sir.

Mr. REDDAN. Did you see anyone fire at them?

Mr. ADCOCK. No, sir.

Mr. REDDAN. As far as you could observe, they left unmolested?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Now you say you saw some bodies on that access road coming south from the hamlet. Are they the first bodies you saw?

Mr. ADCOCK. No.

Mr. REDDAN. Where are the first bodies you saw?

Mr. ADCOCK. At that point before, sir.

Mr. REDDAN. That was the first.

Had you been over the hamlet by that time? Or were you circling it?

Mr. ADCOCK. We were circling it.

Mr. REDDAN. And this was at approximately what time?

Mr. ADCOCK. I have no idea, sir.

Mr. REDDAN. Well, if you had just come on station, and you got there when the artillery prep was still going on, that was about 0725 that morning.

Now, how soon after the artillery prep was completed, at about 0730, did you get up to where that ditch, or that area was east of the village?

Mr. ADCOCK. Approximately 8 o'clock.

Mr. REDDAN. Well, where were you during that half hour between 7:30 and 8 o'clock?

Mr. ADCOCK. In the first place, we spotted a couple of suspects up here to the north.

Mr. REDDAN. Now, you were south of the hamlet. I'm trying to understand where you were.

As I understood, you came down from LZ Dottie, and then you came up the main access road from Quang Ngai to the sea, and you were south. You approached the hamlet of My Lai 4 from the south.

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Did you hover south of the village until the prep was completed?

Mr. ADCOCK. Yes, sir. We circled right here until the prep was completed and the troops were deployed.

Mr. REDDAN. I see. Approximately how long did that take?

Mr. ADCOCK. Ten minutes.

Mr. REDDAN. About 10 minutes?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. And then what did you do?

Mr. ADCOCK. We started circling the area. We saw quite a few people coming out from the village.

Mr. REDDAN. Yes.

Mr. ADCOCK. And we were trying to help out spotting suspects and so forth. And the first ones we noticed of any significance were the ones here.

Mr. REDDAN. How did you get to that point that you're pointing to, north of the village, from the point south?

Mr. ADCOCK. Around the east edge.

Mr. REDDAN. You have just indicated a route which would have taken you pretty close to the place where you saw a number of bodies?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Later.

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Were the bodies there the first time you went around?

Mr. ADCOCK. I didn't see them, sir.

Mr. REDDAN. You didn't see them?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Is it possible that they could have been there at that time?

Mr. ADCOCK. Could have been, yes, sir.

Mr. REDDAN. All right. Then you swung north, and you saw—you spotted some Viet Cong, you say?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. How many?

Mr. ADCOCK. I think it was three.

Mr. REDDAN. What happened?

Mr. ADCOCK. We called back to the troops, and told them that we saw a couple of military age male suspects in this area up here to the north.

Mr. REDDAN. Did you have a gunner on your ship?

Mr. ADCOCK. Yes.

Mr. REDDAN. Did you fire at them?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Could you tell us why?

Mr. ADCOCK. I don't know.

Mr. REDDAN. I mean, would it have been a normal thing—if you suspected them to be Viet Cong, I would have thought that you would have taken some action.

Mr. ADCOCK. We didn't see any weapons, sir.

Mr. REDDAN. You didn't see any weapons?

Mr. ADCOCK. No, sir.

Mr. REDDAN. They were just male, military age?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Did they have web gear or uniforms?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Were they running?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. And you called for the troops to check them out, is that right?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. I see. Did they do that?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Did they get them?

Mr. ADCOCK. I believe so, yes, sir.

Mr. REDDAN. Were they Viet Cong?

Mr. ADCOCK. Now, if I'm not mistaken, I believe they recovered a rifle from up there.

Mr. REDDAN. Then what did you do?

Mr. ADCOCK. We circled back around to the east, and called for some troops out here. We saw some, I think Colonel Henderson called for some troops out there, because he thought some of the people out here were suspicious looking.

And we went down pretty low then and started circling this area right in here.

Mr. REDDAN. I see.

Now, on that pass, did you see the group of bodies that you were telling us about before, just east of the village?

Mr. ADCOCK. No, sir.

Mr. REDDAN. You didn't see them then?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you see any civilian bodies?

Mr. ADCOCK. No, sir.

Now, I will have to tell you that my position in the helicopter was in the middle. I was in the middle.

Mr. REDDAN. Yes.

Mr. ADCOCK. And there were people on either side of me, and my vision was limited.

Mr. REDDAN. All we want you to do is tell us what you saw; not what anybody told you they saw.

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Now, during this time, did you handle any radio transmissions for Colonel Henderson?

Mr. ADCOCK. Not that I remember, no, sir.

Mr. REDDAN. Did there come a time that morning when you heard a transmission to the effect that a helicopter pilot had complained about unnecessary firing or the killing of civilians?

Mr. ADCOCK. No, sir.

Mr. REDDAN. You never heard any such transmission?

Mr. ADCOCK. No, sir.

Mr. REDDAN. When did you first observe these bodies that you told us about; to the east of the village?

Mr. ADCOCK. We picked up two prisoners, flew them back to Dottie.

Mr. REDDAN. Where did you pick them up?

Mr. ADCOCK. I don't have any idea.

Mr. REDDAN. Were they in the paddies, or on the road?

Mr. ADCOCK. They were in the paddies.

Mr. REDDAN. What were they doing?

Mr. ADCOCK. They were running.

Mr. REDDAN. Were they with any of the other refugees from the village?

Mr. ADCOCK. No, sir.

Mr. REDDAN. They were by themselves?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. And what did you do? How did you pick them up?

Mr. ADCOCK. I believe the gunner fired in front of them.

Mr. REDDAN. Your gunner?

Mr. ADCOCK. Yes, sir, to signal them to stop. And they stopped and we sat down on the ground and picked them up.

Mr. REDDAN. What did you do with them?

- Mr. ADCOCK. We took them back to Dottie.
- Mr. REDDAN. Did it turn out they were Viet Cong?
- Mr. ADCOCK. I never knew, sir.
- Mr. REDDAN. Did they have any gear or equipment with them?
- Mr. ADCOCK. No, sir.
- Mr. REDDAN. Then where did you go after that?
- Mr. ADCOCK. After we went to Dottie and deposited the prisoners, we came back to the My Lai 4 area.
- Mr. REDDAN. About what time of the day was that?
- Mr. ADCOCK. I don't have any idea, sir.
- Mr. REDDAN. Well, you got there about 7:30. You got north of the village around 8 o'clock.
- How long could you fly without refueling?
- Mr. ADCOCK. I don't know, sir.
- Mr. REDDAN. Well, you couldn't fly all day. You flew a lot in helicopters. Would you say you could fly less than 2 hours without refueling?
- Mr. ADCOCK. Yes, sir.
- Mr. REDDAN. So that this would probably be some time between 7:30 and 9 or 10:30?
- Mr. ADCOCK. Yes, sir. I believe it was a little after 9.
- Mr. REDDAN. A little after 9.
- Mr. ADCOCK. We refueled when we went to Dottie.
- Mr. REDDAN. You refueled when you took the prisoners back?
- Mr. ADCOCK. Yes, sir.
- Mr. REDDAN. And then you came back up there again; and what did you observe at that time?
- Mr. ADCOCK. We made a couple of passes over the village.
- Mr. REDDAN. At what altitude?
- Mr. ADCOCK. It was fairly low. I'd say 100, 150 feet.
- Mr. REDDAN. Did you receive any fire?
- Mr. ADCOCK. No, sir.
- Mr. REDDAN. At any time during that morning, did you receive any fire?
- Mr. ADCOCK. No, sir.
- Mr. REDDAN. As far as you know?
- Mr. ADCOCK. As far as I know, that's right, sir.
- Mr. REDDAN. All right.
- Now, you flew in over the village at about 150 feet, and what did you see?
- Mr. ADCOCK. There were a few fires. I saw a little smoke. There wasn't a great amount. I saw some of the troops.
- Mr. REDDAN. Some of our troops?
- Mr. ADCOCK. Yes, sir.
- Mr. REDDAN. What were they doing?
- Mr. ADCOCK. They were going through the village, searching.
- Mr. REDDAN. Were they firing, or just searching?
- Mr. ADCOCK. Just searching.
- Mr. REDDAN. Did you see any wounded or dead civilians?
- Mr. ADCOCK. No, sir.
- Mr. REDDAN. You didn't see any in the village?
- Mr. ADCOCK. Well, there were—I don't know; there may have been four, four or five. Not many.

Mr. REDDAN. Yes.

Did you see any firing of our troops while you were flying around?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Had there been any firing, would you have been in a position to see or hear it?

Mr. ADCOCK. I doubt it.

Mr. REDDAN. How long were you over the village?

Mr. ADCOCK. After we came back from Dottie?

Mr. REDDAN. Yes.

Mr. ADCOCK. We didn't stay too long this time. Approximately 15, 20 minutes.

Mr. REDDAN. What did you do then?

Mr. ADCOCK. We circled the village, like I said, and that was when I saw the bodies along this tree line here.

Mr. REDDAN. I see. And were they in a paddie, or in a ditch, or in a bunker, or where were they?

Mr. ADCOCK. There's a tree line that runs along there, ditch, but it didn't have any water in it.

And they were just over the edge of the ditch, it wasn't in the paddies. Just on the lip of the ditch.

Mr. REDDAN. How many would you estimate?

Mr. ADCOCK. Between 12 and 15.

Mr. REDDAN. Twelve and 15, you say?

Mr. ADCOCK. That's correct, sir.

Mr. REDDAN. At what altitude were you then?

Mr. ADCOCK. We were pretty low, sir. We were about 50 feet.

Mr. REDDAN. So that you could distinguish male or female, or children, or young or old.

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. How would you describe the bodies that you saw?

Mr. ADCOCK. It was mixed.

Mr. REDDAN. Mixed. Any small children?

Mr. ADCOCK. I don't think so.

Mr. REDDAN. But they were men and women?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Could you tell anything from their positions, or the condition of the bodies, as to how they may have been killed?

Mr. ADCOCK. No, sir. The only odd thing about it, they were all facing the same direction.

Mr. REDDAN. They were all facing in the same direction?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Why did this particular condition of the bodies strike you as odd?

Mr. ADCOCK. Because they weren't in the ditch. They were out of the ditch, and on both sides. It looked like a pattern, to me.

Mr. REDDAN. It looked like a what?

Mr. ADCOCK. A pattern.

Mr. REDDAN. What do you mean?

Mr. ADCOCK. They all looked like they were all going in the same direction. And they were killed and all fell in the same direction.

Mr. REDDAN. It looked as though they were all killed at one time, while they were going in one direction?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Could this have been by high explosive artillery round?

Mr. ADCOCK. Could have been, yes, sir.

Mr. REDDAN. Could it have been by miniguns or gunships?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Were any of our troops in that area?

Mr. ADCOCK. No, sir, I didn't see any.

Mr. REDDAN. Had the troops gotten through the village, at that time? To the east? Had they gotten through? They were coming from the west. Had they gotten to the eastern side of the village yet, at that time, do you know?

Mr. ADCOCK. If they did, they probably did so when we were at Dottie, because when we came back over the My Lai 4 area, they were all in the village.

Mr. REDDAN. They were in the village. None of them to the east, over to where you saw these bodies?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Now, did you hear any of the transmissions which Colonel Henderson made that morning?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. What were they?

Mr. ADCOCK. I don't know, sir. I didn't pay that much attention.

Mr. REDDAN. Did any of the transmissions have anything to do with civilian casualties?

Mr. ADCOCK. No, sir, we got a body count, but we didn't—it wasn't labeled civilian casualties.

Mr. REDDAN. Who did you get that from?

Mr. ADCOCK. I don't know, sir.

Mr. REDDAN. Did you call for that?

Mr. ADCOCK. I didn't, no, sir.

Mr. REDDAN. Did you hear Colonel Henderson call for it?

Mr. ADCOCK. I don't know, sir.

Mr. REDDAN. Did he get any calls that morning from LZ Dottie, with respect to indiscriminate firing?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you hear any transmissions at all, with respect to an allegation of a helicopter pilot?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you hear any transmissions, or did Colonel Henderson, at any time, ask you to call General Koster for him?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did he ask you to call Colonel Barker?

Mr. ADCOCK. Yes, sir, I believe he called him one time.

Mr. REDDAN. Do you remember what the conversation was about?

Mr. ADCOCK. No, sir, I don't.

Mr. REDDAN. What did you do when you saw those bodies to the east of the village that you are telling us about?

Mr. ADCOCK. Nothing.

Mr. REDDAN. Did you point them out to Colonel Henderson?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Why not?

Mr. ADCOCK. This was the first combat assault type I had been on, and I didn't know what to expect—what went on, or anything of that nature. And I surmised it was normal.

Mr. REDDAN. You were in, a poor position to be observing from where you were sitting?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Was Colonel Henderson in a position to observe these bodies?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Do you know whether or not he did?

Mr. ADCOCK. I don't know, sir.

Mr. REDDAN. Did he say anything that would indicate that he did?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you circle the bodies so that those on the ship could get a better view?

Mr. ADCOCK. No, sir.

Mr. REDDAN. At what speed would you say you were traveling when you were over those bodies?

Mr. ADCOCK. I don't have any idea, sir. The only reason I saw them is that we banked. We were making a turn, going back over the village, and I could see out the door.

Mr. REDDAN. Were you hovering, or were you making a speed run, or what?

Mr. ADCOCK. No, sir, we were just more or less observing. While we were making one of the turns, I saw them.

Mr. REDDAN. Now, did you see any other civilian casualties, other than this group?

Mr. ADCOCK. There were quite a few along this road to the south here, yes, sir.

Mr. REDDAN. On the road, or in the paddies?

Mr. ADCOCK. In the paddies.

Mr. REDDAN. Were they military age males, or were they women or children? What were they?

Mr. ADCOCK. Again, this was a mixed group.

Mr. REDDAN. Did Colonel Henderson comment at all on any of these bodies?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Could you think of any reason why the others in the chopper wouldn't have observed the same things that you did?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Was there any other ground action that you observed that day over My Lai 4, that you haven't told us about, that would have a bearing on what took place there?

Mr. ADCOCK. Only one other that may have some significance. The Warlords were assisting us that morning.

Mr. REDDAN. Yes.

Mr. ADCOCK. And they stopped two suspects on this road, or off the road, in this paddie somewhere.

Mr. REDDAN. You're talking about the main road going into Quang Ngai?

Mr. ADCOCK. Yes, sir.

And that was the only thing that I can remember.

Mr. REDDAN. Now, during the early part of that morning, did you hear a transmission to the effect that the artillery had taken a pretty good toll that morning?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Tell us about that.

Mr. ADCOCK. We got there, as I said, just before the artillery preparation ended, and there was some discussion between Colonel Henderson and Colonel Luper, I believe.

Mr. REDDAN. Was Colonel Luper in the plane with you at that time?

Mr. ADCOCK. I believe so, yes, sir. Over the failure of the artillery to stop on the designated time. It lasted a little over. And sometime during that morning, Colonel Henderson received a message, I believe it was on the radio, that the artillery had taken an unexpected toll.

Mr. REDDAN. Of civilians?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Do you know who that message came from?

Mr. ADCOCK. No, sir, I don't.

Mr. REDDAN. Did it come from back at LZ Dottie?

Mr. ADCOCK. I am pretty sure that's where it came from, yes, sir.

Mr. REDDAN. Did you monitor the call?

Mr. ADCOCK. I may have, sir. I don't remember.

Mr. REDDAN. Well, how would you have known about the call if you didn't monitor it?

Mr. ADCOCK. If I hadn't monitored the call, I may have overheard Colonel Henderson talking to Colonel Luper about it.

Mr. REDDAN. Do you recall what Colonel Luper or Colonel Henderson said?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Could you tell from the tone of their voice, or the expression on their face, whether this was a matter of concern to them, or whether this was something in the normal course of events?

Mr. ADCOCK. I couldn't tell, sir.

Mr. REDDAN. Was there any extended discussion of it?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Just a passing reference to that?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. That the artillery took a pretty good toll this morning?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. Is this what Colonel Henderson said? I mean, this is your recollection?

Mr. ADCOCK. Yes, sir, something of that nature. It wasn't those exact words.

Mr. REDDAN. Now, did Colonel Henderson ever ask you to make a report as to what your observations were that day?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did anyone ever ask you?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Did you ever make any report?

Mr. ADCOCK. No, sir.

Mr. REDDAN. You were never interviewed by anyone?

Mr. ADCOCK. No, sir.

Mr. REDDAN. I am talking now about during the time that you were in Vietnam?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Do you know whether or not Colonel Henderson subsequently made an investigation?

Mr. ADCOCK. I don't know, sir. I believe the next day we went to Chu Lai, which was an infrequent visit for us.

Mr. REDDAN. When did you go up here?

Mr. ADCOCK. The following day, I believe.

Mr. REDDAN. The what?

Mr. ADCOCK. The following day, the 17th.

Mr. REDDAN. I see. Do you know the purpose of the visit?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Do you know who Colonel Henderson was going to see?

Mr. ADCOCK. I believe it was General Koster.

Mr. REDDAN. Do you know whether or not General Koster had called him to come up?

Mr. ADCOCK. No, sir, I don't.

Mr. REDDAN. What time of the day was it, do you know? Was it morning or afternoon?

Mr. ADCOCK. I don't remember, sir.

Mr. REDDAN. Well, going back to the 16th, were you over My Lai 4 all day, or just part of the day?

Mr. ADCOCK. Just part of the day.

Mr. REDDAN. When did you break off?

Mr. ADCOCK. It was before lunch.

Mr. REDDAN. Then where did you go?

Mr. ADCOCK. Went to Quang Ngai, I believe.

Mr. REDDAN. And after lunch you didn't go back to the My Lai 4 area?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Where did you go after that?

Mr. ADCOCK. Duc Pho.

Mr. REDDAN. Now, did there come a time the following day, or the day after that, when you flew with Colonel Henderson to meet with Captain Medina?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. When did that take place?

Mr. ADCOCK. The following day, sir.

Mr. REDDAN. And where did you see him?

Mr. ADCOCK. I believe it was some—up to the north of My Lai 4, somewhere. I don't know. We went—the chopper left Colonel Henderson and myself out.

Mr. REDDAN. Was anyone else with you?

Mr. ADCOCK. I don't know, sir. I don't remember.

Mr. REDDAN. Was Colonel Luper with you?

Mr. ADCOCK. He may have been.

Mr. REDDAN. And did you radio ahead for them to prepare an LZ for you?

Mr. ADCOCK. Yes, sir.

Mr. REDDAN. And you landed there, and you and Colonel Henderson and maybe someone else went over to where Captain Medina was?

Mr. ADCOCK. Colonel Henderson did. I went out and talked to some of the troops.

Mr. REDDAN. I see. How long were you on the ground?

Mr. ADCOCK. Possibly 30 minutes.

Mr. REDDAN. Did you ask any of the troops about what had happened the day before?

Mr. ADCOCK. No, sir?

Mr. REDDAN. Did any of them say anything to you about the action the day before?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Anything said about civilian casualties at all?

Mr. ADCOCK. No, sir.

Mr. REDDAN. Anything said about the number of Viet Cong claimed?

Mr. ADCOCK. No, sir.

Mr. REDDAN. What did you talk to them about for a half hour?

Mr. ADCOCK. Asked them if they needed anything. Usually I carried something in a bag. I had a sack I carried my maps and stuff in, and I carried things like toothpaste and stuff like that and razor blades. Usually they gave out in the field, had a hard time trying to get them. That's the main thing. I asked them about their needs.

Mr. REDDAN. Did you say anything to them about the artillery which took a pretty good toll the day before?

Mr. ADCOCK. No, sir.

Mr. REDDAN. You had no discussions with anyone about anything about the action of the day before?

Mr. ADCOCK. No, sir.

Mr. REDDAN. No further questions.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. I just wonder if I can orient you on this photograph. Perhaps you could give me some idea of where these bodies located to the east might be.

Mr. REDDAN. If you want to, you can mark that aerial photograph that you have up there. I have marked it with exhibit numbers. And if you want to mark it up, go ahead.

Mr. GUBSER. No. But just to orient you, you see these two paddies here?

Mr. ADCOCK. Yes, sir.

Mr. GUBSER. And I presume that this is the large tree line, and this is the little extension of it?

Mr. ADCOCK. That is correct, sir.

Mr. GUBSER. Now, could you point approximately on this photograph to where this No. 5 is on this map?

Mr. ADCOCK. You want me to point on this one?

Mr. GUBSER. That is right. You get a little different view of where those bodies were.

Mr. ADCOCK. Now I saw them right here.

Mr. GUBSER. Right there?

Mr. ADCOCK. Yes, sir. Along this tree line.

Mr. GUBSER. In other words, that would be right here?

Mr. ADCOCK. Yes, sir.

Mr. GUBSER. Right along this tree line right here?

Mr. ADCOCK. Yes, sir.

Mr. GUBSER. And there is a ditch right close to the tree line?

Mr. ADCOCK. Inside the tree line, yes, sir. Right beside the tree line.

Mr. LALLY. Will you mark it on there, exactly where you saw them?

Mr. GUBSER. In the tree line?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. This is photo exhibit B. Can you put your initials in that circle you made there, Mr. Adcock?

Mr. ADCOCK. Yes, sir.

Mr. GUBSER. Thank you. Did you want to pursue this?

Mr. LALLY. No.

Mr. GUBSER. Thank you very much. That's all, Mr. Chairman.

Mr. HÉBERT. I would like to ask a question. This was your first combat mission?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. First time you had been in combat?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. How long did you remain over there after this incident? I mean, this first combat in the area?

Mr. ADCOCK. About 2½ months.

Mr. HÉBERT. About 2½ months?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. During that period of time did you hear what has been described as coffee cup chatter or scuttlebutt, a discussion about anything relating to a massacre of civilians?

Mr. ADCOCK. No, sir, I didn't.

Mr. HÉBERT. When was the first time you heard about this incident we are talking about now?

Mr. ADCOCK. When I read it in the papers about a year ago.

Mr. HÉBERT. You hadn't heard about it? Not a thing before that?

Mr. ADCOCK. No, sir.

Mr. HÉBERT. And had you come in contact in the States with any previous buddies during the months that you were there?

Mr. ADCOCK. There was only one person. He was Colonel Barker's driver, Beardsley.

Mr. HÉBERT. His name was Beardsley?

Mr. ADCOCK. Right, last name was Beardsley.

Mr. HÉBERT. Yes.

Mr. ADCOCK. And he asked to go on this mission. I believe.

Mr. HÉBERT. He asked what?

Mr. ADCOCK. To go on the mission.

Mr. HÉBERT. All right.

Mr. ADCOCK. And he told me that he killed an old man.

Mr. HÉBERT. Why did he tell you that?

Mr. ADCOCK. I don't know, sir.

Mr. HÉBERT. I mean, was it out of the sky? Did he say, "I killed an old man"?

Mr. ADCOCK. No, sir, I asked him if it was pretty rough out in the field, how he liked it or what was his—

Mr. HÉBERT. Were you trying to find out what the combat reaction was from individuals who had been in combat?

Mr. ADCOCK. Yes, sir.

Mr. HÉBERT. But you heard nothing about any massacre or any untoward event?

Mr. ADCOCK. No, sir.

Mr. HÉBERT. And the first thing you knew about this was when you read about it in the newspaper?

Mr. ADCOCK. That is correct, sir.

Mr. HÉBERT. Do you find any connection at all between what you saw that day and what you have subsequently read in the papers?

Mr. ADCOCK. No, sir, I can't find any connection.

Mr. HÉBERT. That is what I want to find out. In other words, this was your first combat mission and you pay no attention to everything, except this has been combat. A year later you find out some people have made charges about a massacre. Did you think there may have been some connection between the bodies you saw and the charges of a massacre? Did you not have that reaction?

Mr. ADCOCK. No, sir.

Mr. HÉBERT. That is all.

Mr. LALLY. Mr. Adcock, directing your attention again to the aerial photograph of the village behind you, exhibit A, would you just mark with the pen on there a circle and put your initials in the circle, at the approximate location of these bodies you saw in the ditch?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. Thank you.

Now, would you also mark the approximate location of the bodies which you saw, I believe you said, south of the village?

Mr. ADCOCK. Yes, sir. Now these were scattered.

Mr. LALLY. It was not a group of bodies?

Mr. ADCOCK. No, sir.

Mr. LALLY. And about how many did you see in that location, south? Or in those locations south of the village?

Mr. ADCOCK. Altogether I guess a total of about 15 or 20, between 15 or 20.

Mr. LALLY. So that a total of the bodies you saw that day would be in the neighborhood of 30, is that correct, sir?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. Now, how many other persons were with you on the helicopter that morning?

Mr. ADCOCK. Six other people.

Mr. LALLY. And do you recall who those other people were?

Mr. ADCOCK. Mr. Cooney was the pilot. Now, I don't remember the co-pilot and I don't remember the gunners. And there were Colonel Henderson and I believe Colonel Luper.

Mr. LALLY. Was Major McKnight with you that morning?

Mr. ADCOCK. He could have been, yes, sir.

Mr. LALLY. But you are not positive about that?

Mr. ADCOCK. No, sir.

Mr. LALLY. Now, did any of these other persons that were on the helicopter with you that day make any comment or conversation later about having seen bodies out in the combat assault area?

Mr. ADCOCK. No, sir.

Mr. LALLY. Now, you testified earlier that this was your first combat assault, and you didn't really know what to expect. Now, I assume that subsequently you made many more combat assaults, is that right?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. As a result of your experience in those later assaults, was this one unusual in the number of bodies which you saw lying around the village?

Mr. ADCOCK. No, sir.

Mr. LALLY. It was not?

Mr. ADCOCK. No, sir.

Mr. LALLY. Now, in the circling which you described over the village at a rather low altitude, did you observe any humans in the village other than American soldiers?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. Now, these were persons who were not wounded or dead, is that correct, sir?

Mr. ADCOCK. That's correct.

Mr. LALLY. And about how many of those did you see?

Mr. ADCOCK. Approximately 30.

Mr. LALLY. 30?

Mr. ADCOCK. Yes.

Mr. LALLY. And were these grouped or were they scattered throughout the village?

Mr. ADCOCK. In small groups, yes, sir.

Mr. LALLY. Now, did all of the humans which you previously described as having seen on the ground, did they appear to be dead?

Mr. ADCOCK. Will you say that again, please?

Mr. LALLY. The humans which you previously described as having seen lying on the ground, did they appear to be dead, all of them?

Mr. ADCOCK. Yes.

Mr. LALLY. They did not appear to be merely wounded, but they did have the appearance of death, is that correct?

Mr. ADCOCK. Yes, sir.

Mr. LALLY. Do you recall, on that day, Mr. Adcock, any transmissions, either to Colonel Henderson or from Colonel Henderson, regarding C Company going back to the village?

Mr. ADCOCK. No, sir.

Mr. LALLY. Now, did Colonel Henderson, on either March 17 or March 18, go back out and fly over this village?

Mr. ADCOCK. Yes, sir, I believe he did.

Mr. LALLY. And do you recall when that was?

Mr. ADCOCK. I believe it was the day of the 17th, the day after.

Mr. LALLY. That would have been the day that you had gone to Chu Lai, is that correct?

Mr. ADCOCK. Yes, sir, that is also the day we dropped down and talked to Captain Medina.

Mr. LALLY. And about what altitude did you fly over the village on that day?

Mr. ADCOCK. About a hundred feet.

Mr. LALLY. Did you circle the village?

Mr. ADCOCK. Once or twice; yes, sir.

Mr. LALLY. What was the purpose of doing this, if you know, Mr. Adcock?

Mr. ADCOCK. I don't know, sir.

Mr. LALLY. The colonel did not say?

Mr. ADCOCK. No, sir; he just said he wanted to circle over it.

Mr. LALLY. Did anyone ever tell you, Mr. Adcock, that what happened out there that day was not a proper subject to discuss?

Mr. ADCOCK. No, sir.

Mr. LALLY. In other words, don't talk about it?

Mr. ADCOCK. No, sir.

Mr. LALLY. Nobody ever told you that?

Mr. ADCOCK. No, sir.

Mr. LALLY. Did you ever hear that any of the persons who participated in the operation that day had been told that they shouldn't talk about what happened on the operation?

Mr. ADCOCK. No, sir.

Mr. LALLY. I think that's all.

Mr. REDDAN. Any further questions?

Mr. HÉBERT. No further questions. Thank you very much.

Mr. ADCOCK. Yes, sir.

[Whereupon, at 10:55 a.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 11 a.m., in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Gubser, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Will you identify yourself to the reporter?

TESTIMONY OF WO CHARLES H. MANSELL

Mr. MANSELL. WO Charles H. Mansell.

Mr. HÉBERT. Where are you attached now?

Mr. MANSELL. 66th Armored Cavalry Regiment, Fort Meade.

Mr. HÉBERT. At Fort Meade?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. The subcommittee desires to inform you of your complete rights and to assure you of its full protection, as to your privacy. You are not compelled, when you leave this room, to talk to newspaper reporters or news media, or have your picture taken, or make any statement. When you leave the room, you will leave by the door in the back. An officer will be there. One newspaper representative or news media representative will be permitted, if he is there, to ask you if you care to say anything. If you do not care to say anything, you are fully protected, and you can leave.

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. Now, you have a copy of the rules of the committee?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. I see you do have counsel with you. Will counsel identify himself?

Captain STEVENS. Captain Winfred A. Stevens, Office of the Post Judge Advocate, Fort Myer, Va.

Mr. HÉBERT. You understand now, Captain, that you are here merely to protect the legal rights of your client?

Captain STEVENS. Yes.

Mr. HÉBERT. Not to prompt him in any way while he is testifying.

Captain STEVENS. I understand, sir.

Mr. HÉBERT. Very well. Mr. Mansell, will you stand and be sworn.

[Witness sworn.]

Mr. REDDAN. Is your counsel the counsel of your own choice and here at your own request?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Have you been charged with anything?

Mr. MANSELL. No, sir.

Mr. REDDAN. Are you under investigation as far as you know?

Mr. MANSELL. Not as far as I know, sir.

Mr. REDDAN. Was counsel assigned to you?

Mr. MANSELL. No, sir, I requested it.

Mr. REDDAN. You requested it. All right. Have you had more than one tour in Vietnam?

Mr. MANSSELL. No, sir. Just one.

Mr. REDDAN. What period of time were you in the country?

Mr. MANSSELL. November 1967, to September of 1968.

Mr. REDDAN. And where were you physically located, and what were your duties?

Mr. MANSSELL. I was physically located at Chu Lai. I was assigned to the 161, after they got deactivated I was assigned to the 123, Bravo Company.

Mr. REDDAN. When were you assigned to 123?

Mr. MANSSELL. When the changeover happened. I mean we all stayed in the same unit.

Mr. REDDAN. Yes.

Mr. MANSSELL. I think it was January when they switched over. It was just a switchover in name.

Mr. REDDAN. Who was your commanding officer?

Mr. MANSSELL. Major Watke.

Mr. REDDAN. What was your principal duty at that time? Were you a pilot?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. What were you flying?

Mr. MANSSELL. UH-1 Bravo.

Mr. REDDAN. Would you tell me what your normal duties would be on an operation in the field?

Mr. MANSSELL. I would fly cover for AOH 23d Infantry.

Mr. REDDAN. When you say you would fly cover, what do you mean?

Mr. MANSSELL. I would protect him. If he got fired at, I would fire back.

Mr. REDDAN. Would it be the high or the low gunship?

Mr. MANSSELL. There is no telling, sir. Either one.

Mr. REDDAN. It would vary from time to time?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. Normally, on a field operation, at what altitude would the various ships fly?

Mr. MANSSELL. Depends on the pilot, sir.

Mr. REDDAN. Well, the high ship would normally fly at what altitude?

Mr. MANSSELL. Ideally, he would fly at 1,000 feet. Some pilots would not; they wanted to fly lower.

Mr. REDDAN. And the low gunship would fly ideally at what?

Mr. MANSSELL. Ideally, it is right around 500 feet. Four to five hundred feet.

Mr. REDDAN. And the bubble at what?

Mr. MANSSELL. On the deck.

Mr. REDDAN. I would like to direct your attention to March 16, 1968, and ask you if you participated in any way in the operation of Task Force Barker in the Son My area on that day?

Mr. MANSSELL. Yes, sir; I was there.

Mr. REDDAN. Did you attend any briefings preparatory to that operation?

Mr. MANSSELL. I don't remember, sir.

Mr. REDDAN. Who comprised your team that morning?

Mr. MANSELL. I don't remember, sir.

Mr. REDDAN. Do you know who was in the bubble that morning?

Mr. MANSELL. Warrant Officer Thompson.

Mr. REDDAN. Were you the high or the low gunship?

Mr. MANSELL. I don't remember, sir.

Mr. REDDAN. When did you leave Chu Lai that morning?

Mr. MANSELL. Actually I don't remember. It was probably about the same time. We usually left between 6 and 7.

Mr. REDDAN. Do you recall whether you went directly to the area of operation, or did you go over to LZ Dottie?

Mr. MANSELL. I don't remember.

Mr. REDDAN. Do you recall how you approached the area of operation that morning?

Mr. MANSELL. No, sir; I don't.

Mr. REDDAN. Did you come down over the sea and swing west? Or did you come inland over toward LZ Dottie?

Mr. MANSELL. Down Route 1. I think it was down Route 1, sir.

Mr. REDDAN. You came across down Route 1. Did you get down as far as the highway from Quang Ngai, running east?

Mr. MANSELL. Like I say, I don't exactly remember getting there that day, but that is the route that we would have taken.

Mr. REDDAN. With the three ships together as a team, as you left Chu Lai that morning?

Mr. MANSELL. I don't remember.

Mr. REDDAN. Well, would that have been the normal operation?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. And since you were flying cover, at least I wouldn't think you had gone down without the bubble, would you?

Mr. MANSELL. No, sir. There was no need to.

Mr. REDDAN. So at least you and Thompson were there together?

Mr. MANSELL. Yes, sir. During some time that morning, we were there together.

Mr. REDDAN. Well, this is what I am trying to find out. Would Thompson have proceeded independently into that area without cover?

Mr. MANSELL. No, sir.

Mr. REDDAN. So that it is reasonable to assume then, I gather, that you and Thompson would have been there, would have arrived on station about the same time?

Mr. MANSELL. Yes, sir, if I went down with him, we would have arrived around the same time.

Mr. REDDAN. If you weren't flying cover, somebody else was?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. And you eventually wound up with him down there?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Would there be any reason why you wouldn't take off together in a normal operation, unless there was something wrong with your ship?

Mr. MANSELL. No, sir, unless there was something wrong with the ship, no, sir.

Mr. REDDAN. Would you say then that probably the three of you got there about the same time?

Mr. MANSSELL. Three ships got there at the same time. Like I say, I don't know if I was there. I mean, I don't remember if I was with the first team or not.

Mr. REDDAN. Well now, how many teams did you have down there that day?

Mr. MANSSELL. I don't remember that, sir. At a minimum there were three ships there that day.

Mr. REDDAN. Yes.

Mr. MANSSELL. At a maximum there were four. And I don't remember.

Mr. REDDAN. Why would you have four?

Mr. MANSSELL. If we had another ship up.

Mr. REDDAN. Yes, but I say why would you have four rather than three? Didn't three usually comprise your team?

Mr. MANSSELL. Excuse me, sir, three. I meant three gunships.

Mr. REDDAN. Oh.

Mr. MANSSELL. Three gunships—depending on how many ships we had up that were flyable and could fire.

Mr. REDDAN. All right. Now, when did you come on station down there that morning? What would be your best estimate?

Mr. MANSSELL. I can't say, because I don't remember. I remember the incident with one man running in a tree line, and I think that should have been the first time. You know, initially, when the lift went in. But I don't remember it going around with the Slicks.

Mr. REDDAN. Did you see any of the artillery preparation?

Mr. MANSSELL. I don't remember them. No, sir.

Mr. REDDAN. Were the Slicks still in the area when you arrived?

Mr. MANSSELL. As far as I can remember, no, sir.

Mr. REDDAN. Were the troops out of the LZ when you arrived?

Mr. MANSSELL. I don't remember seeing them, sir.

Mr. REDDAN. What did you see when you arrived?

Mr. MANSSELL. It is 2 years ago. I don't remember seeing that much. I remember seeing troops in a village. That's just about it. Troops in the village. A lot of bodies lying around.

Mr. REDDAN. Well, let's take it slow now.

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. Let's see if you can reconstruct for us, in as much detail as you can, just what you did see. Do you recall whether you came up from the outside?

Mr. MANSSELL. I can't remember, sir.

Mr. REDDAN. Let me see if I can help you. Did you circle hill 85 at all that morning?

Mr. MANSSELL. That's when we found the mortar rounds?

Mr. REDDAN. Yes.

Mr. MANSSELL. Yes, sir. I remember going around hill 85, yes, sir.

Mr. REDDAN. Now, did you go around hill 85 before you were over My Lai 4, or after?

Mr. MANSSELL. I can't remember, sir.

Mr. REDDAN. Now, you say you saw some bodies. Try to visualize now where you saw the bodies, what you saw, how they appeared to you.

Mr. MANSSELL. OK. It was unusual, I will say this. It was unusual, because I had not seen—it was unusual, because I had not seen this many bodies.

Mr. REDDAN. How many bodies did you see?

Mr. MANSSELL. Sir, I can't count.

Mr. REDDAN. No, I know you can't, but it was unusual, and it struck you. It must have made a pretty good impression on you?

Mr. MANSSELL. Yes, sir. So much so that I did remember this.

Mr. REDDAN. So tell us what you remember now.

Mr. MANSSELL. I can't say right now. I saw a group of bodies at such-and-such a place on the map. I can't remember that.

Mr. REDDAN. I am not asking you to do that. First I want to get your overall impression.

Mr. MANSSELL. Overall impression?

Mr. REDDAN. Yes.

Mr. MANSSELL. OK.

Mr. REDDAN. You came up—did you see groups of bodies?

Mr. MANSSELL. I think I did. I've got a well, I have appeared five times before people, and I know what happened that day. Whether I actually saw it, that is something else. But—now, wait a minute, sir.

Mr. REDDAN. I want you to stick to what you know, what you saw?

Mr. MANSSELL. This is what I am trying to do, separate from what I know and what I've heard.

Mr. REDDAN. Yes.

Mr. MANSSELL. I did see a great amount of bodies along the road, south of My Lai 4.

Mr. REDDAN. Now, if you will look at that aerial photograph right behind you, there's the road running from Quang Ngai east and west there. And there's a small access road running south from My Lai 4, down to the Quang Ngai road. When you say you saw bodies—

Mr. MANSSELL. Is this the one you are referring to, sir?

Mr. REDDAN. Yes; the small access road. Now, you say you saw bodies along a road. Which road?

Mr. MANSSELL. This road right here, sir.

Mr. REDDAN. The main road?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. With respect to the access road from My Lai 4, with the bodies, do you recall whether the bodies were east or west of that intersection?

Mr. MANSSELL. On the road?

Mr. REDDAN. Yes.

Mr. MANSSELL. They were on the road, sir.

Mr. REDDAN. Yes, but what I mean is—

Mr. MANSSELL. They were in this area. Just about right here.

Mr. REDDAN. You saw the bodies in that area there?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. There are two points indicated on the map, I've got them circled in red. Is it between those two points you are talking about?

Mr. MANSSELL. Yes, sir, the majority of them, yes, sir.

Mr. REDDAN. Could you tell us approximately how many bodies you saw?

Mr. MANSSELL. Like I saw, sir, I have been up here five times. And they want me to count every time.

Mr. REDDAN. I don't want you to count.

Mr. HÉBERT. Five times?

Mr. MANSSELL. Not here. This is the second time here, sir. I talked to somebody. CID. General Peers Committee.

I have made statements before. Around 75 bodies, I think. I don't know. I mean—

Mr. REDDAN. And are you pretty sure they were on the road itself?

Mr. MANSSELL. Yes, sir. Well, okay, 75. No, 75 is too high. I think it was about 25 bodies along the road.

Mr. REDDAN. Were they in the ditches or right on the road itself, as you recall?

Mr. MANSSELL. Both.

Mr. REDDAN. All right.

Mr. MANSSELL. If I recall right, they were both.

Mr. REDDAN. Do you know at what altitude you were flying then, approximately?

Mr. MANSSELL. No, sir.

Mr. REDDAN. Were you over a thousand feet?

Mr. MANSSELL. I wouldn't have been over a thousand, no, sir.

Mr. REDDAN. Four hundred, five hundred feet?

Mr. MANSSELL. I can't tell. I could have been at—at one time or another—I could have been at both altitudes. Because it wasn't set; it wasn't a set thing, that you will fly at such and such an altitude, and if we had three guns on station, it would switch.

Mr. REDDAN. Yes. Well, what I am thinking of, from your experience as a flyer, you can pretty well tell your altitude, between two and four hundred feet, pretty accurately, can't you?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. And from what you observed there, on the road, what would you say?

Mr. MANSSELL. I would say I was the low gunship that day.

Mr. REDDAN. And you would be flying at about what?

Mr. MANSSELL. The deck to four hundred feet.

Mr. REDDAN. Now, were any people moving along the road in the area where you saw the bodies?

Mr. MANSSELL. I can't remember anybody moving, sir. The next day, yes. But not that day.

Mr. REDDAN. Not that day?

Mr. MANSSELL. No, sir.

Mr. REDDAN. Were any people on the road farther west or toward Quang Ngai, that you recall?

Mr. MANSSELL. No, sir.

Mr. REDDAN. Any on the road coming on the little access road out of My Lai 4?

Mr. MANSSELL. No, sir. I don't remember any.

Mr. REDDAN. You don't recall seeing any Vietnamese moving anywhere?

Mr. MANSSELL. No, sir, I don't remember anybody moving.

Mr. REDDAN. Now, do you recall whether any of our troops were in the general area where you saw these bodies?

Mr. MANSSELL. I remember some troops in the village, you know, in My Lai 4.

Mr. REDDAN. Yes?

Mr. MANSELL. But at the time, you know, it is just like any other operation. I mean, I remember seeing them there. I mean, I can't say that I saw them doing anything. But I saw them going through the village.

Mr. REDDAN. Did you see any of them down along the road, or near the road where you saw the bodies?

Mr. MANSELL. No, sir. Not that I can remember.

Mr. REDDAN. Did you see any American troops firing that morning?

Mr. MANSELL. No, sir.

Mr. REDDAN. Now, were you on Warrant Officer Thompson's frequency throughout the morning?

Mr. MANSELL. At one period of time, I know I was.

Mr. REDDAN. If you were flying cover for Thompson in the low gunship, wouldn't you normally be on his frequency constantly?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. So that any transmissions he made, you would have heard?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Now, did you hear any transmissions that morning from Warrant Officer Thompson with respect to civilian casualties or indiscriminate firing?

Mr. MANSELL. No, sir. I think I was in the operations van when I heard that. I don't think I was flying.

Mr. REDDAN. What did you hear?

Mr. MANSELL. I can't remember exactly what I heard.

Mr. REDDAN. The best of your recollection.

Mr. MANSELL. OK. I slept with Buck in the same hootch; Warrant Officer Thompson. And the only thing I remember is that he was terribly upset. I can't say he said one thing or another. I can't say that.

Mr. REDDAN. I am talking about the radio transmission. Any radio transmission?

Mr. MANSELL. There was something about somebody shooting somebody. American troops shooting people they shouldn't or something like that. I don't remember exactly.

Mr. REDDAN. Now, you were flying cover at that time, is that right?

Mr. MANSELL. No, sir, not at that time.

Mr. REDDAN. I see. Where were you?

Mr. MANSELL. I was back at the van, at Dottie, the operations van.

Mr. REDDAN. Who would have been flying cover for him then?

Mr. MANSELL. I don't know, sir.

Mr. REDDAN. Why would you have left to go back to the van?

Mr. MANSELL. Fuel. Like I say, I can't remember how many guns we had on station. I know Skeeter could fly for 45 minutes to an hour longer than we could. And we were turning around, going back, getting fuel and flying back out again.

Mr. REDDAN. You were taking turns flying cover? Is there always somebody flying cover form?

Mr. MANSELL. Yes, sir. Well if there wasn't there might have been a void space in there, and Skeeter would be up high.

Mr. REDDAN. But do I understand you to say you heard no radio transmissions from Thompson that morning while you were flying cover, with respect to civilian casualties or indiscriminate firing?

Mr. MANSELL. I can't remember any, no, sir.

Mr. REDDAN. Well, had you ever heard about any pilots complaining about indiscriminate firing on civilian targets in any operation that you ever participated in?

Mr. MANSELL. No, sir.

Mr. REDDAN. So that if he had made such calls on the radio, I would think that they would have made a pretty strong impression on you?

Mr. MANSELL. Probably they would have, sir.

Mr. REDDAN. So that if you don't remember them, if you have no present recollection of them, would you conclude that he didn't make any such calls while you were in the air?

Mr. MANSELL. I would assume that, but I can't say for sure. I mean, it is 2 years ago, sir.

Mr. REDDAN. Well, yes. You remember a lot of things that happened to you when you were 5 years old, too, that made an impression on you?

Mr. MANSELL. That's true.

Mr. REDDAN. So 2 years, you may have forgotten what you had for dinner, but if you saw a lot of people being killed, or if you heard a broadcast to that effect, I would expect it to make somewhat of a lasting impression. And this is what we are trying to find out.

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Did you hear a message from Thompson or anyone else when you were back in the van, with respect to civilian casualties?

Mr. MANSELL. I think there was some kind of message that came back. I seem to remember it, and the only reason I remember it was because Thompson was shook up, aggravated. He was in a different state of mind than I had seen him in usually.

Mr. REDDAN. How could you tell that from a transmission?

Mr. MANSELL. Tone of voice. The way he was talking.

Mr. REDDAN. What was he saying?

Mr. MANSELL. I can't remember exactly, sir.

Mr. REDDAN. How was he saying it? You remember he was excited. What was he doing, yelling, screaming?

Mr. MANSELL. No, not really. It was just—just that, just something in his voice. I could tell. I mean, he was talking faster than he usually does.

Mr. REDDAN. What was he saying?

Mr. MANSELL. I can't remember, sir, exactly. I can't remember what he said.

Mr. REDDAN. Well, you keep saying "exactly." I don't expect you to remember verbatim. But here's a fellow that you bunked with. You knew him well. He's out there and he's making a sort of transmission you have never heard before. And he's talking about problems that you had never encountered. I think if you try real hard, you can probably recall something a little more definite than you have given us so far.

Mr. MANSELL. I can't right now because I don't remember.

Mr. REDDAN. In half an hour do you think you could, if you are given time to think about it?

Mr. MANSELL. I don't know. After the last time I was down here I kind of forgot the thing, and I haven't thought that much about it. I mean, this is something that came up, just sitting here talking with you, that I do remember I heard a transmission in the van. I never said

that before. But I do remember hearing a transmission. Now exactly what was said, I don't remember.

Mr. REDDAN. Do you remember what took place in the van when the transmission came in?

Mr. MANSELL. No, sir.

Mr. REDDAN. Do you recall who was there?

Mr. MANSELL. No, sir.

Mr. REDDAN. Do you recall anybody who was there?

Mr. MANSELL. No, sir.

Mr. REDDAN. What did you do after that?

Mr. MANSELL. I don't remember.

Mr. REDDAN. Did you go back on station again?

Mr. MANSELL. I think I did. I think I did. There was the incident with the mortar rounds. I had to go back out there for that because I do remember that. I do remember seeing that. I remember seeing a Slick set down on Hill 85. And I do remember actually following Warrant Officer Thompson to the hospital with the wounded child.

Mr. REDDAN. Well, now, prior to the time he took off with the wounded child, did Thompson put down on the ground at any time?

Mr. MANSELL. I did not see him put down on the ground, sir.

Mr. REDDAN. If he put down on the ground when you were out there, flying cover, could he have done it without you seeing him?

Mr. MANSELL. No, sir.

Mr. REDDAN. So what you are saying is if Warrant Officer Thompson did put down on the ground at any time that day, you weren't out there when he did it?

Mr. MANSELL. Yes, sir. I will agree.

Mr. REDDAN. Now, did you see your other gunship or any other helicopter put down to evacuate anybody?

Mr. MANSELL. No, sir.

Mr. REDDAN. Did you have any discussions with any of the crew of the other gunship or with Warrant Officer Thompson that day or later, in which such an incident was related to you?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Would you tell us about that, please?

Mr. MANSELL. You want me to go through the whole thing?

Mr. REDDAN. Yes.

Mr. MANSELL. What Warrant Officer Thompson told me that night when he got back?

Mr. REDDAN. Yes.

Mr. MANSELL. All right. As near as I can remember, he got back to the hootch. He was quite aggravated.

Mr. REDDAN. About what time was this? Was it before dinner, after dinner? Dark?

Mr. MANSELL. I can't remember exactly. It was after the mission. It was probably around 6 o'clock.

Mr. REDDAN. All right.

Mr. MANSELL. We sat down. He came in. He was very aggravated. He relayed the three incidents that I told you before about.

Mr. REDDAN. Yes. Well, we have it now on the record.

Mr. MANSELL. All right. The first one. He had somehow contacted the units on the ground and told somebody that there was a young woman, a female, in the ditch, or some place, a wounded female, and go help her.

And either, I think he said to Warrant Officer Thompson—he must have been in contact, either that time or one of the three incidents—that they said, “Yes, I will help her.” And they went over, and like I say, I think it was a captain. And the captain went over, kicked the girl and shot her in the head.

Mr. REDDAN. This is what Thompson is telling you?

Mr. MANSELL. Yes, sir. I did not see it. That’s hearsay.

The second one, there was a bunker that had some people in it. Warrant Officer Thompson set his helicopter down between the advancing Americans and the helicopter.

Mr. REDDAN. You mean—

Mr. MANSELL. And the bunker. And he told his crew chief and gunners if they get fired upon, to fire back. He went out to the bunker and took the people out. This is when the other gunship sat down and evacuated the people.

The third time is when he sat down and picked up the boy. I think it was a boy. An injured child. And took it to Quang Ngai hospital. That is when I married up with him.

Mr. REDDAN. Now, when did you marry up with him, after he took off, or while he was still on the ground, or when?

Mr. MANSELL. No, sir, I did not see him on the ground. I had to marry up with him in the air.

Mr. REDDAN. Now, did he go into any more detail about this, “If they fire on you, fire back at them”? Did our troops normally fire at the Aero-Scouts?

Mr. MANSELL. Our troops?

Mr. REDDAN. Yes.

Mr. MANSELL. Are you talking about helicopters?

Mr. REDDAN. No. Do the ground troops normally fire at the Aero-Scouts if they land their helicopters?

Mr. MANSELL. No, sir.

Mr. REDDAN. What I am trying to find out is why did Thompson say this?

Mr. MANSELL. Because of the first incident.

Mr. REDDAN. Tell me about that. Did they fire at him? Had he been fired at by our troops?

Mr. MANSELL. No, sir. No, sir.

Mr. REDDAN. I am just trying to understand why he—

Mr. MANSELL. OK.

Mr. REDDAN. Did he tell you why he said what he did?

Mr. MANSELL. On account of the girl, the first time.

Mr. REDDAN. Yes, I don’t understand why he felt they were going to fire at him.

Mr. MANSELL. Him or the Vietnamese. I mean, there was something going on that day, he knew it. I mean, whether he saw it or heard it or felt it.

Mr. REDDAN. Yes.

Mr. MANSELL. There was something going on that day and he knew it wasn’t right.

Mr. REDDAN. Did he tell you that this is why he did what he did? I mean, you can’t tell me how he felt unless he told you how he felt?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. This is what I am trying to find out. Did he tell you how he felt?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. Tell us then what he told you, the best you can recall?

Mr. MANSSELL. With respect to that, the whole incident?

Mr. REDDAN. Yes. I am particularly concerned now with his statement to you about having told his gunners that if the ground troops fired at him, fired at them, that they were supposed to fire back. I am trying to understand why he said that, and if he told you why he said it, it would be helpful, because then you can tell us.

Mr. MANSSELL. All I can say is, you know, it is on account of the first incident with the woman. Because there was something going on, and he felt it that day. I didn't. I can't sit down and say, you know, that he had said one specific thing about it.

Mr. REDDAN. Well then he didn't go into any detail then, as I gather from your testimony?

Mr. MANSSELL. He probably did, sir, but I don't remember.

Mr. REDDAN. All right. What else did he tell you?

Mr. MANSSELL. He said he cried, taking the child to the hospital, because he has a child the same age.

Mr. REDDAN. Did he tell you, other than this one incident of this woman being shot, of any others that he saw killed? Did he see any others killed?

Mr. MANSSELL. Not that I can remember, sir.

Mr. REDDAN. Did he tell you why he felt it was necessary to put down, to airlift these people out of there?

Mr. MANSSELL. Because they were going to get killed.

Mr. REDDAN. Well, now, did he tell you this?

Mr. MANSSELL. Yes, sir. He felt that they were. He felt they were.

Mr. REDDAN. He felt that they were. Were the American troops shooting at them?

Mr. MANSSELL. At that time?

Mr. REDDAN. Yes.

Mr. MANSSELL. I don't know. I wasn't there.

Mr. REDDAN. I mean did he tell you? I know you weren't there. I am trying to find out what he told you.

Mr. MANSSELL. No. OK. No, sir.

Mr. REDDAN. Although we generally follow the rules of evidence, we are not required to do so. We can accept, for our own use and evaluation, hearsay testimony. We can accept anything at all, because we are in a position to evaluate and perhaps go on from there, to get supporting testimony from other sources.

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. So that is why it is helpful, when I ask you these questions, if you could be responsive, it will help us in our inquiry.

Mr. MANSSELL. Yes, sir. I have got nothing to hide, sir.

Mr. REDDAN. I know you haven't. But I am afraid you might be fearful of saying something about an event which you didn't witness yourself. But it is perfectly all right. You can tell us if someone told you about the event, just as long as we know that what you are giving us is hearsay—

Mr. MANSSELL. Yes, sir.

Mr. REDDAN [continuing]. So that we don't make a mistake and mix it up with competent evidence. So can you tell us anything else

that he said to you, which prompted him to put his chopper down that day and to call a gunship down to evacuate these people?

Mr. MANSELL. No, sir.

Mr. REDDAN. Do you recall when you returned to Chu Lai that day from the area of My Lai 4?

Mr. MANSELL. I thought it was around noon. But I found out later it wasn't.

Mr. REDDAN. When did you find out?

Mr. MANSELL. Talking with the different people. The best that I can remember, I didn't fly that afternoon.

Mr. REDDAN. What do the records show?

Mr. MANSELL. They only show 5.6 hours flying that day. They don't say when we were flying.

Mr. REDDAN. If you came on station at 8 o'clock that morning, that would have put you over sometime in the afternoon, wouldn't it? Afternoon time?

Mr. MANSELL. Possibly, yes, sir. I could have gone out; I was the armament officer, and I could have gone out and test fired aircraft that afternoon.

Mr. REDDAN. Now, were you ever interviewed by anyone in the 173d with respect to what you may have observed at My Lai 4 on that day?

Mr. MANSELL. No, sir.

Mr. REDDAN. Was there any discussion among any of the Aero-Scout crews or personnel with respect to what took place, other than what you have already reiterated?

Mr. MANSELL. With Warrant Officer Thompson?

Mr. REDDAN. With Thompson.

Mr. MANSELL. Not that I know of, sir.

Mr. REDDAN. Would this have been a matter of general conversation among the 173d personnel?

Mr. MANSELL. Yes, sir, it would have been.

Mr. REDDAN. Tell us how you know that?

Mr. MANSELL. Well, like I say, it was different. We had just been formed. We had never seen anything like this before. A great amount of bodies. I mean, we had been over there; we had seen a couple of bodies. But this was something else. Of course now we did not live close to the enlisted personnel. It was just with the officers. The only one that actually had anything to say about it was Warrant Officer Thompson, that I know, because he slept in the same hooch.

Mr. REDDAN. Who flew the gunship that put down there to evacuate them?

Mr. MANSELL. Warrant Officer Malianns.

Mr. REDDAN. Did you talk with him about what had taken place?

Mr. MANSELL. No, sir.

Mr. REDDAN. Or anyone in his crew?

Mr. MANSELL. No, sir.

Mr. REDDAN. How did you know it was a matter of general conversation among the 173d?

Mr. HEBERT. He said it was not.

Mr. MANSELL. It was not.

Mr. REDDAN. I thought you said it was?

Mr. MANSSELL. No.

Mr. REDDAN. Since it was such an unusual operation.

Mr. MANSSELL. Yes, sir, it should have been, yes.

Mr. REDDAN. I see.

Mr. MANSSELL. It should have been, right. But, OK. I was troubled by problems at home and everything, and I could care less what happened. And Warrant Officer Thompson was in the same hootch, and I didn't jump hootches, so to speak.

Mr. REDDAN. Well now, did there come a time when Major Watke assembled the 173d and said anything to you about discussions of My Lai 4?

Mr. MANSSELL. No, sir, I don't remember that. He might have gotten the enlisted men together, but I do not remember him ever saying anything about it.

Mr. HÉBERT. As to some unusual thing that occurred?

Mr. MANSSELL. No, sir.

Mr. GUBSER. When was the first time you were questioned about this incident, when the Peers Committee called you in?

Mr. MANSSELL. No, sir, I volunteered information to the CID at Meade.

Mr. GUBSER. When was that?

Mr. MANSSELL. December. December, last year, sir.

Mr. GUBSER. Why did you volunteer? What was your motivation?

Mr. MANSSELL. Because I thought somebody was looking for a scapegoat, and I don't think it should be Calley. And that is all I had ever heard of. I didn't know anything was really going on until I read Time magazine, and they sat down, they described what happened that day, and I said, yes, I was there. I talked to my CO, and he talked to his boss; he said, go see the CID.

Mr. HÉBERT. At that time you did remember?

Mr. MANSSELL. Yes, sir. I knew I was there. I was there.

Mr. REDDAN. Now, you recall when we talked to you before about this particular matter, I said to you at one point—it appears at 2894 of the record—"As a matter of fact, it buzzed about so much that Major Watke felt it was necessary to suggest you knock it off, didn't he." And you replied, "Yes, sir."

And I asked you, "How did he happen to do this?" And you said, "Like I say, I don't remember that much about it. I think he called the formation and told everyone. I don't remember for sure, sir."

I said, "What is your best recollection?"

And you said, "Well, I can't really remember that much. It is coming back slowly. I think he did hold a formation, but I can't remember for sure. When I was first interviewed by the CID, I didn't remember anything about Major Watke saying anything to us after that. But it is coming back slowly, in little bits and pieces. I think he did give us a debriefing." And I said, "When he called the formation, who would have been there?" And you said, "It would probably have been everyone, sir." I said, "Everybody, the officers, enlisted men and everyone?" And you stated, "Probably. I don't remember for sure."

Then I was trying to pin down where it took place.

Mr. MANSSELL. Yes, sir. I remember that. It was behind the hangar.

Mr. REDDAN. Will you tell us about that?

Mr. MANSSELL. Well, like I say, I remember something did happen. There was some kind of formation. I don't remember. I wasn't there.

I wasn't at the formation, for one reason or another. I don't know. But I was not there.

Mr. REDDAN. How do you know about the formation?

Mr. MANSELL. Hearsay.

Mr. REDDAN. Who told you that?

Mr. MANSELL. I don't remember, sir.

Mr. REDDAN. What did you hear?

Mr. MANSELL. That there was a formation held, and that Major Watke put it on the line, said, "Cool it."

Mr. REDDAN. Well, now, he didn't just call a formation and say, "Cool it." This doesn't help us.

Mr. MANSELL. Yes, sir.

Mr. REDDAN. So expand to the best of your ability, your recollection as to what was told you. What was the purpose of the formation? What do you understand he told the people at that time?

Mr. MANSELL. That there were rumors going around, and that they shouldn't spread them.

Mr. HÉBERT. Rumors about what?

Mr. MANSELL. About the incident that day, alleged incident.

Mr. REDDAN. You mean the civilian casualties at My Lai 4?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. And?

Mr. MANSELL. But I wasn't there. I did not——

Mr. HÉBERT. That's all right. We understand that.

Mr. MANSELL. Yes, sir.

Mr. REDDAN. What else did he say?

Mr. MANSELL. I don't know.

Mr. REDDAN. Were you told that he said that it was being investigated and they shouldn't discuss it while it was under investigation?

Mr. MANSELL. No, sir. I don't remember that.

Mr. REDDAN. That it was just something they shouldn't talk about?

Mr. MANSELL. Yes, sir. Not spread rumors.

Mr. REDDAN. Well, did you think it was a rumor?

Mr. MANSELL. A rumor. OK. What part of it? That there were at any time civilians being killed?

Mr. REDDAN. That is right. That is right.

Mr. MANSELL. I don't know, really.

Mr. REDDAN. That's one place you were. You were over My Lai 4 that day?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. You saw civilians killed?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. When somebody said it was a rumor, you knew it was a fact?

Mr. MANSELL. That there was civilians killed that day?

Mr. REDDAN. That's for sure.

Mr. MANSELL. There were people in black pajamas killed; yes, sir.

Mr. REDDAN. That is right, and this was something that none of you people had ever seen before?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. And you knew very well it wasn't a rumor. You weren't spreading rumors. Now, somebody may have been enlarging on the thing, but you knew that the basic allegation was a fact?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. So what did you say when somebody told you not to spread rumors? Did you ask them if you could spread facts?

Mr. MANSELL. No, sir.

Mr. REDDAN. Did you ever report this to anybody?

Mr. MANSELL. No, sir, I did not.

Mr. REDDAN. Did you ever talk to Major Watke about it at all?

Mr. MANSELL. No, sir, I did not.

Mr. REDDAN. Did you feel that what you had observed was something that should have been reported in your flight report?

Mr. MANSELL. No, sir, I did not.

Mr. REDDAN. Did you file a flight report that day?

Mr. MANSELL. No, sir, I did not. I was a peter pilot.

Mr. HÉBERT. What is that?

Mr. REDDAN. Will you explain that for the record? Somebody might misunderstand.

Mr. MANSELL. OK. There are two people that fly a helicopter in Vietnam. One is TAC and the other peter pilot. In the States, it is pilot and copilot.

Mr. REDDAN. You were flying shotgun that day, is that right?

Mr. MANSELL. Yes, sir. I was flying shotgun.

Mr. REDDAN. You were just lucky all over. You weren't any place and you didn't have any responsibility?

Mr. MANSELL. That is right, sir. That was my bag at that time. I think it was about 2 weeks after that, that I made AC.

Mr. HÉBERT. That you did what?

Mr. MANSELL. That I made AC. Aircraft Commander.

Mr. HÉBERT. I am intrigued on one thing, that you volunteered to give information to the IG, was it?

Mr. MANSELL. CID, sir.

Mr. HÉBERT. CID. What information could you give them if you don't remember?

Mr. MANSELL. I don't know. But the only thing that I read, I was there.

Mr. HÉBERT. You thought that would be helpful information to give them, say, "I was there, Charlie"?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. But you couldn't say any more than say you were there?

Mr. MANSELL. That's just about it. I mean, well, like I say, it is the first time. OK, what do you remember? I don't remember that much. Very little. Fine. I sat there for 5 hours. We played their silly game. They typed it on and everything, and I signed it. They called me back, I think it was a week later. "Now we want to hear hearsay, when you were bunking with Thompson." And I think I got a call around January 10 from—I think it was Major Krause, saying that I had to come down. He started talking to me on the phone. He says, "I understand you were in My Lai on March 16." I said, "Yes, sir." And we started talking about it. He didn't even know I went in and talked to the CID at all. Somehow he found out I was there. I mean——

Mr. HÉBERT. That wouldn't be hard to find out. They can get the personnel in the area. That's the simple thing.

Mr. MANSELL. Yes, sir. I mean——

Mr. HÉBERT. Nothing very intriguing about that. He just has to get a list of personnel.

Mr. MANSELL. OK. List of personnel. How are you going to do that, sir? The Dash 14's on the aircraft have all been destroyed. They are not there any more.

Mr. HÉBERT. No records would indicate who the personnel of your outfit were?

Mr. MANSELL. Initially, yes, sir. I mean, they could find out who was in the outfit at the time. But who was flying on that mission—

Mr. GUBSER. What is the Dash 14?

Mr. MANSELL. This is the pilot's log, where you get your log time, by name, the copilot's name, the crew chief, and the gunner's name.

Mr. HÉBERT. Now, tell me this. You were a pilot. You are flying. Who commands you for action? In other words, where you go and what you do? When you come down or when you stay up? Who tells you what to do?

Mr. MANSELL. It's usually the platoon leader or the company CO or the XO, whoever the highest ranking man out there is, I mean.

Mr. HÉBERT. This is a theoretical question that I am asking you to find out exactly what the responsibility is. In other words, if the choppers, support ships, and the other ships, are flying around while the combat is taking place, can you, of your own volition, drop your chopper because of something that is taking place on the ground?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. And every ship has got its own mission?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. In that pattern, if one of those ships breaks the pattern, this is a violation of orders, isn't it?

Mr. MANSELL. If you want to get it down in black and white, according to orders and everything, you could construe it this way, yes, sir.

Mr. HÉBERT. That is a violation of orders?

Mr. MANSELL. You could. But OK, so it is my bag. I read regulations, as guidelines, not rules. If the situation warrants it—

Mr. HÉBERT. What type of situation would you say, in your own mind, as an experienced pilot, would warrant you dropping your ship without orders?

Mr. MANSELL. Myself? I wouldn't.

Mr. HÉBERT. You wouldn't drop it?

Mr. MANSELL. No, sir.

Mr. HÉBERT. You would endanger the whole mission by falling out?

Mr. MANSELL. No, sir. I would not drop it. I would not set down.

Mr. HÉBERT. I didn't say you would. I said, if you would.

Mr. MANSELL. Depends.

Mr. HÉBERT. I am not addressing myself to you as an individual. If a pilot dropped out of the pattern, he would endanger the mission because he had a mission to perform?

Mr. MANSELL. Possibly. Depending on the situation, sir. If we were receiving fire, if everything was breaking loose, yes, sir, he would endanger it. If there was no fire, and something like this happened—you are referring to immediately evacuating the people out with the gunship?

Mr. HÉBERT. I am referring to Thompson's specifically dropping, without orders, on that ground. In other words, I don't know whether this is a fact. We are trying to find the facts.

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. In other words, if Thompson, because of some feeling, emotional upset on his part, thought that the troops were killing civilians wantonly, and he wanted to go down and chastise them, and he arbitrarily dropped his ship. Now whether his name is Thompson, Jones or anything, I don't care. I am merely using an example. Wouldn't that be breaking the formation and endangering the whole operation?

Mr. MANSELL. Not really, sir.

Mr. HÉBERT. It wouldn't?

Mr. MANSELL. No, sir.

Mr. HÉBERT. Why did they need the ship up there in the first place if it wasn't contributing to the operation?

Mr. MANSELL. We were in the air.

Mr. HÉBERT. Well, naturally, you were in the air. That is where you belong.

Mr. MANSELL. Yes, sir, that is right.

Mr. HÉBERT. You didn't belong on the ground.

Mr. MANSELL. That is true. Like I say, you are referring to me, gunship pilot. I don't belong on the ground, that is true, sir. But the majority of the time, the helicopter is flying low. He can sit down. He can do anything he wants. He can sit down; he can hover on the ground. Anything. As long as we are covering him. That was my mission to cover him. I was never 23 pilot.

Mr. HÉBERT. To cover Thompson?

Mr. MANSELL. To cover Thompson. I was never 23 pilot. I don't know what briefing he had from anybody on exactly what he was supposed to do.

Mr. HÉBERT. We don't expect you to know that?

Mr. MANSELL. We were a makeshift-type outfit because we didn't know what was going on when it started with the scout type aspect. We didn't know.

Mr. GUBSER. Did you see Thompson pop any smoke during the operation?

Mr. MANSELL. No, sir.

Mr. GUBSER. Did you pop any?

Mr. MANSELL. No, sir, that I remember.

Mr. GUBSER. That was one of your missions though, wasn't it, if you saw people with weapons, you were to pop smoke?

Mr. MANSELL. We tried that, sir.

Mr. GUBSER. And when you spotted the requirement for a medical evacuation, did you also pop smoke for that?

Mr. MANSELL. Sir, it might have been written, and I should have read it, but I didn't see it. I don't remember seeing it, anything about popping smoke on an immediate evacuation.

Mr. GUBSER. Let's get to what is normal practice.

Mr. MANSELL. All right.

Mr. GUBSER. Get away from My Lai here. What do you mean when you pop smoke? What is it for?

Mr. MANSELL. Mark; if you want to mark something, you pop smoke on it. For one reason or another, you pop smoke.

Mr. GUBSER. To mark something?

Mr. MANSELL. It could be a bunker; it could be some dead; it could be somebody alive, suspicious, anything. You mark. There was no differentiating with color or anything.

Mr. GUBSER. Were there specific orders that pertained to the popping of smoke?

Mr. MANSELL. Not that I remember, sir.

Mr. GUBSER. All right.

Mr. HÉBERT. Did Thompson in his conversations with you tell you he killed anybody that morning in My Lai 4?

Mr. MANSELL. No, sir.

Mr. HÉBERT. He didn't tell you he killed somebody around 7 in the morning when they were going in on the first prep?

Mr. MANSELL. There was something about one guy with weapons, carrying a weapon, heading toward a tree line, and he told his gunners to open up on him, the individual, and he shot all the way around it, never got him, went to the tree line. He told the gunners to roll in, and that's all I remember.

Mr. HÉBERT. Told the gunners to do what?

Mr. MANSELL. Roll in; shoot him; or mow down the tree line.

Mr. HÉBERT. It wouldn't have been in the open then? In the open field?

Mr. MANSELL. He was initially but then he went to a tree line.

Mr. REDDAN. Did you indicate the tree line before, where this event took place?

Mr. MANSELL. No, sir, that's hearsay.

Mr. HÉBERT. Now just a few moments ago you referred to your appearance before the CID and somebody talked to you. And for 5 hours they talked to you and they called you back and had a paper prepared, and you signed it. You referred to it as silly. I think those were your words—"silly games."

What was silly about this? This is serious business.

Mr. MANSELL. Read that back. What was going on at that time when I referred to this? Do you know?

Mr. GUBSER. You said they played this silly game for 5 hours.

Mr. MANSELL. OK.

Mr. REDDAN. You can't blame them if they were a bit incredulous, can you?

Mr. MANSELL. No; OK; I went in there; I went in there, and I talked to them, and they sat down, and I had to wait and wait and wait, and they had—what I mean by silly game is I had an investigator there, he questioned me, he put it on tape, and after it was all over, he had an inexperienced investigator sit down and try to type these things out.

Mr. HÉBERT. How do you know he was an inexperienced investigator?

Mr. MANSELL. I was told.

Mr. HÉBERT. You were told?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. You don't know whether he was or wasn't?

Mr. MANSELL. I was told by the investigator that talked to me. And he was sitting there, he couldn't type. I mean——

Mr. REDDAN. He was an inexperienced typist?

Mr. HÉBERT. You saw that?

Mr. MANSELL. Yes, sir, yes, sir.

Mr. HÉBERT. You see, we are so careful, we are not badgering you in any way. We are trying to get to the facts. But as Mr. Reddan says, it is rather incredulous that a man with your experience and all doesn't remember.

Mr. MANSELL. Sir, I have got a hangup.

Mr. HÉBERT. What is a hangup? You use all this language we are not familiar with.

Mr. MANSELL. OK. When I was in Vietnam, I had trouble, back home.

Mr. HÉBERT. You don't have to tell us about that.

Mr. MANSELL. It is a hangup.

Mr. REDDAN. You have got everything going for you.

Mr. MANSELL. Yes, sir, I realize that.

Mr. REDDAN. Well, we are not playing silly games here.

Mr. MANSELL. No, sir.

Mr. REDDAN. Although we may be duplicating the CID. And if we view some of your testimony with a jaundiced eye, I think if you sat on this side of the table, you would, too.

Mr. MANSELL. Yes, sir, I will agree with you 100 percent.

Mr. LALLY. Mr. Mansell.

Mr. MANSELL. Yes, sir.

Mr. LALLY. In your earlier testimony regarding these bodies that you observed, as I recall, you gave an overall total of maybe 75, or thereabouts?

Mr. MANSELL. Yes, sir.

Mr. LALLY. And as I further recall, you located about 25 or thereabouts along Route 521, the main highway?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Now, again as I recall, you placed it between those two red marks on the highway there, is that correct, sir?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Now were those bodies located in a group or were they located singly, or in small groups?

Mr. MANSELL. Spread out, sir. As near as I can remember, they were spread out.

Mr. LALLY. Now, where was it that you observed the balance of the bodies which you observed, which you did see that day? As closely as you can approximate it on that aerial photograph, the exhibit A behind you?

Mr. MANSELL. I can't answer that truthfully because I know where they were.

Mr. LALLY. You know where they were. Well, how do you know where they were?

Mr. MANSELL. Reading, seeing pictures and everything. I don't actually remember seeing a big clump of bodies right here by the intersection. I don't remember that. I mean, there are certain things that are blotted out of my mind that I don't remember.

Mr. LALLY. Well——

Mr. MANSELL. That I should. I should, yes, sir, I should. I realize that 100 percent. I should remember it, but I don't.

Mr. LALLY. Well, what recollection, if any, do you have about where you saw the balance of these bodies?

Mr. MANSELL. Along the road. I mean that is—

Mr. LALLY. Well, you located approximately 25 along the road?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Where did you locate the approximately 50 more which comprised your 75 estimate?

Mr. MANSELL. I changed that. I said 75 along the road first. And then I changed that back to about 25. It was a misstatement on my part.

Mr. HÉBERT. You remembered you made that misstatement?

Mr. MANSELL. Yes, sir. While we were talking here.

Mr. HÉBERT. I just wanted to be sure you remembered that.

Mr. MANSELL. Yes, sir.

Mr. LALLY. These bodies along the road then were the only bodies you observed that day?

Mr. MANSELL. No, sir. There were bodies in irrigation type ditches. I don't remember a cluster of them.

Mr. LALLY. Well, now, can you approximate where you observed these bodies in the irrigation ditch?

Mr. MANSELL. No, sir. The area. That is all I can say. The area. I can't sit down and say they were here, here or here. I can't, sir.

Mr. LALLY. Can you approximate how many you saw?

Mr. MANSELL. No, sir. Within the village, no, sir.

Mr. HÉBERT. Did you note that these people were all going in one direction, or going in opposite directions, that you observed on the road?

Mr. MANSELL. I don't remember, sir.

Mr. LALLY. You talked about a ditch. Was there one ditch or more than one ditch, where you have some recollection?

Mr. MANSELL. It was more than one ditch but there was one ditch that stuck out in my mind.

Mr. LALLY. Why did that ditch stick out in your mind?

Mr. MANSELL. Because there were 5 to 10 bodies, I would say, accumulated along there. Like I say, I can't say it was here or it was here. But this one ditch that sticks out in my mind, that they were laying around it, and it doesn't really stick out in my mind that it was that day. It was afterwards. The next day or the day after that when I flew over it, and they were still there.

Mr. LALLY. Can you describe how the bodies were located with relation to the ditch?

Mr. MANSELL. On the sides of the bank of the ditch.

Mr. LALLY. Both sides?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Now, you say you observed the same bodies at the same location a day or two later?

Mr. MANSELL. Yes, sir.

Mr. LALLY. What was the occasion of your flight over this area a day or two later?

Mr. MANSELL. Our mission was the same.

Mr. LALLY. The same village?

Mr. MANSELL. The same area. The whole AO. I mean, there was supposedly mass migration of the people from the Pinkville area, going down south, and we were to check out down around here, when they were crossing the river, Song Tra Khuc. We checked out; we flew around the whole area.

Mr. LALLY. Well, did you go back specifically to look at this spot that you remembered from a day or two before?

Mr. MANSELL. Me? No, sir. I was the peter pilot. I didn't go back and do anything.

Mr. LALLY. Well, did you have the same aircraft commander on this subsequent flight?

Mr. MANSELL. I don't remember, sir.

Mr. LALLY. Who was your aircraft commander on the 16th?

Mr. MANSELL. I don't remember, sir.

Mr. LALLY. This one group of bodies in the ditch is the one that you specifically recall though, is that correct?

Mr. MANSELL. Yes, sir.

Mr. LALLY. But there were other bodies in other ditches also?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Now, when Thompson related to you that evening, back at the hootch, his experiences on the 16th, did you tell him about this transmission you had overheard when you were at the operations van?

Mr. MANSELL. No, sir.

Mr. LALLY. Didn't you feel that kind of fitted in?

Mr. MANSELL. No, sir.

Mr. REDDAN. Are you positive you didn't?

Mr. MANSELL. Yes, sir. I am positive I didn't.

Mr. REDDAN. You are positive you didn't mention that?

Mr. MANSELL. Yes, sir.

Mr. LALLY. Didn't that fit into his whole scene that he was describing that day?

Mr. MANSELL. It might have. You know. OK. It sort of fitted in, but we were kind of amiable.

Mr. LALLY. Well, you let him do all the talking, and you didn't say a word, is that it?

Mr. MANSELL. Just about.

Mr. REDDAN. Mr. Mansell.

Mr. MANSELL. Yes, sir.

Mr. REDDAN. You know you are under oath?

Mr. MANSELL. Yes, sir.

Mr. REDDAN. And you are here with counsel, and he can advise you more fully on this after you leave the room. But I feel that I must instruct you that this oath requires you to tell the truth, and the whole truth, and it is just as much a violation of that oath to tell less than the whole truth as it is to tell the deliberate falsehood. To say that you don't remember when in fact you do is a violation of your oath. If you use this "don't remember" technique as a means to avoiding testifying, this, too, is a violation of your oath. And I want to tell you that one of the few things that a person cannot get away with in the city of Washington is perjury before a congressional committee.

Mr. MANSELL. Yes, sir.

Mr. REDDAN. Now, because of your particular association with this operation, one could reasonably expect that you would know much

more about it than you have so far told us. You have quite—I might use the word “glibly” to describe what appears to be your ready reliance on the phrase, “I don’t remember,” “I can’t recall,” “It is blotted out,” “I had a hangup,” “It is not my bag.”

I would suggest to you, and you can discuss this with your attorney when you leave that you stay here today, and give more thought to your testimony, because I don’t want you to leave here with the feeling that your appearance today is the end of your appearance before this committee.

Your testimony here today, when the committee considers it in connection with the testimony of other witnesses, may result in some action which might have serious consequences for you.

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. So I don’t want you to think, I don’t want you to be under any misapprehension as to what the attitude of this committee might be with respect to your testimony. I am not trying to threaten you; I am not trying to frighten you, but I think in all fairness to you, you should know that we have been in this business quite a long time, and we can make our evaluations, and if testimony of other witnesses that we have is not in accord with what your testimony is, we will be required to make our own decision as to what action we might take.

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. So I want you to talk that over with your attorney when you finish your testimony here this morning, and remain here. We will probably want to talk to you later in the day.

Mr. MANSSELL. Yes, sir.

Mr. GUBSER. May I ask some questions?

Mr. HEBERT. Yes.

Mr. GUBSER. You remembered parts of your conversations with Warrant Officer Thompson in meticulous detail. For example, you remembered him saying that when he took this girl to the hospital that he cried because he had a child the same age?

Mr. MANSSELL. Yes, sir.

Mr. GUBSER. Now, I think that you do remember much of your conversation with your roommate, or your hootch mate. Did you ever ask this question now, which I think you should remember, if you remembered the other incidents about your conversation with him. Did Thompson ever state how many bodies he saw?

Mr. MANSSELL. Not that I remember, sir. Not that I remember.

Mr. GUBSER. Did he ever mention seeing bodies beyond the lady or the woman who was shot and others? He mentioned seeing one woman shot, isn’t that right?

Mr. MANSSELL. Yes, sir.

Mr. GUBSER. All right. Did he mention any other bodies?

Mr. MANSSELL. No, sir. Not that I remember. I am not trying to hide behind it.

Mr. GUBSER. But you remember he had a gut feeling or an instinct that something was wrong?

Mr. MANSSELL. Yes, sir.

Mr. GUBSER. Well now didn’t he offer anything to support his feeling? He must have seen something.

Mr. MANSSELL. This was afterward, sir, that we sat down and talked about it.

Mr. GUBSER. This is what I am trying to find out. I am talking about afterward. Did he ever afterward say how many bodies he saw?

Mr. MANSELL. Not that I remember, sir.

Mr. GUBSER. Did he say he saw a lot of them?

Mr. MANSELL. Not that I remember. I mean I was there that day. I mean I probably saw the same amount of bodies that he did.

Mr. GUBSER. But he never, he did not mention seeing bodies in an unusual amount?

Mr. MANSELL. Not that I remember, sir; no.

Mr. GUBSER. Yet you remember in great detail that he said he cried when he took the child to the hospital, because he had a child the same age?

Mr. MANSELL. Yes, sir.

Mr. GUBSER. Yet you don't remember his mentioning having seen bodies?

Mr. MANSELL. No, sir.

Mr. GUBSER. I join the counsel.

Mr. HÉBERT. I want to ask one more question.

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. Were you and Thompson buddies?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. Good friends?

Mr. MANSELL. Quite good, sir.

Mr. HÉBERT. Why did you go to CID?

Mr. MANSELL. Because, well, from what I had heard, from Thompson, who had firsthand knowledge, I thought that certain people were trying to find a scapegoat, Lieutenant Calley, and—

Mr. HÉBERT. Trying to make him the scapegoat?

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. Who were the certain people, do you know? Who did Thompson say?

Mr. MANSELL. I didn't talk to him, sir. Now, this was afterward.

Mr. HÉBERT. All right.

Mr. MANSELL. This is back in December. I hadn't talked to him. I mean, I just had that feeling. I read an article in Time about My Lai 4, and I had the feeling that somebody was looking for a scapegoat.

Mr. HÉBERT. Then knowing somebody was looking for a scapegoat—we are assiduously avoiding any testimony as to guilt or innocence of any individual—but I think this is the one thing that I would like to clear up.

If I told you that Thompson was the man who put the finger on Calley, would you believe that?

Mr. MANSELL. No, sir.

Mr. HÉBERT. You would not believe it?

Mr. MANSELL. Not unless he told me. I mean. OK, I respect you for what you are, sir, but I don't know you. And if he told me different—

Mr. HÉBERT. What would you say if I told you he made such a statement before a congressional committee? That he described Calley as the man that caused most of this?

Mr. MANSELL. If you tell me this I would have to believe it.

Mr. HÉBERT. Would you be surprised?

Mr. MANSELL. I don't know.

Mr. HÉBERT. You don't know? You testified that the man is a good friend of yours?

Mr. MANSELL. Yes, sir. But that was 2 years ago.

Mr. HÉBERT. All right. But you wouldn't believe he put the finger on Calley?

Mr. MANSELL. Well, if he thought, if he thought that that's where the finger was supposed to have been put, fine. I will go along with it.

Mr. HÉBERT. Then you would go along with making a scapegoat out of Calley?

Mr. MANSELL. No, sir, because I don't—like I say I had forgotten the whole lot, when I went down and talked to the CID.

Mr. HÉBERT. That's our problem.

Mr. MANSELL. That is my problem, too, sir, because I am trying to remember.

When I went down and initially talked to the CID I didn't think that Lieutenant Calley was the one that had anything to do with it. I had never even heard of Lieutenant Calley. The one thing that stuck out in my mind—

Mr. HÉBERT. After reading the Time article?

Mr. MANSELL. After reading the Time article.

Mr. HÉBERT. Your impulse immediately?

Mr. MANSELL. Yes, impulsive, it was.

Mr. HÉBERT. After reading the Time article for its accuracy, I would have to share your opinion.

Mr. MANSELL. Well, OK. Now, the thing that stuck out in my mind, one of the main things, was about a captain at the time, Warrant Officer Thompson did not know his name. He got back to the hootch; he told me about this captain walking over and shooting this girl in the head. Now, that's uncalled for. If you got justification, fine. But that was uncalled for. That I thought.

Mr. HÉBERT. But you learned since, who the captain was who shot the woman?

Mr. MANSELL. Yes.

Mr. HÉBERT. Who was it?

Mr. MANSELL. Captain Medina.

Mr. HÉBERT. He admitted it?

Mr. MANSELL. Yes, sir, I know. I know what he said. I know what his justifications were. If, sir, if he actually felt what he said at the time, fine, I will go along with him 100 percent.

Mr. HÉBERT. Of course we are not interested—we are trying to avoid making a decision on that.

Mr. MANSELL. Yes, sir.

Mr. HÉBERT. I just wanted to get your reaction, what your impulses were, and I frankly tell you I might be a bit impulsive and react immediately on some things of this nature. I can understand that. And I am glad I asked you the question, because you are referring to a captain, and you didn't know who the captain was yourself at that time?

Mr. MANSELL. No, sir.

Mr. LALLY. To go back to your conversation that night with Mr. Thompson at the hootch, was this a one-sided conversation? Did Thompson just go through these things incident upon incident and you just sat there listening?

Mr. MANSELL. I could say so, yes, sir.

Mr. LALLY. You didn't ask him any questions?

Mr. MANSELL. Not that much, no, sir.

Mr. LALLY. You didn't ask him any questions?

Mr. MANSELL. Not that I remember. I don't remember asking him any questions. He was mad, sir. He was mad. You don't mess with somebody when they are mad.

Mr. LALLY. Well, did you tell him what you saw out there?

Mr. MANSELL. No, sir, I did not, not that I remember. I don't remember saying anything, that I saw this or that; no, sir.

Mr. LALLY. Was this just you and Thompson sitting down there?

Mr. MANSELL. As near as I can remember, it was. I remember him coming in the hootch, I remember his armor plating, the best, and putting it down, being mad, and sitting down and talking. It wasn't that long a conversation.

Mr. LALLY. And he told you these three incidents?

Mr. MANSELL. Yes, sir.

Mr. LALLY. And you didn't say, "Well, you know what I saw out there today?"?

Mr. MANSELL. No, sir, I did not.

Mr. LALLY. And you didn't say, "Did you make a transmission back to the operations van and let them know about this?"

Mr. MANSELL. No, sir, I did not.

Mr. LALLY. Did you ask him if he reported it to anybody?

Mr. MANSELL. No, sir, I did not. He told me that he had. He went to see a colonel. And that's all I remember. He went to see a colonel.

Mr. LALLY. Were you ever interviewed by anybody subsequent to that day of March 16?

Mr. MANSELL. Not until December of 1969.

Mr. LALLY. Not until December of 1969?

Mr. MANSELL. No, sir.

Mr. LALLY. Did you, on that day of March 16, see any U.S. troops kill anybody on the ground?

Mr. MANSELL. No, sir I did not.

Mr. HÉBERT. I will ask you to stand by. The subcommittee will recess until 2 o'clock. But stand by.

Mr. MANSELL. All right, sir.

Mr. REDDAN. Now, what I would like you to do, and I want your counsel to hear this. I want you to go out and I want you to make every effort that you can to refresh your recollection on the matters we have been discussing here this morning. And return this afternoon at 4 and let us know at that time whether you want to modify, or change, or add to, or in any way correct, or change the record. If you will be back at 4 o'clock.

Captain STEVENS. Yes, sir.

[Whereupon, at 12:15 p.m., the subcommittee recessed.]

4:55 P.M.

Mr. REDDAN. Mr. Mansell, we asked you to come back. We just wanted to know whether or not you want to make any changes or additions or modifications of the testimony you gave the subcommittee this morning?

Mr. MANSSELL. OK. Earlier today I made the statement that I saw—I remembered seeing some troops on the ground. This is in contradiction to the statement I made the first time. I did see some troops walking on the ground. I didn't see them firing or anything, but I did see some troops walking on the ground.

That's all, sir.

Mr. HÉBERT. That is the extent?

Mr. MANSSELL. Yes, sir.

Mr. REDDAN. All right, thank you.

Mr. GUBSER. Can I ask one question?

Mr. HÉBERT. Yes.

Mr. GUBSER. Did you see any firing on the ground?

Mr. MANSSELL. No, sir. No, sir.

Mr. GUBSER. All right.

Mr. HÉBERT. Thank you very much.

[Witness excused.]

[Whereupon, at 4:57 p.m., the witness was excused.]

Mr. HÉBERT. Identify yourself to the subcommittee, please.

TESTIMONY OF JERRY R. CULVERHOUSE

Mr. CULVERHOUSE. Jerry R. Culverhouse, Fort Eustis, Va.

Mr. HÉBERT. You have counsel with you?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. Identify yourself.

Captain STEVENS. Capt. Winfred A. Stevens, Office of the Post Judge Advocate, Fort Myer, Va.

Mr. HÉBERT. I will give you the same information that I give all other witnesses, and outline the procedures of the subcommittee. The Captain heard it already this morning, so it will be old to him.

The subcommittee will protect your privacy completely from any infringement by the news media. When you leave the room, you will leave by that door. Our officer will be there. If a representative of the news media asks you if you want to say anything, or have your picture taken, you can refuse. However, if you do want to say anything, you can. At this time, I caution you that this is an executive hearing, and anything said during these hearings should not be discussed on the outside, of course, except with your counsel.

Now, you have received a copy of the rules of the committee, and you know your rights. You know you have the right of counsel, which obviously you have selected.

Is your counsel here by your choice?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. Fine. He is here now to protect your legal rights. He is not here to prompt you in your testimony. He merely can advise you as to what your legal rights are.

Stand and I will swear you in.

[Witness sworn.]

Mr. REDDAN. How many tours have you had in Vietnam?

Mr. CULVERHOUSE. One, sir.

Mr. REDDAN. During what period?

Mr. CULVERHOUSE. From February 1968, to February 1969, sir.

Mr. REDDAN. Where were you assigned during that period?

Mr. CULVERHOUSE. I was assigned to the 123 Aviation Battalion, Americal Division in Chu Lai.

Mr. REDDAN. In what capacity?

Mr. CULVERHOUSE. I was assigned as a pilot, sir.

Mr. REDDAN. Did you normally fly out as a team, in connection with any ground operation?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Was there a standard order, or a standard formation that you flew, in such an operation?

Mr. CULVERHOUSE. Yes, sir, there was.

Mr. REDDAN. Would you describe it for me, please?

Mr. CULVERHOUSE. Yes, sir.

We were a scout company, and we usually flew, or always flew, AOH-23 down very low to the ground, to recon, and then up about a thousand feet. We flew one helicopter gunship, to cover many, and then covering this first gunship was another gunship, back behind, maybe 500 or 600 feet higher, covering the both of us. And the high gunship was the lead ship or the overall ship in charge.

Mr. REDDAN. Now, I assume that the high gunship was the highest one in altitude?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. You say he was the lead gunship. What does that mean?

Mr. CULVERHOUSE. That means he is the actual ship in charge of the mission. We worked for the ground force commanders, but then we got our instructions from the lead gunship, which in this case was the high gunship.

Mr. REDDAN. And any maneuvers or any actions which the low gunship or the bubble wanted to take, he would first have to clear that with the lead gunship, is that right?

Mr. CULVERHOUSE. No, sir, not necessarily.

Mr. REDDAN. Well then, tell me just what do you mean, that the lead gunship was in charge?

Mr. CULVERHOUSE. OK, sir.

Well, he had to maintain radio contact with both the scout ship and the low gunship.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. And his job also was to navigate.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. Being at the higher altitude, he had a better vantage point for navigation than we would down low, so long as he had navigation radio contact with the two low ships.

He also established radio contact with ground force commander; and if there was any change in the mission, or so forth, then he would get the word and advise us of it.

Mr. REDDAN. Well, did the lead gunship have to get permission from the ground commander before either of the gunships or the bubble could take off on an independent operation of their own?

Mr. CULVERHOUSE. Yes, sir, he did. He would have to, say, like if you wanted to go fly from one area of operation into another, he would have to clear this through the chain of command, like to extend our mission, or request to go into, say, a different zone or a different area.

Mr. REDDAN. For instance, if you were flying over My Lai and you wanted to go into Quang Ngai for a pack of cigarettes, you would have to get permission of your ground commander first before you could break formation and go off on your own?

Mr. CULVERHOUSE. Yes, sir, if this was a deviation from the mission.

Mr. REDDAN. When you flew as cover for one of your bubbles, were any restrictions placed upon your operations by your own SOP's?

Mr. CULVERHOUSE. Sir, there were no more than six of our ships involved in that particular operation that day. And it seems to me that probably only five, but I know there were no more than six.

Mr. REDDAN. No more than six.

Would there be more than one bubble involved?

Mr. CULVERHOUSE. The only one I know about is one bubble for sure, that I could say was definitely involved.

Mr. REDDAN. What you're saying is there may have been four, not more than five, gunships, and probably only one bubble, is that about right?

Mr. CULVERHOUSE. Yes, sir. I'm saying that more than likely there were four, at least four gunships, and I know of at least one bubble.

Mr. REDDAN. Do you know who was piloting the ships that day?

Mr. CULVERHOUSE. Only in two of them, sir.

Mr. REDDAN. And who were they?

Mr. CULVERHOUSE. Warrant Officer Thompson was flying the bubble, and myself and Warrant Officer Danny Malianns were flying the gunship.

Mr. REDDAN. Now, you generally only had three in a formation, didn't you?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Now, that morning, I assume you all left Chu Lai during that morning?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Did you leave as a group, the five or six ships that may have been involved?

Mr. CULVERHOUSE. Yes, sir. I would have to say we did. We worked out of LZ Dottie, which is south of Chu Lai, on Highway 1.

Mr. REDDAN. Do you remember whether you flew from Chu Lai over to LZ Dottie that morning?

Mr. CULVERHOUSE. Yes, sir, I know that I did.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. I know that I flew from Chu Lai to Dottie, and landed and shut the aircraft down at Dottie, and then flew the mission over My Lai, out of LZ Dottie.

Mr. REDDAN. Now, is it your recollection that the five or six ships that you have been telling us about all flew over to Dottie at or about the same time, and put down there?

Mr. CULVERHOUSE. Sir, I wouldn't say that we all landed there. More than likely what could have happened, all of us landing, and then a couple or three taking off.

Mr. REDDAN. That's what I'm trying to find out, whether you all went over there, to start with, and then three took off together over to My Lai.

Mr. CULVERHOUSE. I can't recall, sir, whether they did or not.

Mr. REDDAN. All right.

Do you remember when you left Chu Lai that morning?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. What time?

Mr. CULVERHOUSE. It was around 7 o'clock in the morning, sir. It was early in the morning.

Mr. REDDAN. Did any other craft take off with you, do you recall?

Mr. CULVERHOUSE. I can't recall, sir.

Mr. REDDAN. And you flew to Dottie?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Did you marry up with any craft there, at that time, or were any on the ground when you arrived?

Mr. CULVERHOUSE. There were other ships.

Mr. REDDAN. I mean from your area on scout group.

Mr. CULVERHOUSE. At the time I was at LZ Dottie, prior to my starting my portion of the mission, there were other ships from my unit there with me, yes, sir.

Mr. REDDAN. You got there before Task Force Barker companies took off, is that right?

Mr. CULVERHOUSE. I don't remember, sir. I really don't.

Mr. REDDAN. How long would it take you to fly from Chu Lai to Dottie?

Mr. CULVERHOUSE. It was about a 20-minute flight, sir.

Mr. REDDAN. Were you there—were you part of the first team that went out?

Mr. CULVERHOUSE. No, sir, I wasn't.

Mr. REDDAN. Do you know who was in the first team?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Did you see them take off?

Mr. CULVERHOUSE. No, sir, I wouldn't say that I did.

Mr. REDDAN. What sort of arrangements did you have so that you would know when you were to take over as part of the team?

Mr. CULVERHOUSE. Well, our job, or my particular portion of the mission, was to rendezvous with the ships that were already on station, to relieve them on station so that they could depart and refuel or rearm, or whatever was necessary to be ready to come back and relieve us again, if necessary.

Mr. REDDAN. Well, did you know what time you were supposed to rendezvous?

Mr. CULVERHOUSE. I can't recall exactly what time it was, sir.

Mr. REDDAN. Did you know that there was a certain time that you were supposed to be out there?

Mr. CULVERHOUSE. Oh, yes, sir.

Mr. REDDAN. How did you arrive at that time? Did you have a briefing before you took off?

Mr. CULVERHOUSE. Yes, sir. Well, to begin with, a gunship can only stay on target or on station for about 2½ hours.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. So what we did was give them, say, 2 hours. That's after they took off. Depending on how far we had to go to rendezvous with them, is the way we figured our time so we would arrive there to give them plenty of time to make it back to refuel, so that we could have continuous coverage on the mission at all times.

Mr. REDDAN. Well then, you knew what time the first time was you were going out, then, didn't you?

Mr. CULVERHOUSE. Yes, sir, at that time, I suppose I did.

Mr. REDDAN. When did you get on station that morning?

Mr. CULVERHOUSE. I can't say exactly what time it was.

Mr. REDDAN. Approximately?

Mr. CULVERHOUSE. Approximately 9:30, I would say.

Mr. REDDAN. Could it have been earlier than that, do you think?

Mr. CULVERHOUSE. If it was earlier, it wasn't much earlier.

Mr. REDDAN. Did you go out by yourself? That is, I mean, was yours the only ship that went out to relieve, at that time?

Mr. CULVERHOUSE. No, sir, two of us took off at that time.

Mr. REDDAN. Do you know who was flying the other ship?

Mr. CULVERHOUSE. No, sir, I can't recall.

Mr. REDDAN. Who was in your crew?

Mr. CULVERHOUSE. Myself and one Officer Malianns, are the only ones that I can remember. I don't remember who our gunner was, or who the crew chief was.

Mr. REDDAN. Did you have any briefing as to the nature of the operation of Task Force Barker in the Son My area that day?

Mr. CULVERHOUSE. Yes, sir, I did.

Mr. REDDAN. When and where did you receive that briefing, and from whom?

Mr. CULVERHOUSE. Well, I received my briefing after arriving at LZ Dottie.

Mr. REDDAN. On the morning of the 16th?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Who briefed you there?

Mr. CULVERHOUSE. If I'm not mistaken, sir, it was my aircraft commander.

Mr. REDDAN. And who was that?

Mr. CULVERHOUSE. Warrant Officer Malianns.

Mr. REDDAN. Malianns was the aircraft commander?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And he briefed you?

Mr. CULVERHOUSE. If I'm not mistaken, sir, he did.

Mr. REDDAN. Well, where would he have gotten his briefing?

Mr. CULVERHOUSE. He would have gotten it at the operations van at LZ Dottie, or at operations back in Chu Lai, before we took off.

Mr. REDDAN. What did he tell you as to the nature of the operation? What were you supposed to do?

Mr. CULVERHOUSE. Well, my understanding of the operation was that we were to screen ahead of the advancing ground forces, keep them advised of the situation out in front of them, as well as look for any type enemy activity or weapons caches, anything we might find that would benefit him in his search mission.

Mr. REDDAN. Do you remember how you approached My Lai 4 that day?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Would you tell us about that, please?

Mr. CULVERHOUSE. Well, My Lai 4 was a little southeast of LZ Dottie, and we took off from LZ Dottie and flew in a southerly direction from Dottie, so we wouldn't—

Mr. REDDAN. You flew directly toward it. You didn't come down the road, and down Highway 1, and then swing up the Quang Ngai

Highway? I mean, you just cut right across on the shortest distance from LZ Dottie to My Lai 4?

Mr. CULVERHOUSE. Again, I would have to say, if I'm not mistaken, sir.

Mr. REDDAN. Yes.

So then you approached My Lai 4 on the northwest side, or did you swing around it before you got to it?

Mr. CULVERHOUSE. If we left the way that I think we did, we would have approached it from the northwest.

Mr. REDDAN. What did you observe as you approached My Lai 4? When My Lai 4 came into view, what did you see?

Mr. CULVERHOUSE. My first observance was the smoke and flames from the burning buildings in the village.

Mr. REDDAN. At what altitude were you flying, at that time?

Mr. CULVERHOUSE. Somewhere between 1,000 and 1,500 feet.

Mr. REDDAN. Could you give us an estimate of the extent of the burning that you observed, at that time?

Mr. CULVERHOUSE. Well, when I observed the village, it appeared to me that maybe it was half, I'd say half the buildings, half the buildings in the village were ablaze, and there was considerable smoke.

Mr. REDDAN. Now, as you got closer to the village, what was the next thing that attracted your attention?

Mr. CULVERHOUSE. Well, I'd have to say that the next thing to attract my attention would be that I noticed the friendly forces on the ground——

Mr. REDDAN. Where were they? Behind you there, there's an aerial shot of My Lai 4, and if you can orient yourself on that, perhaps you might be able to point out where you saw various things.

Now, do you recognize that shot of My Lai 4?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Now, you came in roughly up there on the northwest side?

Mr. CULVERHOUSE. Yes, sir; I would say we came right down through here.

Mr. REDDAN. All right.

Now, you say the next thing after seeing the smoke and flames from the burning, you noticed the American forces on the ground?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Where did you see them? Where were they?

Mr. CULVERHOUSE. They were—well, probably the first one I saw would be in these surrounding rice paddies to the east and a little bit northeast.

Mr. REDDAN. They were on the east side of the village when you saw them?

Mr. CULVERHOUSE. Some were, sir.

Mr. REDDAN. At the northeast.

Mr. CULVERHOUSE. And after getting closer, I was able to observe people within the village itself, and I would say almost surrounding the village.

Mr. REDDAN. Did you see any on the west side of the village, that you remember?

Mr. CULVERHOUSE. Not to the far east or the most western portion.

Mr. REDDAN. You saw them in the village, to the north, and to the east of the village? What were they doing?

Mr. CULVERHOUSE. They were scattered out, and were walking through the village, apparently searching for anything they might be able to uncover.

Mr. REDDAN. What were the ones doing out east of the village, or north of the village itself? Were they out in the paddies somewhere?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. What were they doing?

Mr. CULVERHOUSE. The same thing, sir. Just looking for what there was to be seen.

Mr. REDDAN. Just walking slowly?

Mr. CULVERHOUSE. Yes, sir, they were moving slowly.

Mr. REDDAN. Moving generally in an easterly direction, were they?

Mr. CULVERHOUSE. Westerly.

Mr. REDDAN. In a westerly direction?

Mr. CULVERHOUSE. Yes, sir, they were—they were on the east side of the village.

Mr. REDDAN. They were coming back toward the village?

Mr. CULVERHOUSE. No, sir, they were moving to the west.

Mr. REDDAN. That's what I say, they were on the east side of the village, moving toward the village itself, is that right?

Mr. CULVERHOUSE. Yes, sir. Or moving to the western side of the village. In other words, they were moving in a westerly direction.

Mr. REDDAN. Yes.

Now, the testimony we have is that the LZ's were on the east side of My Lai 4.

As you can see on that map up there, they are on the east and south-east side of My Lai 4. This is what the Army tells us. I'm just trying to reconcile that with your testimony that you saw troops on the west side, moving toward the village itself.

Mr. CULVERHOUSE. Sir, evidently you misunderstood what I have tried to tell you.

Mr. REDDAN. Oh.

Mr. CULVERHOUSE. That I observed them on the more or less eastern side of the village, moving in a western, westerly direction.

In other words, they would be on the east side, moving west.

Mr. REDDAN. Yes, Well, this is the thing that has me just a bit confused.

Off the record.

[Discussion off the record.]

Mr. REDDAN. All right.

Were they firing as they went, or were they just moving along, could you tell?

Mr. CULVERHOUSE. I didn't hear any fire.

Mr. REDDAN. Had you dropped down in altitude, at that time?

Mr. CULVERHOUSE. We were no more than a thousand feet when we first approached the village.

Mr. REDDAN. Where was your bubble at that time?

Mr. CULVERHOUSE. He was—well, at the time that I arrived, the very instant I arrived, I don't recall him even being there.

Mr. REDDAN. Well, were you supposed to be the low gunship, flying cover for him, were you not?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Well, did you get on the horn and say, where is the fellow I'm supposed to be covering?

Mr. CULVERHOUSE. I'm not sure exactly what we did. I mean, I just know that I came there, and I don't recall him being there the very instant we got there.

Mr. REDDAN. Did you see the high gunship?

Mr. CULVERHOUSE. Did I see the high gunship?

Mr. REDDAN. Yes, Was the high gunship there when you arrived?

Mr. CULVERHOUSE. When we took off together and flew—

Mr. REDDAN. Well, two of you came out then to relieve the high and low gunships that were out there?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. I see.

Well, were either of the gunships you were supposed to relieve at My Lai 4 when you came on the scene?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And they took off, then, and went back for refueling?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Before they left, did you query them as to where is the fellow you were supposed to be flying cover for?

Mr. CULVERHOUSE. I didn't personally, sir, and I don't recall whether anyone else did or not.

Mr. REDDAN. Did you look for him?

Mr. CULVERHOUSE. Did we look for the bubble?

Mr. REDDAN. Yes. That was your job, wasn't it?

Mr. CULVERHOUSE. Oh, yes, sir, it was.

Mr. REDDAN. I mean, you go out to relieve these fellows who were flying cover for him, and you get out there and you find no bubble, I'm just wondering what you did then. You had a responsibility to fly cover for him, and he wasn't there. Didn't you ask, "Has he crashed, or where has he gone? What are we supposed to do?"

Mr. CULVERHOUSE. Well, no, sir, I didn't.

Mr. REDDAN. What did you do?

Mr. CULVERHOUSE. I just fulfilled my duties as a copilot of the airplane. I wasn't in charge of the aircraft, and I did like I was told to do.

Mr. REDDAN. I thought you were a pilot?

Mr. CULVERHOUSE. I was, sir.

Mr. REDDAN. You weren't the pilot of that aircraft?

Mr. CULVERHOUSE. Not the pilot in command, sir.

Mr. REDDAN. Were you the co-pilot?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Well, I'm just trying to understand how you carried out your mission, if the fellow you were supposed to fly cover for wasn't there.

What did you do?

Mr. CULVERHOUSE. Well, I can't recall exactly why he wasn't there, or where he was going, but I do know he rendezvoused with us shortly after we arrived there, and we continued our mission as normal.

Mr. REDDAN. Had you received a message that he would not be there, and you were just supposed to wait for him?

Mr. CULVERHOUSE. I guess we did, sir. I can't say for sure that we did or we didn't; but I'm sure that there was some kind of coordination, that he wouldn't have left without making our coordinators aware of where he was and when he would return.

So I would like to think that the people, my aircraft commander and our lead gunship, knew that he wasn't going to be there, and that we would go ahead and rendezvous with the other gunships, as we had planned to.

Mr. REDDAN. But he went off by himself, without cover, then?

Mr. CULVERHOUSE. I don't know, sir. I don't know what he went over with, because he wasn't there when I got there.

Mr. REDDAN. But the two gunships were there, so he must have gone without cover.

Is there any other conclusion to reach?

Mr. CULVERHOUSE. Well, it's my understanding that ours wasn't the only aircraft in the area that day, that there was also another unit with gunships supporting, also. And, like I said—

Mr. REDDAN. Flying cover for the bubble?

Mr. CULVERHOUSE. No, sir, they were doing the same type operation that we were. Instead of just us being there alone, they had more than one company involved. It was my understanding.

Mr. REDDAN. But you see, the thing that is bothering me here, you're sent out there to protect this fellow who's flying down on the deck, and your gunships apparently who are supposed to do that job let him go, and they didn't follow him, they stayed there.

Then you came, you and your high gunship, came out and relieved them and he still wasn't there.

Was it that you really didn't need to fly cover for him, that there wasn't any action? Would this have been the answer to the thing?

Mr. CULVERHOUSE. You mean in the particular case of My Lai?

Mr. REDDAN. That's right.

Mr. CULVERHOUSE. Well, again, sir, like I said, he was gone when I got there.

Mr. REDDAN. That's for sure.

Mr. CULVERHOUSE. So I have no way of knowing what happened before I got there. So, whether he left—

Mr. REDDAN. You would have had a way of knowing if you had queried the command gunship? You could have found out what had happened?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. But you didn't—

Mr. CULVERHOUSE. I didn't observe anything.

Mr. REDDAN. And you didn't call the other gunship to find out where he was?

Mr. CULVERHOUSE. No, sir, I didn't.

Mr. REDDAN. All right. Now, you saw the troops on the east side, and the north side of the village walking around, and you saw troops in the village, as I understand it, who were searching.

Did you see any of our troops firing?

Mr. CULVERHOUSE. Only on one occasion did I see anyone fire a weapon that day.

Mr. REDDAN. But these troops that you saw moving around, wandering around, did you see them conducting any recon by fire, or anything of that sort?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. And you came up there somewhere around 0900, is that right?

Mr. CULVERHOUSE. I would say closer to 10. I told you 9:30.

Mr. REDDAN. Nine-thirty.

Mr. CULVERHOUSE. So, I would rather think it was somewhere between 9:30 and 10 o'clock in the morning.

Mr. REDDAN. All right. Now, you say when you came in that you were at about 1,000 feet, I believe.

Now, after you flew around and looked the situation over, did you drop down lower than that?

Mr. CULVERHOUSE. Yes, sir, we did get lower than that.

Mr. REDDAN. How low did you come?

Mr. CULVERHOUSE. I'd say at least to 100 feet, and I feel that we even flew lower than that. Maybe as low as 50 to 75 feet above the highest terrain.

Mr. REDDAN. Were you flying slowly, or were you making speed runs, or what?

Mr. CULVERHOUSE. Flying slowly.

Mr. REDDAN. About what speed would you say? What ground speed?

Mr. CULVERHOUSE. Ground speed?

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. I have no way of knowing what ground speed would be, but our indicated air speed was between 60-70 knots.

Mr. REDDAN. Were you flying any particular pattern over the area?

Mr. CULVERHOUSE. Well, you talk about a particular pattern, now, are you referring to after we did join with our bubble, or at this particular time?

Mr. REDDAN. At this particular time, when you came in, you dropped down to 100, maybe less, feet.

Did you fly any particular pattern, or was it just a random pattern you were flying?

Mr. CULVERHOUSE. Well, let me clarify that, what I said before was that, yes, I did drop down lower than 1,000 feet. Now, this is after Warrant Officer Thompson rendezvoused with us.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. That was when I actually came down that low. To the best of my memory, what we did was just make two or three orbits, you know, somewhere around 1,000 feet, waiting for him to return; and then as soon as he returned, we dropped down to our normal altitude, and by normal, I mean he was right on the tree tops, and then my ship was around 700 or 800 feet, flying behind him.

And then the lead ship, between 1,200 and 1,400 feet.

Mr. REDDAN. How long were you orbiting out there, waiting for him to rejoin you, do you remember?

Mr. CULVERHOUSE. That, I don't know exactly.

Mr. REDDAN. Five minutes? Ten minutes?

Mr. CULVERHOUSE. Five or ten minutes.

Mr. REDDAN. Now, when he came in and rejoined you, did you then drop lower than you had been? Or did you maintain an altitude of 400 or 500 feet?

Mr. CULVERHOUSE. Well, as I remember, when he joined us, we went ahead, and we didn't fly any set pattern, because if you establish a set pattern of flight, well then, you're actually making yourself a target.

And normally the way we flew was in S turns. My flight path would be determined by the bubble's flight path.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. It was our job to stay behind him, and at sufficient altitude and distance behind him to put down suppressive fire in the event he did receive fire or ran across a target.

Mr. REDDAN. Now, after Thompson came up on station there, can you tell us what you saw?

Mr. CULVERHOUSE. After Thompson came on station?

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. Well, after he came on station, we started our recon work, and we flew a couple of S turn passes over the entire area following him; and while flying behind him, I noticed several bodies, more bodies than I'd ever seen on the ground, and I was able to observe the infantry people within the village and surrounding the village.

Mr. REDDAN. I'm sorry, I didn't hear you. You observed what?

Mr. CULVERHOUSE. The infantry people moving throughout the village, and the surrounding area, the rice paddies, and in their apparent search of the village.

Mr. REDDAN. Now, you say you saw more bodies than you'd ever seen before. Were they scattered over the entire area, or were they in various groups?

Mr. CULVERHOUSE. Various groups.

Mr. REDDAN. Could you indicate, on that aerial photograph, where you saw bodies around My Lai 4 that day?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. There is a pointer right there, if you want to use that.

Mr. CULVERHOUSE. OK.

On that particular day—OK. I would say right here, in this hedgerow, there was a trench located. There were bodies in the trench. There were bodies in the rice paddies, you know, a little to the north of the village. You could see bodies within, say, the courtyards, within the village. And there were bodies down to the southeast of the village, on a road and trail intersection.

Mr. REDDAN. Can you indicate where that would be?

Mr. CULVERHOUSE. I'd have to say, sir, that it was either right here, or here. And I'd rather think that it was here, on the—

Mr. REDDAN. Along the main highway?

Mr. CULVERHOUSE. Along the main dirt road leaving the village.

Mr. REDDAN. Leaving Quang Ngai.

How many bodies would you say you saw, altogether?

Mr. CULVERHOUSE. Altogether?

Mr. REDDAN. Yes, total.

What is the total number of bodies that you saw at My Lai that day?

Mr. CULVERHOUSE. This will have to be just a rough estimate on my part. But I would say in excess of 150.

Mr. REDDAN. How many would you say you saw at the intersection of the road there that you pointed to a minute ago?

Mr. CULVERHOUSE. I'd say probably 15 in the main pile, with scattered bodies down the trail.

Mr. REDDAN. Were you at a low enough altitude—did you have sufficient time to observe, to tell whether or not they were military age males, or whether they were old people, or females or children? What were they?

Mr. CULVERHOUSE. Yes, sir, I was at various times and occasions during my 2- or 2½-hour stay there, to observe the bodies very closely. As a matter of fact, we flew, you know, so low and around the village so many times that I had more than one occasion to look at everything, that I got at least a dozen or two dozen looks at everything there that day. And from a low altitude, and a slow air speed. And the bodies that I saw were made up mainly of small kids and women, and I noticed several old men; and the reason I say old men, is the fact that they had, you know, gray hair, with their beards, and—but as far as draft age—and by draft age, I think of a draft age male as being one standing 4 feet tall and weighing maybe 80 or 90 pounds, or anywhere from 14 to 20 to 30 years old. But I don't recall observing very many male bodies of this size or apparent age group at all.

Mr. REDDAN. Now, you also indicated you saw bodies, I believe, along a tree line and a ditch, or somewhere north of the place where you saw them lying on the road.

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. How many bodies would you say were in there?

Mr. CULVERHOUSE. I would say, well, it was in excess of 50. I'd like to think that it was 75, or more.

Mr. REDDAN. How were they situated? Was it a ditch, a deep ditch, or a shallow ditch? What was it?

Mr. CULVERHOUSE. It appeared to be 4 to 5 feet deep.

Mr. REDDAN. Was there water in it, or was it a dry ditch?

Mr. CULVERHOUSE. There was water in it.

Mr. REDDAN. And how were the bodies arranged in the ditch? Any particular order, or where they all jumbled together, or what?

Mr. CULVERHOUSE. They were just all jumbled together. In places, there were even overlapping, you know, if you wanted to go so far as to say they were like piled, one on top of the other, in places, and then just scattered throughout the ditch.

Mr. GUBSER. Racing in every direction, is that right?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Did you reach any conclusions of your own in looking at them as to how they might have been killed?

Mr. CULVERHOUSE. No, sir, there was no way that I could actually tell, you know, whether they were killed by what type projectile, or—

Mr. REDDAN. There was nothing about the bodies which would permit you to reach any conclusion as to whether or not they may have been killed by artillery fire, as opposed to small arms fire, or gunshot fire?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Did you see any other large groups of bodies there that day?

Mr. CULVERHOUSE. No, sir. Not any other large groups.

Mr. REDDAN. You say you saw bodies scattered throughout the village itself?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Now, did there come a time that morning when Warrant Officer Thompson put his ship down?

Mr. CULVERHOUSE. Yes, sir. At least one time, that I know of that he did it while I was there.

Mr. REDDAN. You say he did it while you were there?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Would you tell us about that, please?

Mr. CULVERHOUSE. Tell you about him setting the ship down?

Mr. REDDAN. Yes.

You were flying, then, just above—just behind him and above him, 200, 300, or 400 feet, is that right? Or were you down closer than that, at that time?

Mr. CULVERHOUSE. Well, at the time that he landed the helicopter, I suppose we were somewhere between 600 and 800 feet.

Mr. REDDAN. All right.

Now, did he tell you in advance that he was going to land?

Mr. CULVERHOUSE. I remember him making a radio transmission saying he had found some people hiding, and wanted to go down and take a better look at them, and that he was actually going to land the helicopter.

Mr. REDDAN. And he did so, is that correct?

Mr. CULVERHOUSE. And he did.

Mr. REDDAN. Could you indicate on the map there where he landed?

Mr. CULVERHOUSE. Certainly, sir. He landed to the east of the main village, and that would put him—

Mr. REDDAN. There are several marks over on that side. If any of them happen to coincide with where you think he put down, just tell us where the mark is there.

Mr. CULVERHOUSE. All right, sir.

There isn't as much distance between this larger portion of the village and these other smaller areas here. I mean, really, from the air, it doesn't look like there is that much distance.

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. But he either put down right to the west of this small area of buildings here, I'd say right in this area here—

Mr. REDDAN. Can you tell what that mark is on the map where you're pointing?

Mr. CULVERHOUSE. It's just a 2, the No. 2.

Mr. REDDAN. He put down somewhere in the area of where it's marked No. 2 on that map?

Mr. CULVERHOUSE. It was like I started to say, sir, it was either right here, or right up here where there is no mark.

Mr. REDDAN. All right.

Mr. CULVERHOUSE. Because—

Mr. REDDAN. That would have been My Lai 5, I believe, up there?

Mr. CULVERHOUSE. Up there?

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. Well, I think my first recollection of where he landed, I'd say, might be the best one.

Mr. REDDAN. Over where it's marked No. 2 on the map there?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. What did you observe him doing? He put his ship down, and then what did you do, circle him to keep him in visual contact?

Mr. CULVERHOUSE. Yes, sir. I wasn't flying the airplane. Mr. Malianns was. And when he landed, we went down lower, so that we could observe what he was doing. And Mr. Malianns sat in the right seat of the aircraft, so he made a right hand orbit, right hand turns, over the position where Warrant Officer Thompson set the helicopter down. Our orbit was, I'd say, would take us over the main village, past the ditch, and over this area here, maybe even out to the eastern side of this portion. Just made a complete circle, all the way around the village, so that Mr. Malianns could look out his door and keep him in sight.

Mr. REDDAN. I see.

Well, could you see him, also?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. What was he doing?

Mr. CULVERHOUSE. Well, he got out of the helicopter, both Mr. Thompson and his gunners were outside. He had apparently fric-tioned the aircraft controls down, so that it would remain——

Mr. REDDAN. His crew chief and gunner got out with him?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And what did they do?

Mr. CULVERHOUSE. I'm not sure exactly what his crew chief and gunner did, but I observed Mr. Thompson going into the edge, right to the very edge, of the village, and maybe just within the edge of the village, and it was in that general area there, outside the aircraft, or I don't know, must have been maybe 5 minutes.

Mr. REDDAN. He walked from the aircraft west to the village, is that right?

Mr. CULVERHOUSE. No, it would be to the east, because we approached from the west. We landed on the western side, and he went into the edge, so he would have gone into——

Mr. REDDAN. I thought you said he landed over there at the area designated No. 2?

Mr. CULVERHOUSE. I did, sir.

Mr. REDDAN. Yes.

Well now, to get back to the village, he would have walked west?

Mr. CULVERHOUSE. I'm talking about not this village, sir, but this smaller——

Mr. REDDAN. You're talking about the smaller group of hootches over there?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. All right. I see. He walked over.

Did you see him talking with any person or persons?

Mr. CULVERHOUSE. I can't remember any specific instances of him actually standing there where I could observe him actually talking to anyone.

Mr. REDDAN. You just saw him walk over to a tree line, or a group of hootches, or something?

Mr. CULVERHOUSE. Yes.

Mr. REDDAN. Then what did he do?

Mr. CULVERHOUSE. Well, returned to his helicopter shortly after-ward, and got back in and called us.

Mr. REDDAN. And what did he say?

Mr. CULVERHOUSE. And said that he had found these people there, and that he had talked with someone on the ground and told them that these people were hiding there, and they were women and kids and a couple of old men, and asked them if he wouldn't take them POW, or detain them, or at least move them out of the area, you know, so that they wouldn't be killed.

And so, evidently, well, he reported to us that he told, advised someone on the ground of this situation, and that the person on the ground didn't seem to be very concerned with their safety or welfare, and asked if we were light enough or if we could land our gunship and help him take some of these people out.

Mr. REDDAN. Now, Thompson wanted to know if you were light enough?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And what did you tell him?

Mr. CULVERHOUSE. Well, we told him that we were. We hadn't fired any—we hadn't expended any ordnance. We had a full load of ammunition, and I said we'd only been there maybe an hour or so, so our fuel load was probably down to around 700 pounds, something like that, and that we could take some out, but not all in one trip.

You know, there is a possibility that maybe we could take two or three or four out at any one given time. And that if he thought that we should land, that if this was the case, we would land and help him evacuate these people, if he thought it was necessary.

Mr. REDDAN. Well, what about enemy fire? Was this a matter of concern to you?

Mr. CULVERHOUSE. No, sir, I don't remember having any apprehensions at all about landing there.

Mr. REDDAN. Why not?

Mr. CULVERHOUSE. Well, like I said, we had been flying over the area for quite a while now, maybe 40, 45 minutes to an hour, and we hadn't received any fire, I hadn't heard any fire; and too, the place was fairly secure. There were quite sufficient infantry people on the ground to secure the place.

Mr. REDDAN. During this time, Thompson had been flying practically on the ground, while you were covering him?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. I mean for 45 minutes or so. Had he reported having received any fire or having seen any Viet Cong?

Mr. CULVERHOUSE. No, sir, he hadn't.

Mr. REDDAN. So then did you put down?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Could you indicate approximately where you think you may have put down?

Mr. CULVERHOUSE. Yes, sir, I remember approaching this little village or group of buildings here, from the west. I approached in an easterly direction. And we cut our approach just short of the position where Warrant Officer Thompson's helicopter was sitting in the rice paddy, and landed there. And then Warrant Officer Thompson was out of his helicopter, and was in the process of persuading these people to board our helicopter, and trying to convince them that we weren't

going to hurt them, that we were going to take them to safety, if anything.

And so he did convince these people, I suppose, that we weren't going to harm them, and managed to get four, I'd say four or five onboard our airplane, and then we took off, in a more or less northerly direction, because of the open terrain, and us being as heavy as we were, we couldn't clear any obstacles to start with. So, like I say, we departed to the north, and then if I remember correctly, made a right turn, came back down the road here, a couple of miles, put them out and returned for a second load.

Mr. REDDAN. Now, when you were on the ground up there, getting these Vietnamese, where was your gunner and your crew chief?

Mr. CULVERHOUSE. They were still in the airplane, sir, manning their guns.

Mr. REDDAN. What were they doing?

Mr. CULVERHOUSE. They were sitting in their gunner's seats, with their machineguns, and the one sitting nearest the village was assisting Warrant Officer Thompson and——

Mr. REDDAN. The one what?

Mr. CULVERHOUSE. The one sitting nearest Warrant Officer Thompson's helicopter, which would be the crew chief.

Mr. REDDAN. Yes?

Mr. CULVERHOUSE. Actually, you know, laid his weapon down and was assisting Mr. Thompson.

Mr. REDDAN. He was not manning his weapon?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Now, how about the guns and crew chief of Thompson's craft, what were they doing?

Mr. CULVERHOUSE. I don't recall exactly what they were doing, sir.

Mr. REDDAN. Do you recall seeing anyone pointing their weapons at U.S. ground forces or threatening them in any way, with their weapons?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Did you see any of the ground forces threatening either Warrant Officer Thompson, or his crew, or your crew?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Were there any U.S. ground forces, in the vicinity when you were conducting this operation?

Mr. CULVERHOUSE. Yes, sir. By in the vicinity, I mean in the surrounding area. There were people out, still within the larger village——

Mr. REDDAN. Was anyone within 15, 20 feet, or 100 feet of you?

Mr. CULVERHOUSE. I'd say yes, sir, there were people within a hundred feet of us.

Mr. REDDAN. What were they doing?

Mr. CULVERHOUSE. Some just standing, looking, you know.

Mr. REDDAN. Just watching you?

Mr. CULVERHOUSE. Just watching us, and others maybe still, you know, digging around through the rubbish and stuff, trying to uncover——

Mr. REDDAN. Nobody tried to interfere with your operation?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Prior to landing, had you observed these people that you eventually evacuated? Did you see them in the ditch, or bunker, wherever they might have been?

Mr. CULVERHOUSE. No, sir, I didn't.

Mr. REDDAN. Do you know whether or not American troops were firing at them or firing in that direction?

Mr. CULVERHOUSE. No, sir, I don't.

Mr. REDDAN. I believe you testified you only heard gun fire once during the whole day?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Was this from just one weapon, do you recall?

Mr. CULVERHOUSE. Well, yes, sir, it apparently was from one. I mean, I can say that I did see one weapon fire, one particular weapon.

Mr. REDDAN. But there were no weapons fired over in the area where you were evacuating these people, as far as you know?

Mr. CULVERHOUSE. As far as I know, there weren't, sir.

Mr. REDDAN. How many loads did you think you took out?

Mr. CULVERHOUSE. Two.

Mr. REDDAN. Two. And then what did you do?

Mr. CULVERHOUSE. We returned back to My Lai, and it seems to me maybe we flew around another 20 to 30 minutes, and then it was time for us to again leave and go back and refuel.

Mr. REDDAN. This would have been about what time?

Mr. CULVERHOUSE. Roughly noon, sir.

Mr. REDDAN. Around noontime. Did you go back in again in the afternoon?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Did any of the Aero-Scout ships go back in the afternoon, do you know?

Mr. CULVERHOUSE. Not that I know of, sir.

Mr. REDDAN. Did you then return to Chu Lai after lunch or did you stay over at LZ Dottie?

Mr. CULVERHOUSE. No, sir, we went back to LZ Dottie and refueled and shut down for lunch.

Mr. REDDAN. And when did you go back to Chu Lai?

Mr. CULVERHOUSE. That is one thing that I am having trouble remembering exactly what time it was.

Mr. REDDAN. Yes?

Mr. CULVERHOUSE. Now, I really can't remember flying another mission that afternoon after this morning mission I flew. But according to my individual flight record, and so forth, I flew 5½ hours that day. So apparently I did fly later on that afternoon, but then I can't remember where it was. I know that we didn't go back to that area.

Mr. REDDAN. Well now upon your return to Chu Lai did you file a report?

Mr. CULVERHOUSE. No, sir, I didn't.

Mr. REDDAN. Did you generally file a report after being engaged in an operation? Or would your craft have filed a report?

Mr. CULVERHOUSE. It was normal procedure, sir, for, a lot of times we would call our reports in from the air, in this case aircraft commander would be the one making the call.

Mr. REDDAN. Do you know whether he did in this particular case?

Mr. CULVERHOUSE. No, sir, I don't.

Mr. REDDAN. Did I ask you whether, during the day, you heard any transmissions from Warrant Officer Thompson, with respect to observing indiscriminate firing?

Mr. CULVERHOUSE. No, sir, you didn't ask me that.

Mr. REDDAN. Did you hear any such transmission?

Mr. CULVERHOUSE. No, sir, I didn't—I don't think I did.

Mr. REDDAN. Do you recall hearing any transmission from Thompson with respect to possible civilian casualties?

Mr. CULVERHOUSE. Yes, sir. His call, when he called us down to evacuate those civilians, I am sure included the fact that he felt that there were civilian casualties, and that these people would be among these casualties if we didn't assist him in taking them out.

Mr. REDDAN. Do you have a clear recollection of that, or is this just a feeling that you have now, they must have said something of that sort? Do you have any recollection of that?

Mr. CULVERHOUSE. Of him calling us?

Mr. REDDAN. And talking about civilian casualties, and that's why he wanted to evacuate the ones in the bunker?

Mr. CULVERHOUSE. Yes, sir, I can remember that one radio call.

Mr. REDDAN. Can you tell us just what he did say?

Mr. CULVERHOUSE. Not word for word, no, sir, but—

Mr. REDDAN. Now, when you returned to Chu Lai, did Warrant Officer Thompson return at or about the same time?

Mr. CULVERHOUSE. I don't recall, sir, whether he returned at the same time we did or did not.

Mr. REDDAN. Did you have an opportunity to talk to him when you went back to LZ Dottie for lunch?

Mr. CULVERHOUSE. I don't think I did, sir. I don't remember talking with him at lunch.

Mr. REDDAN. Did you have any discussions with anyone back at LZ Dottie while you were there for lunch that day?

Mr. CULVERHOUSE. Nobody that I could, you know, call by name, or as far as remembering any one certain discussion, I can't, but there was, you know, some discussion among those of us that were there about the operation that morning.

Mr. REDDAN. Tell us what the discussions were about, please?

Mr. CULVERHOUSE. What they were about, sir?

Mr. REDDAN. Yes.

Mr. CULVERHOUSE. Just of a more or less general type, like we discussed, you know, what we had seen, you know, and maybe some people even expressed their beliefs and opinions about what happened, and what maybe should have happened or shouldn't happen.

Mr. REDDAN. This apparently upset Thompson pretty much, and I would think that it must have had some impact on you and the others who had observed the thing. I would think it would have been normal to have, if not extended, perhaps quite some heated discussions about this thing. Don't you have any recollection of that at all?

Mr. CULVERHOUSE. I don't recall any particular discussion. I know that we did talk about it on different occasions, not only that day, but then, you know, days afterward.

Mr. REDDAN. Was there any discussion about reporting this to anybody?

Mr. CULVERHOUSE. Yes, sir, there was, but then again, I can't pin it down to a definite discussion. But I know it was discussed that Warrant Officer Thompson had reported it to someone, and I can't——

Mr. REDDAN. Did Thompson tell you he had reported it?

Mr. CULVERHOUSE. I couldn't say that he did or didn't.

Mr. REDDAN. Did you ever talk to Major Watke about it?

Mr. CULVERHOUSE. I don't recall talking to him, sir.

Mr. REDDAN. Did you ever report it to anyone?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. To whom did you report it?

Mr. CULVERHOUSE. I reported it to a colonel, whose name I can't recall at LZ Dottie.

Mr. REDDAN. Was he attached to Task Force Barker?

Mr. CULVERHOUSE. I can't remember, sir, exactly what capacity he was working in. But I was called up to talk with him. It was my understanding that he had come to LZ Dottie expressly to talk with me and some of the pilots that had participated in this operation. And that he was more or less conducting some type of investigation as to what did happen there.

Mr. REDDAN. Was this on the 16th? Was this the same day of the operation?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. I see. Were you called over to LZ Dottie for this purpose?

Mr. CULVERHOUSE. No, sir. I was already at LZ Dottie. We worked out of there on a day-to-day basis.

Mr. REDDAN. I see. And do you know Colonel Henderson?

Mr. CULVERHOUSE. No, sir, I don't know him.

Mr. HÉBERT. I want to clear up one thing. Mr. Reddan asked you did you report this matter to somebody, and your reply was in the affirmative, that you did report it.

Now, as you talk along and elaborate on it, in the sense that we accept "reported," you did not report it. You were sought out to tell what you knew about an incident. You did not voluntarily go in and make a report on it?

Mr. CULVERHOUSE. Yes, sir, I did.

Mr. HÉBERT. Let's come again now.

Mr. CULVERHOUSE. Well——

Mr. HÉBERT. All right. You reported it. And you sought out a colonel whom you cannot identify by name. How did you know he was the man to report it to and what did you do? I want to find out. Did you report it voluntarily?

Mr. CULVERHOUSE. Yes, sir, I did.

Mr. HÉBERT. What did you report voluntarily?

Mr. CULVERHOUSE. I just reported what I saw that day, sir.

Mr. HÉBERT. Well, what did you see?

Mr. CULVERHOUSE. What did I see?

Mr. HÉBERT. Yes.

Mr. CULVERHOUSE. I saw——

Mr. HÉBERT. What did you tell him you saw?

Mr. CULVERHOUSE. Exactly what I have told you here this afternoon, sir.

Mr. HÉBERT. What?

Mr. CULVERHOUSE. Exactly what I have told you here this afternoon, sir.

Mr. HÉBERT. You reported to him that you saw civilians dead?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. And you thought this was unusual?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. And you voluntarily gave him this report?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. Then he did not send for you?

Mr. CULVERHOUSE. No, sir. He did not send for me. I was down—as usual we were standing there waiting for a mission. And I don't know, possibly playing a game of horse shoes, which we normally did. And I recall Warrant Officer Thompson coming down and telling me, he said that there was some colonel up at—well, on top of the hill, that he was investigating, was asking questions concerning the mission over My Lai and so forth. And asked me if I wanted to go up and say anything about it, and I told him, yes, that I sure did.

Mr. HÉBERT. That is what I am trying to develop. The suggestion was made to you. You didn't on your own go up to him. You didn't go tell him—you made no report until an individual came to you and told you that a man was making an investigation, and did you want to go talk to him, and you said, yes?

Mr. CULVERHOUSE. Well, in this—yes, sir.

Mr. HÉBERT. Well, you did not voluntarily report this, you did not initiate a report?

Mr. CULVERHOUSE. I can't remember, sir. Possibly when we got back that day, that we did go up to the operations van and I can't say for sure that my CO was there or that my platoon leader or what have you, but I do recall going to the operations van on the 16th, after we got back for lunch, and going in and reporting it there, or discussing it, before my superiors. Either the operations officer or possibly my CO. Like I said, I can't recall exactly who was there. But as soon as we got back that day, we did go to the operations van and—

Mr. REDDAN. When you say "we," who do you mean?

Mr. CULVERHOUSE. The people that flew the mission.

Mr. REDDAN. How many of them went in?

Mr. CULVERHOUSE. I can't—I can't remember exactly how many, sir.

Mr. REDDAN. No. But did your crew chief go with you? Did your gunner go with you?

Mr. CULVERHOUSE. I don't remember at all.

Mr. REDDAN. How about the crews on the other craft? I am just wondering if you went as a group in there?

Mr. CULVERHOUSE. No, sir. We didn't. It was normal procedure, we had cokes and so forth, ice down in the operations van, and it was normal procedure that when we all got back, or got back from a mission, it was just a congregating place. And then, too, the aircraft commanders would go to the operations van and mark our operations maps, maybe weapons or bodies, you know, KIA's that they had had that day and so forth.

Mr. REDDAN. And this is what happened on the 16th? You went to the van for this sort of debriefing purpose?

Mr. CULVERHOUSE. Not as say a scheduled debriefing.

Mr. REDDAN. Is this what took place that day when you were down there?

Mr. CULVERHOUSE. Yes, sir. I remember going to the van, and as I said, several people, myself, and I remember Warrant Officer Thompson being there, and I don't know, a couple of the other pilots, and then pilots that weren't even involved in it also were there. Like the pilots that flew unarmed helicopters, the troop helicopters. And we did discuss it there, you know, in our operations.

Mr. REDDAN. Was Major Watke there at that time?

Mr. CULVERHOUSE. I can't recall, sir.

Mr. REDDAN. Did they mark on the map where the VC KIA's occurred?

Mr. CULVERHOUSE. That particular day I don't know whether they did or not, sir.

Mr. REDDAN. Did they mark up civilian casualties that day?

Mr. CULVERHOUSE. No, sir, not that I know of.

Mr. REDDAN. Did they mark up anything that day?

Mr. CULVERHOUSE. I couldn't say. I don't remember.

Mr. REDDAN. Well now this was on the 16th. Then you say a colonel came out on some other day. And Warrant Officer Thompson told you that he had talked with him?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And wanted to know if you wanted to talk with him?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. And he was up on the hill, standing on the outside, was he?

Mr. CULVERHOUSE. No, sir, he was in a bunker.

Mr. REDDAN. And anyone with him?

Mr. CULVERHOUSE. Not when I was talking to him, there wasn't, sir. Not inside with him.

Mr. REDDAN. Did he ask you any questions?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. What did he want to know?

Mr. CULVERHOUSE. Well, basically, sir, the same questions that you are asking me here today. He wanted to know if I was there, when I was there, and what I saw.

Mr. REDDAN. And you told him what you have told us?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Did he ask you for a written statement?

Mr. CULVERHOUSE. No, sir; he didn't.

Mr. REDDAN. Did he take notes of what you were saying?

Mr. CULVERHOUSE. I can't remember whether he actually took notes or not, sir.

Mr. REDDAN. Were you ever again interviewed in connection with this matter, while you were in Vietnam?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Major Watke never talked to you about it?

Mr. CULVERHOUSE. Not that I can remember, sir.

Mr. REDDAN. Did Colonel Holladay ever talk to you about it?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Was this a matter of general conversation among the troops, and the crews of the Aero Scouts, back at Chu Lai?

Mr. CULVERHOUSE. Yes, sir.

Mr. REDDAN. Did there come a time when Major Watke called the group together and told them to stop discussing it, that the matter was under investigation?

Mr. CULVERHOUSE. I've heard some discussion about the possibility that he did, before, but as far as my remembering him ever doing that, no, sir, I don't.

Mr. HÉBERT. When was the next time you heard about this incident? After that day that you talked to this colonel when was the next time that you discussed this matter to a superior officer who was making an inquiry, or called up or heard about it?

Mr. CULVERHOUSE. The next time that anyone approached me, officially, and asked me any questions about it, in an investigation-type nature, was back, I think it was, in January of this year, when I was contacted by the CID.

Mr. HÉBERT. Nothing was done between that time in the field and until the time the CID talked to you, after this matter had become public?

Mr. CULVERHOUSE. Right, sir.

Mr. HÉBERT. After it had become public.

Mr. GUBSER. Was this a full colonel you talked to, or a lieutenant colonel?

Mr. CULVERHOUSE. I can't remember exactly, sir. The last time I said that, well, the last time this question was asked of me, and I still feel that the only reason I say it was a colonel is because I remember—well, actually, I can't just sit here and say for sure that he was a lieutenant colonel or that he was a full colonel. But I remember how I felt, you know, going before him, and that I know, you know, within my own mind, that he wasn't below the rank of a lieutenant colonel.

I mean; there's just things like that that stick out in your mind, because you feel and you act and you conduct yourself differently, and—

Mr. GUBSER. Have you seen Colonel Henderson since then?

Mr. CULVERHOUSE. You said since then, sir. I don't know—ever recall seeing Colonel Henderson, as Colonel Henderson.

Mr. GUBSER. Have you ever seen a picture of him?

Mr. CULVERHOUSE. I don't—

Mr. GUBSER. You don't know whether it could have been Colonel Henderson or not?

Mr. CULVERHOUSE. No.

Mr. REDDAN. Did you know Colonel Barker?

Mr. CULVERHOUSE. No, sir.

Mr. REDDAN. Could you tell from his insignia or his patch what unit he was attached to?

Mr. CULVERHOUSE. No, sir, I don't recall knowing that.

Mr. LALLY. Mr. Culverhouse, you mentioned earlier in your testimony that there was one occasion that day which you observed a weapon being fired. Could you describe for us this occasion, when you did observe a weapon being fired?

Mr. CULVERHOUSE. Yes.

This was on one of my low passes, over the village. We were flying fairly low, in this right hand turn. I think it was at that moment that Warrant Officer Thompson was on the ground that we were making our right-hand orbits around the village. And our orbit was taking us—well, I'd say through this area right here, just cutting across the

corners of the village, across this ditch, and then down about—across the road and back around, like in a race track orbit.

The occasion that I was speaking of, when I say I did recall hearing fire, was just as I had passed over this ditch that I pointed out right here, just as we passed over the ditch, and had swung, you know, just to the east of it.

In other words, it was out our right tail—I heard a burst of an automatic weapons fire, and I was sitting there with my hand on the safety switch, the armament safety switch, and I remember, you know, taking the mike and saying, “It seems high.” And Warrant Officer Malianns just turned by instinct, I guess, because—well, turned, real sharp turn, back to the right, you know, back to the right, and you know, so if we were receiving some type of enemy fire, at least we could put down some fire, you know, some suppressive fire, maybe.

And as he was turning back around, I did—well, this is when I heard the fire.

Mr. LALLY. Well, what did you see, if anything?

Mr. CULVERHOUSE. OK. I saw a Negro standing on the eastern side of the ditch, with a weapon, in a firing position, at his shoulder, and he seemed to be pointing, or he was pointing, the weapon in the general direction of the bodies in the ditch.

Mr. LALLY. This is the same ditch in which you had previously observed bodies, is that correct?

Mr. CULVERHOUSE. Yes, sir. And I think that when he fired, we turned, and he fired, you know, a couple more rounds, like the weapon was on automatic.

Mr. LALLY. Did you actually see him firing into this—

Mr. CULVERHOUSE. Well, as we turned around, the weapon was still there, and, you know, you could tell that that was the weapon that was fired by the smoke, and I guess flash. Maybe I did see a flash, but there was still smoke, and the weapon was drawn.

Mr. HÉBERT. You had already seen dead at that particular site?

Mr. CULVERHOUSE. Yes, sir, I had already seen dead.

Mr. HÉBERT. You had already seen dead people. They were all dead?

Mr. CULVERHOUSE. Well, I wouldn't say that they were all dead.

Mr. HÉBERT. All right, they were all down on the ground?

Mr. CULVERHOUSE. Yes, they were all piled in.

Mr. HÉBERT. You assumed they were dead?

Mr. CULVERHOUSE. They were incapacitated.

Mr. HÉBERT. Then if he had been firing in there, he would have been firing at bodies that had previously been there?

Mr. CULVERHOUSE. Most likely, sir.

Mr. HÉBERT. Is that a fair assumption?

Mr. CULVERHOUSE. Yes, sir.

Mr. LALLY. Now, in recounting your observations for Mr. Reddan, at this trench, I understood you to say you saw 50 to 75 bodies. Is that correct, sir?

Mr. CULVERHOUSE. I said that there was no less than 50, and that personally I remember there being more than 50. I'd say 75.

Mr. LALLY. Now, do you remember when you testified here in—I believe it was in January, Mr. Culverhouse?

Mr. CULVERHOUSE. Yes, sir.

Mr. LALLY. At that time, Mr. Culverhouse, do you remember—Mr. Reddan asked, “Will you mark a circle or oblong?” And you said,

"OK, sir," Mr. Reddan: "You have marked a place just east of the village. I will mark in the center of that No. 1."

This was the map you were marking on up here. Mr. Culverhouse: "OK, sir," Mr. Reddan: "What do you remember having seen in that area?" Mr. Culverhouse:

Sir, the area I've marked here was a trench or ditch. It looked like an irrigation ditch, probably 6 to 8 feet wide. And as I recall the area, as I marked it here, it would be an area of about—oh, probably 65 or 75 yards long. It was very sparse vegetation on both the eastern and western edges of the trench. This is where I recall seeing most of the bodies in any one place, was in this trench. I think probably 100. Probably 150 to 175 bodies in that one trench. They appeared to be—I don't know—in places as much as probably 4 or 5 bodies deep, and the bodies were located, majority of the bodies were located in an area probably 30 yards long, something like that. And the ditch was almost completely filled in that one area there.

Mr. LALLY. Now, I ask if this testimony refreshes your recollection as to what you saw or if your previous testimony today was an accurate account of what you saw that day?

Mr. CULVERHOUSE. Well, sir, I told him the question that you were going to ask me while you were looking it up, and I have had, I don't know, I suppose a little more time to think, and I don't know just—it just seems to me that there was closer to, say, 75 or 100, that it seemed to me that maybe I did exaggerate by saying that there was as many as 150 or 175.

Mr. LALLY. So, you believe now that 50 to 75 is a more accurate estimate than 150 to 175, is that correct, sir?

Mr. CULVERHOUSE. I would believe 75 would be almost an accurate estimate. But then again, I have never seen that many bodies in any one given place.

Mr. LALLY. Now, when Mr. Thompson called to you, when he was on the ground, what precisely did he say, do you remember?

Mr. CULVERHOUSE. I can't recall precisely what he said, sir.

Mr. LALLY. Well, can you give me the substance of what he said?

Mr. CULVERHOUSE. The substance of his call was that he had found these people hiding in the bunker, and that he had contacted someone on the ground there and made them aware of the fact that they were there, and that they weren't harmed as yet, and wondered if they couldn't take them someplace, you know, take them POW or at least segregate them, you know, put guards on them or something, in one area of the village, rather than just leave them where they were and no one, you know, take charge of them. And that he wasn't successful in getting this person to go along with his way of thinking about the way they should be handled, and that he felt that they would be harmed, you know, killed like the rest of them, that Mr. Thompson had seen, unless we did come down and take them out.

Mr. LALLY. Now, when you landed out in that area, were the American troops near your helicopter?

Mr. CULVERHOUSE. Not like you and I are near, but maybe within 100 or 150 feet. It's hard to say. People were moving around. There was lots happening. And too, I couldn't see behind me. And you know, it's possible that somebody could have come up closer. I have no way of knowing.

But no one was just—you know, people were moving, and, you know, things were happening, and I was just observing what I could observe from my vantage point.

Mr. LALLY. One of the witnesses this morning was Mr. Mansell, did you know him in Vietnam?

Mr. CULVERHOUSE. Yes, sir.

Mr. LALLY. He was from your same company, was he?

Mr. CULVERHOUSE. Yes, sir.

Mr. LALLY. After this operation on the 16th, did you and the other pilots have any occasion to discuss your observations of that day?

Mr. CULVERHOUSE. We had several occasions, sir. We lived right in a couple of, you know, side by side, and we were always, you know, visiting and associating, and like, you know, going to the club together and all. We were a closely knit group, and we did discuss it on several different occasions.

But as far as exactly what we discussed, or any particular conversations, I can't recall any of that. But I know that we did talk about it among ourselves, for a while after.

Mr. LALLY. Did you ever recall discussing it with Mr. Mansell?

Mr. CULVERHOUSE. I can't recall him as actually being present on any of these discussions. I just know I did participate in them; and as far as who was actually there, or who wasn't, I can't recall, because it would be just like, say, we were sitting around discussing a football game or something like that, you know, one day; and then the next day, we were discussing baseball, and you get the two mixed up as to who was actually there.

Mr. LALLY. When it came time that you were going up there to the operations van, to report what you had seen that day, did you ask the other fellows if they had seen anything like you had? The other pilots, Mansell, et cetera?

Mr. CULVERHOUSE. I don't remember asking anyone, no, sir.

Mr. LALLY. That's all.

Mr. HÉBERT. All right.

Thank you very much.

Mr. GUBSER. May I ask a question?

Mr. HÉBERT. Yes, sir.

Mr. GUBSER. When you were on the ground, were you apprehensive, at any time, that you might be attacked by U.S. troops?

Mr. CULVERHOUSE. No, sir.

Mr. GUBSER. When Thompson was on the ground, did he notice the action of his gunners and those that dismounted with him? Did they appear to be covering him?

Mr. CULVERHOUSE. I don't remember them as actually covering him, no, sir. I don't—I'd say no.

Mr. GUBSER. Did you go back into My Lai 4 in the immediate days which followed March 16th?

Mr. CULVERHOUSE. No, sir.

Mr. GUBSER. Did you ever go back there again?

Mr. CULVERHOUSE. I'm sure I flew over it, you know, probably several times; but as far as actually going down and taking a look or having another operation where I flew right in My Lai, no, sir.

Mr. GUBSER. When you used to visit back and forth in your hootches, you'd just go to one another's hootches and sit down and have a gab session, wouldn't you?

Mr. CULVERHOUSE. Oh, yes, sir.

Mr. GUBSER. Did you ever go into Warrant Officer Thompson's hootch?

Mr. CULVERHOUSE. Did I ever go in there? Yes, sir.

Mr. GUBSER. Do you think it's likely that you discussed this with him while you were in his hootch?

Mr. CULVERHOUSE. Yes, sir, it's very likely.

Mr. GUBSER. Is it likely that Mansell would have been there too?

Mr. CULVERHOUSE. Yes. Yes, sir.

Mr. GUBSER. Do you think it's quite possible that you discussed these civilian deaths with Thompson and Mansell, together, at the same time, in that hootch?

Mr. CULVERHOUSE. Yes, sir.

Mr. GUBSER. Would you go so far as to say that you did?

Mr. CULVERHOUSE. No, sir, I wouldn't.

Mr. GUBSER. All right.

Thank you.

Mr. HÉBERT. Was this village of My Lai 4, known as a Viet Cong encampment? Viet Cong base?

Mr. CULVERHOUSE. I don't know, sir. It might have been known by some people as that, but I was new in the country. I'd only been flying for about 3 weeks with the Aero Scouts, and I wasn't familiar with the 11th Brigade.

Mr. HÉBERT. Was this your first combat?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. How many combat missions did you fly after this?

Mr. CULVERHOUSE. I don't know exactly how many, sir.

Mr. HÉBERT. Approximately?

Mr. CULVERHOUSE. I don't know; probably 15 or 20.

Mr. HÉBERT. But you never saw a situation like this in any of the missions that you flew after this one?

Mr. CULVERHOUSE. No, sir.

Mr. HÉBERT. Then if you saw what you consider unusual, what comparison did you relate it to, if you'd never seen it before? You hadn't been in combat before.

Mr. CULVERHOUSE. Well, really, I don't suppose I did have anything to relate it to.

Mr. HÉBERT. You didn't know whether this procedure was war or not? Civilians being killed.

Mr. CULVERHOUSE. Well, I knew you don't just go in and kill people for the sake of killing them, and the civilians are the ones to suffer for it, you know, the war, especially the children. And that's only common sense, that you don't shoot a 3-year-old kid because he's from—

Mr. HÉBERT. You don't shoot him if he comes in with a grenade and throws it at you?

Mr. CULVERHOUSE. Definitely.

Mr. HÉBERT. You'd shoot him then?

Mr. CULVERHOUSE. Yes, sir.

Mr. HÉBERT. Did you know it was common practice in the area, and all throughout during this whole war, that children in particular carried hand grenades?

Mr. CULVERHOUSE. Yes, sir, this was brought out in my Vietnam orientation.

Mr. HÉBERT. Then you have to realize what can happen to a child. Nobody is going to condone killing children, and innocent women, or

old men, noncombatants. I'm not indicating that at all. But I'm just trying to place it in perspective, actually, what the people who had previously been in contact with and what they knew about it.

So, yet you disassociated that with this situation. You say you saw bodies piled up on each other, and then you described them as women and old men, I think.

Well, if they were piled up, how could you tell what they were?

Mr. CULVERHOUSE. From the ones that I saw.

Mr. HÉBERT. The ones you saw face up?

Mr. CULVERHOUSE. Well, yes, sir, and some of them face down; in the case of a kid that long [indicating], there is no doubt in your mind.

Mr. HÉBERT. It's a child?

Mr. CULVERHOUSE. It's a child.

Mr. HÉBERT. Naturally.

But still, you couldn't relate this to any previous encounter, since it was your first combat?

Mr. CULVERHOUSE. No, sir, I couldn't.

Mr. HÉBERT. That's all.

Mr. LALLY. Excuse me for just a moment.

Mr. Culverhouse, I show you an aerial photograph here marked exhibit B, and ask if you can identify that as the My Lai 4 area?

Mr. CULVERHOUSE. Yes, sir, I think I can.

Mr. LALLY. Now are you able to locate, on this photo, this area where you did observe the bodies?

Mr. CULVERHOUSE. Yes, sir, I think I can.

Mr. LALLY. Can you mark it, please, with your initials?

Mr. CULVERHOUSE. OK. Before I mark this, I want to relate it to the map.

Mr. LALLY. All right, sir.

Mr. CULVERHOUSE. And show you, I think, this hedgerow right here is the same as this one here.

Mr. LALLY. I see.

Mr. CULVERHOUSE. With the tracks being in this area right here.

Mr. LALLY. All right.

Mr. CULVERHOUSE. So, in that case, if this is the same as that one, which isn't a very good photograph of the place to start with, but if it is, then I would say it is this area right here.

Mr. LALLY. Would you put your initials inside that circle?

Mr. CULVERHOUSE. Yes, sir.

Mr. LALLY. Now, could you locate, on there, where you set your ship down?

Mr. CULVERHOUSE. Not on this particular picture.

Mr. LALLY. Not on that picture.

All right, thank you, sir.

[Whereupon, at 3:40 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to adjournment, at 3:40 p.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Gubser, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel; and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. Will you identify yourself to the reporter?

TESTIMONY OF LAWRENCE M. COLBURN

Mr. COLBURN. Lawrence M. Colburn.

Mr. HÉBERT. Where do you live now?

Mr. COLBURN. Mount Vernon, Wash.

Mr. HÉBERT. You are a civilian? You are out of the Army now?

Mr. COLBURN. Yes, sir, I am.

Mr. HÉBERT. Now, we want to impress upon you the fact that the subcommittee protects your privacy at all times. You do not have to talk to any news media or have your picture taken, or be interviewed, or anything of that nature. We will protect you completely from that.

When you leave this room, you leave by that door. An officer will be there. If a news media representative approaches you, he can only ask you one question, and that is, do you care to make a statement. If you say you do, you are on your own but you don't have to if you don't want to.

At the same time, I caution you that this is an executive hearing, and you are not to discuss what goes on in this room, or your testimony, with anybody.

Now, you have received a copy of the rules of the committee, and you are told that you will be allowed counsel if you so desire. Obviously, you do not want counsel.

Mr. COLBURN. I don't know exactly how it would work if I did desire a counsel. I would have to finance that myself.

Mr. HÉBERT. Well, counsel would work to this extent. He could not prompt your testimony. He could only protect your legal rights and advise you in answering questions. We will try to be helpful in this way. If we ask you a question that you do not care to answer, there is only one way that you can refuse to answer that question, and that is to say you refuse to answer it under the fifth amendment on your constitutional rights. That is your right. We will not pursue that. You cannot use the fifth amendment procedure willy-nilly, like if I ask you your name, and you say you stand on the fifth. Obviously that is not going to harm you.

If I would ask you what time of the morning did you get here, and you say, well, I am going to stand on my constitutional rights, that doesn't go. But if there is anything that you feel would involve you in anything of a criminal nature that you do not want to answer, you can take the fifth amendment. It is as simple as that.

Of course, I caution you that taking the fifth amendment is interpreted differently in some quarters than in other quarters.

Are there any questions you want to ask before I swear you in? You will be under oath.

Mr. COLBURN. No, no questions.

Mr. HÉBERT. All right. Stand up.

[Witness sworn.]

Mr. REDDAN. Now, do I understand that you elect to testify without counsel here present?

Mr. COLBURN. Yes, I do.

Mr. REDDAN. The acoustics in this room are very bad, so if you will just try to keep your voice up as much as you can, it will be helpful to us.

You were in the Army during what period?

Mr. COLBURN. From September 12, 1966, to September 11, 1969.

Mr. REDDAN. And during that time you had a tour in Vietnam?

Mr. COLBURN. Yes, I did.

Mr. REDDAN. Where were you stationed, and in what capacity?

Mr. COLBURN. I was in the 11th brigade. I went over with the 11th Infantry Brigade, and then I 1049'd into an aviation unit, the 123d Aviation. I was a door gunner.

Mr. REDDAN. How long did you remain a door gunner with that group?

Mr. COLBURN. Six months, seven months.

Mr. REDDAN. Six months?

Mr. COLBURN. Six months.

Mr. REDDAN. Now, we are particularly concerned with an operation on March 16, 1968, in which the 123d supported the operation of Task Force Barker in the Son My area of Vietnam. Did you participate in that operation?

Mr. COLBURN. Yes, I did.

Mr. REDDAN. You were a door gunner on that day?

Mr. COLBURN. Yes, I was.

Mr. REDDAN. In whose ship?

Mr. COLBURN. Mr. Thompson's. Warrant Officer Thompson.

Mr. REDDAN. Who was your crew chief?

Mr. COLBURN. Specialist Andreotta.

Mr. REDDAN. Andreotta. Can you tell us what your assignment was?

Mr. COLBURN. I operated an M-60 machinegun.

Mr. REDDAN. When did you get on station over My Lai 4 that day?

Mr. COLBURN. Roughly 8:30 or 9 o'clock.

Mr. REDDAN. Eight-thirty or nine in the morning?

Mr. COLBURN. Yes.

Mr. REDDAN. Can you tell us what you observed as you came up on My Lai 4?

Mr. COLBURN. The first thing we saw when we came into the area was a suspected Viet Cong crossing the field.

Mr. HEBERT. I am sorry, I can't hear you.

Mr. COLBURN. The first thing we saw was a Viet Cong crossing a field, when we first came into the area, and we fired on him and he got away.

Mr. REDDAN. Did you fire on him?

Mr. COLBURN. Yes, I did.

Mr. REDDAN. Was he close to the village?

Mr. COLBURN. He was within 50 meters of the village.

Mr. REDDAN. Did he have on a uniform?

Mr. COLBURN. I think he was just wearing short pants. But he was carrying a rifle and I think he had a pack, too.

Mr. REDDAN. Did he run into the village?

Mr. COLBURN. No; he was running away from the village.

Mr. REDDAN. You lost him where?

Mr. COLBURN. In a tree line just on the other side of the village.

Mr. REDDAN. On the east side or west side of the village? You can look at that aerial map behind you, if it will help you.

Mr. COLBURN. It was right in here, I believe.

Mr. REDDAN. You are indicating along the road from Quang Ngai over to the sea; is that right?

Mr. COLBURN. Yes. My Lai 4 is right here; am I correct?

Mr. REDDAN. Yes.

Mr. COLBURN. Well, it was just on the other side of the road here, it was in this field, I think it was this terrain he came from, and he came across this field right here. We lost him somewhere around in here.

Mr. REDDAN. And did you fire into the tree line after he went in there?

Mr. COLBURN. Yes, I did.

Mr. REDDAN. How many rounds do you think you fired in that area?

Mr. COLBURN. Fifty.

Mr. REDDAN. Then what did you do?

Mr. COLBURN. We received fire, and moved out of the way so the gunships could make runs.

Mr. REDDAN. Then the gunships came down and made runs in there?

Mr. COLBURN. Yes.

Mr. REDDAN. How many runs did they make, do you know?

Mr. COLBURN. One, or maybe two, with just mini-guns.

Mr. REDDAN. Did they make any runs closer to the road than that?

Mr. COLBURN. No; I don't think so.

Mr. REDDAN. Did you receive fire at any other time that day?

Mr. COLBURN. No.

Mr. REDDAN. That was the only time so far as you know?

Mr. COLBURN. Yes, that I know of; yes.

Mr. REDDAN. After pulling out of there, where did you go?

Mr. COLBURN. Well, just around the area of the village. I don't remember exactly where.

Mr. REDDAN. Could you tell us what you saw at the village when you arrived there?

Mr. COLBURN. I saw wounded and dead people on the outskirts of the village, along the road.

Mr. REDDAN. If you will indicate on that map there where you saw bodies?

Mr. COLBURN. I saw bodies in the rice paddies here.

Mr. REDDAN. You are indicating an area just south of the village?

Mr. GUBSER. Were they in bunches, or scattered at that point?

Mr. COLBURN. At this point right here?

Mr. GUBSER. Yes.

Mr. COLBURN. They were scattered, more or less. They were bunched up when they were down here on the road. It was like they were leaving the village in a group.

Mr. REDDAN. Now, where would this be?

Mr. COLBURN. Right around in here.

Mr. REDDAN. Down on the main road?

Mr. COLBURN. Yes.

Mr. REDDAN. To Quang Ngai, you saw groups of bodies there?

Mr. COLBURN. Yes.

Mr. REDDAN. Was there any way you could estimate how many you saw?

Mr. COLBURN. Altogether, in this area?

Mr. REDDAN. Yes, in that group on the main road there.

Mr. COLBURN. Fifteen, maybe 20.

Mr. REDDAN. Could you tell their ages and sex?

Mr. COLBURN. Males, children, or females and children, and a few old people, old men and old women. I didn't see any draft age males.

Mr. REDDAN. Now, how about the others on the exit roads from the village themselves? You said you saw some bodies around in there.

Mr. COLBURN. They were female and children.

Mr. REDDAN. How many did you see in that general area, south of the village?

Mr. COLBURN. A dozen, scattered.

Mr. HÉBERT. Now, this is when you first landed. I think if you will check back, your time was about 7:30 instead of 8:30.

Mr. COLBURN. I am just remembering as best I can.

Mr. HÉBERT. I am not challenging it, I am just mentioning it because of other records which have come to our attention. And then you circled, and you subsequently landed your ship, your chopper. Did you see these bodies there before you landed the chopper?

Mr. COLBURN. Yes.

Mr. HÉBERT. You saw them before you landed?

Mr. COLBURN. Before we landed at the bunker?

Mr. HÉBERT. Yes.

Mr. COLBURN. Yes.

Mr. GUBSER. I think we ought to do something on this time. This was considerably after the initial assault, wasn't it?

Mr. COLBURN. I don't know what time—

Mr. GUBSER. Did you go in right after the initial artillery preparation?

Mr. COLBURN. I didn't know anything of any artillery preparation. I didn't know there was one. I knew there was a CA—

Mr. GUBSER. But the engagement had been on for a while when you first arrived?

Mr. COLBURN. The infantrymen had been on the ground and in the village.

Mr. GUBSER. In other words, they hit the ground at 7:30, so it had to be considerably after that?

Mr. COLBURN. Yes.

Mr. GUBSER. All right.

Mr. REDDAN. At what altitude were you flying in around My Lai 4 that day?

Mr. COLBURN. Anywhere from 2 feet to 30 or 40 feet off the ground, maybe more. No more than 75 feet at any time, I think.

Mr. REDDAN. And how long did you continue to fly around through that area?

Mr. COLBURN. Well, all that morning, until we needed fuel.

Mr. REDDAN. Did you see any other Viet Cong that morning?

Mr. COLBURN. No, I didn't.

Mr. REDDAN. Did you have any occasion to fire your guns at any other time that morning?

Mr. COLBURN. No, I didn't.

Mr. REDDAN. How about your crew chief?

Mr. COLBURN. No.

Mr. REDDAN. Did he fire his?

Mr. COLBURN. No, he didn't.

Mr. REDDAN. Now, at some time in the morning, as I understand, your rotor brushed a tree or something and you had to land, is that right?

Mr. COLBURN. I remember it happening, and—well, until I talked to Mr. Thompson, I didn't think it was the same day. I couldn't re-

member it being the same day. I do remember hitting a tree with a rotor blade and setting down, and there were infantrymen on the ground. I wasn't sure it was that day.

Mr. REDDAN. When did you talk to Mr. Thompson?

Mr. COLBURN. Just this morning. So I can't say whether I remember that or not. I don't remember it being that day.

Mr. REDDAN. Now, do you recall that morning any transmissions from Thompson with respect to civilian casualties?

Mr. COLBURN. Yes, I do.

Mr. REDDAN. Could you tell us about that, please?

Mr. COLBURN. He transmitted to our lead gunship that there were wounded civilians on the ground and they were women and children, and he wanted to medevac them.

Mr. REDDAN. And what happened?

Mr. COLBURN. Well, when we went and marked the bodies with smoke, hoping that the infantrymen would come over and assist them, they shot them instead.

Mr. REDDAN. Did you see them?

Mr. COLBURN. I saw one man shoot a civilian, yes.

Mr. REDDAN. Well, now these wounded that you marked with smoke that you wanted medevaced, did you see anybody shoot them?

Mr. COLBURN. No, I didn't, I didn't see it, no, but like they were in the area, and we had popped smoke on them and we had to leave that area and come back and they had been there and the smoke would be burned out, but they'd be dead.

Mr. REDDAN. But you didn't see anybody shoot them.

Mr. COLBURN. I didn't see it.

Mr. REDDAN. You saw one person shot, you say?

Mr. COLBURN. Yes.

Mr. REDDAN. And that was the one that subsequently has been identified as the woman that Captain Medina shot?

Mr. COLBURN. Yes.

Mr. REDDAN. At any time when you were flying around that morning, did you ever again receive hostile fire?

Mr. COLBURN. Not that I know of, no.

Mr. REDDAN. Did you hear any transmission from Warrant Officer Thompson with respect to indiscriminate fire by American ground troops?

Mr. COLBURN. Yes.

Mr. REDDAN. What was that?

Mr. COLBURN. Well, he told the lead gunship that they were killing the civilians that we were marking.

Mr. REDDAN. Did he say that he saw them killing civilians?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Well, that's a mighty serious charge, and I would think it would be one which would only have been made after very careful deliberation, and absolute sureness of the position. Could you corroborate that statement of Thompson's?

Mr. COLBURN. Mr. Thompson transmitted to the lead gunship that the people were being killed when we were marking them.

Mr. REDDAN. What I am trying to find out is how he knew they were being killed when you were marking them with smoke?

Now, there is that one instance of that one woman. I wondered if there were any other instances where you could positively state, or Thompson could positively state that they were being killed when you marked them with smoke?

Mr. COLBURN. Well, they were all alive when we left them. Now, I can't say who killed them.

Mr. REDDAN. Did you know the condition of the wounded was such that they would not have died before you returned? In other words, if they were wounded, how long were they going to live?

Mr. COLBURN. Well, there were some people that weren't wounded that bad. I mean like in the legs, or—in the stomach or something. But they were all alive. They were very much alive. And when we came back into the area, they had been—well, you can tell the difference when a person is wounded or—well, they'd been—some sort of an automatic weapon, because they were really messed up.

Mr. REDDAN. Did you put down on the ground, or did you hover close enough to them so you could tell the extent of their wounds when you first saw them?

Mr. COLBURN. I think so, yes.

Mr. REDDAN. Well, tell us about that? What did you see?

Mr. COLBURN. What sort of wounds?

Mr. REDDAN. Yes. You saw people who were wounded, and you came back later and you found them dead. I would just like to know how you know whether or not any other wounds had been inflicted in the meantime?

Mr. COLBURN. Well, there were head wounds that were inflicted while we weren't there.

Mr. REDDAN. You mean you saw bodies that had head wounds that they did not have when you first observed them?

Mr. COLBURN. Yes.

Mr. REDDAN. Now, at what point did you put down on the ground to evacuate any Vietnamese?

Mr. COLBURN. The time?

Mr. REDDAN. Yes, what time of the day. How long had you been out there?

Mr. COLBURN. Forty-five minutes or an hour. Maybe less.

Mr. REDDAN. Can you indicate on that aerial map behind you where you put down? Do you know whether it was east or west of the village?

Mr. COLBURN. Right here, I think, to the best of my knowledge. Right here.

Mr. REDDAN. You are pointing just east of the hamlet?

Mr. COLBURN. Yes.

Mr. LALLY. Do you want to mark that point, sir, with a circle, and your initials?

Mr. COLBURN. Yes, sir.

Mr. REDDAN. You have marked on the map in green ink the spot you think you landed?

Mr. COLBURN. Yes.

Mr. REDDAN. What conversations, if any, did you have with Thompson prior to your landing there?

Mr. COLBURN. Well, he told us that he was going to set down the ship and he was going to go over and try to get the people out of the bunker.

Mr. REDDAN. Yes.

Mr. COLBURN. And the crew chief and I stayed around the ship and covered him.

Mr. REDDAN. You stayed on this ship?

Mr. COLBURN. No, we got out of the ship, we took our guns down, and took them out of the ship with us.

Mr. REDDAN. Yes.

Mr. COLBURN. And just stayed within 15 meters of the ship.

Mr. REDDAN. Well, now, you say you covered him. What did you mean by that?

Mr. COLBURN. I covered the pilot. I covered Mr. Thompson.

Mr. REDDAN. What were you protecting him from? You hadn't seen any VC that morning except the one fellow that you missed.

Mr. COLBURN. Well, a lot of times you don't see them. There was a tree line right here, right next to us, and it was a likely area to receive fire from.

Mr. REDDAN. Yes, you were there then to protect the ship and Thompson from the VC?

Mr. COLBURN. Yes.

Mr. REDDAN. Did he tell you to do that? Was that standard operating procedure?

Mr. COLBURN. Yes.

Mr. REDDAN. Standard operating procedure?

Mr. COLBURN. Yes.

Mr. REDDAN. Did he give you any instructions as to what to do?

Mr. COLBURN. He said that if any of the American soldiers opened up on the civilians while he was getting them out of the bunker, that we should shoot them.

Mr. REDDAN. Shoot the Americans?

Mr. COLBURN. Yes, that we should.

Mr. REDDAN. There is no question in your mind now, this is what he told you? He told you to shoot American soldiers?

Mr. COLBURN. He didn't tell us to shoot them. He said we should shoot them. It was understood that what he said, he knew we wouldn't. It wasn't an order.

Mr. REDDAN. What was it?

Mr. COLBURN. He was just expressing that—he was awfully upset, and—he knew that we wouldn't shoot the American soldiers.

Mr. HÉBERT. How do you know he knew that?

Mr. COLBURN. I know Mr. Thompson pretty well, and the crew chief knew him pretty well.

Mr. GUBSER. Is it your impression that he gave you instructions—let's not call it an order.

Mr. COLBURN. No, not even instructions. It was, he was just showing us how he felt about what he thought they had been doing to the civilians.

Mr. GUBSER. Well, obviously 2 years later you can't directly quote him, but would you paraphrase something which would convey the impression that he gave to you?

Mr. COLBURN. I find that pretty hard to do. I can't.

Mr. GUBSER. Well, in your own mind, what was your impression of what he wanted you to do?

Mr. COLBURN. Cover him.

Mr. GUBSER. Cover him against what?

Mr. COLBURN. Enemy fire.

Mr. GUBSER. Enemy fire. Viet Cong fire?

Mr. COLBURN. Yes.

Mr. GUBSER. It was not your impression, then, that he was asking you to protect him from American soldiers?

Mr. COLBURN. No.

Mr. HÉBERT. And any statement made by anybody that Mr. Thompson gave orders to shoot American soldiers would be false?

Mr. COLBURN. Yes.

Mr. HÉBERT. And your gunner, the crew chief, I understand is a casualty. He is dead, I understand.

Mr. COLBURN. Yes.

Mr. HÉBERT. You were the only two men that had guns on?

Mr. COLBURN. Yes.

Mr. HÉBERT. And you got out, you and your crew chief got out to cover Mr. Thompson, not against American soldiers, not pointing your guns at the American soldiers on the ground?

Mr. COLBURN. No.

Mr. HÉBERT. You got out to cover him from Viet Cong fire, and not from American fire?

Mr. COLBURN. Yes.

Mr. HÉBERT. Yes, what?

Mr. COLBURN. Yes, we covered him from enemy fire.

Mr. HÉBERT. From enemy fire and not from American fire?

Mr. COLBURN. Not from American fire.

Mr. HÉBERT. And that was never your intention.

However, he did say to you, in a general conversation, if an American shoots while I am getting those people out, shoot him?

Mr. COLBURN. He said they should be shot.

Mr. HÉBERT. They should be shot?

Mr. COLBURN. Yes. Just for what they were trying—

Mr. HÉBERT. We are just trying to find out what he said. And he said they should be shot?

Mr. COLBURN. Yes, for what he thought they were doing.

Mr. GUBSER. You are presenting that as a paraphrase?

Mr. COLBURN. Yes.

Mr. REDDAN. What you are saying is like someone says he should be hung for doing that?

Mr. COLBURN. Yes.

Mr. REDDAN. And he said to you, "If they shoot these fellas while I am getting them out, they should be shot"?

Mr. COLBURN. Yes.

Mr. REDDAN. Is that what you mean?

Mr. COLBURN. Yes.

Mr. REDDAN. And he wasn't directing you or your crew chief to shoot at them?

Mr. COLBURN. No. And both the crew chief and myself understood that.

Mr. REDDAN. Yes. Did you have any reason to fear that you might be shot by American troops?

Mr. COLBURN. No.

Mr. REDDAN. Did you receive any sniper fire or enemy fire at all when you were down there?

Mr. COLBURN. Not that I know of, no.

Mr. REDDAN. Now, did you overhear any of the conversation between Thompson and anyone on the ground?

Mr. COLBURN. No, I didn't.

Mr. REDDAN. Did he relate to you any of his conversation?

Mr. COLBURN. Yes, he did.

Mr. REDDAN. What did he tell you?

Mr. COLBURN. He said that when he went over to the bunker to try to get the people out, well, he asked an officer if he knew of any way to get the people out, because they weren't, they didn't want to come out, they thought they'd be killed if they'd come out, and the officer on the ground said the only way he knew how to get them out was with a hand grenade.

Mr. REDDAN. Well now, again, was this just a conversation? "I don't know how to get them out except with a hand grenade." Or did you understand it to mean that he was going to throw a hand grenade in there?

Mr. COLBURN. Well, the impression I got was that is the way he would have done it.

Mr. REDDAN. Well, did you get the impression that that's what he was going to do?

Mr. COLBURN. Mr. Thompson got the people out before he had a chance to.

Mr. REDDAN. That's not my question. My question is, did you get the impression from talking with Thompson that this officer was going to throw a hand grenade in there?

Mr. COLBURN. I think he probably would have, yes.

Mr. HÉBERT. Let me pick that up, please.

All right, now. We don't want an indication of the officers or any indication of people. You understand that.

Mr. COLBURN. Yes.

Mr. HÉBERT. A few moments ago I asked you concerning what Mr. Thompson said, and you paraphrased, which we understand, that if an American soldier shot one of these people while he was trying to get them out, he should be shot.

Mr. COLBURN. Yes.

Mr. HÉBERT. But then you said that you knew Mr. Thompson well enough that he really didn't mean to shoot them, is that correct?

Mr. COLBURN. That's correct.

Mr. HÉBERT. Now, in response to Mr. Reddan, you repeat a conversation that Mr. Thompson said he had with an officer, who said the only way to get them out is a hand grenade, and then Mr. Reddan asked you the question, "Do you think he would have used the hand grenade," and you said, "Yes."

Yet you don't know the officer. So how do you separate these opinions? Mr. Thompson says they should be killed, you say, well, he didn't mean that. The officer said the only way to get them out is a hand grenade, oh, then he meant it. But you don't even know the officer.

Mr. COLBURN. You asked me what Mr. Thompson told me.

Mr. HÉBERT. That is correct.

Mr. COLBURN. About the conversation.

Mr. HÉBERT. That is correct.

Mr. COLBURN. The impression I got of what was happening was the infantry people were slaughtering these people.

Mr. HÉBERT. That's correct.

Mr. COLBURN. And from what they had done in say an hour or an hour and a half before, led me to believe that he would use a grenade.

Mr. HÉBERT. Of all the 105 men in that company, you would say that; you are going to try a man?

Mr. COLBURN. He may have had someone do it. I don't know.

Mr. HÉBERT. You are going to try a man without a trial and condemn him, but you are a friend to Thompson, you wouldn't condemn him.

Mr. COLBURN. I am not condemning him. You asked me if I thought he would use it. Just from what he had done before, I thought he would, yes.

Mr. HÉBERT. Well, maybe the word "condemn" is the wrong word in my vocabulary, but it certainly ends up in the same place, that you may not condemn him, but you thought he would use it.

Mr. COLBURN. Then I can't say whether he would do it or not, then.

Mr. HÉBERT. You know you can't say, but I wanted to bring that out.

Mr. COLBURN. I understand what you are trying to bring out.

Mr. HÉBERT. You don't intend to read people's minds, and I can understand your affection for Mr. Thompson. I can understand that.

Now, you talked to Mr. Thompson today, didn't you?

Mr. COLBURN. Yes.

Mr. HÉBERT. What was your conversation?

Mr. COLBURN. Just about where he was stationed now, and what he was doing.

Mr. HÉBERT. You didn't discuss the testimony that you were to give in here?

Mr. COLBURN. No.

Mr. HÉBERT. He didn't refresh your memory?

Mr. COLBURN. No, he did not, no.

Mr. HÉBERT. In the very beginning he refreshed your memory on something.

Mr. COLBURN. But I told you I wasn't going to say it was that day, because I am still not sure.

Mr. HÉBERT. But he did attempt to refresh your memory on that day, didn't he? As of that day? That was related to your testimony.

Mr. COLBURN. He said he read it back that day. He wasn't trying to make me believe—

Mr. HÉBERT. I admit Mr. Thompson can do no wrong. But still, he did suggest that he refreshed your memory about that which you were testifying in here, what the time was, the date was, which you didn't know. Honestly, you don't know. You have given honest testimony. I am not impugning you. And Mr. Thompson said, "No, it was the 16th," or whatever date it was. I don't know.

Mr. GUBSER. Well, I think the significant point is that the alleged incident was discussed today by yourself and Mr. Thompson.

Mr. COLBURN. Yes.

Mr. HÉBERT. It was discussed.

Mr. COLBURN. Yes.

Mr. GUBSER. And some of the particulars and facts regarding it.

Mr. COLBURN. Not into any great detail, just small talk.

Mr. GUBSER. All right.

Mr. HÉBERT. How small?

Mr. COLBURN. We talked about other missions that we were on. I know all three of the pilots out there, and we talked about things that had happened overseas, and I haven't seen them since I left. We talked about all kinds of different missions.

Mr. HÉBERT. Including this situation.

Mr. COLBURN. Including, yes, My Lai 4.

Mr. HÉBERT. And you all discussed this matter, they had recollections of it taking place on this date, which was the day that you will have to remember, all of you will have to remember you were there, and these pilots talked about it. There is nothing wrong with talking about it. It is a common practice, if you haven't seen these buddies in this long and you discussed this thing.

Is that what you are telling this committee?

Mr. COLBURN. Yes.

Mr. HÉBERT. Who are those pilots you talked to out there?

Mr. COLBURN. Mr. Thompson, Lieutenant Thompson.

Mr. HÉBERT. Yes.

Mr. COLBURN. Mr. Mansell, and the warrant officer that was just in here.

Mr. REDDAN. Mr. Culverhouse.

Mr. COLBURN. Yes.

Mr. GUBSER. Did you testify before the Peers committee?

Mr. COLBURN. Yes, I did.

Mr. GUBSER. Weren't you admonished not to discuss this case, or, perhaps, since you are out of the military, that doesn't apply to you.

Mr. COLBURN. I don't think it does apply to me.

Mr. GUBSER. Were you admonished, though, by the Peers committee not to discuss this case?

Mr. COLBURN. I was told not to discuss what happened at the Peers committee.

Mr. GUBSER. All right. Good enough.

Mr. REDDAN. Now, as a result of this action, did you receive any decoration?

Mr. COLBURN. I received a bronze star with valor.

Mr. REDDAN. How did that come about, can you tell us?

Mr. COLBURN. What did I do to—

Mr. REDDAN. No. Who wrote you up?

Mr. COLBURN. Mr. Thompson wrote me up.

Mr. REDDAN. How soon after the action?

Mr. COLBURN. I don't know.

Mr. REDDAN. Did he tell you he was going to do it?

Mr. COLBURN. He didn't.

Mr. REDDAN. Who told you?

Mr. COLBURN. Some other pilot, I think.

Mr. REDDAN. Said that Thompson was going to write you up for it?

Mr. COLBURN. He said that he had heard that, yes.

Mr. REDDAN. Now, did you write Thompson up?

Mr. COLBURN. Yes.

Mr. REDDAN. How soon after the action?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Did you discuss it with anyone before you did so?

Mr. COLBURN. No, I don't believe I did.

Mr. REDDAN. What?

Mr. COLBURN. Just men in the unit.

Mr. REDDAN. Did you talk to Thompson?

Mr. COLBURN. No; I don't believe I did.

Mr. REDDAN. Did you talk to Major Watke?

Mr. COLBURN. I don't remember. I don't remember talking to him.

Mr. REDDAN. How did you go about this? Was this before or after you found out he was writing you up?

Mr. COLBURN. After, I think.

Mr. REDDAN. You wrote him up after you found out he was writing you up?

Mr. COLBURN. Yes.

Mr. REDDAN. Did you write it up yourself.

Mr. COLBURN. No.

Mr. REDDAN. Who did?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Did you sign it?

Mr. COLBURN. Yes.

Mr. REDDAN. Was it truthful?

Mr. COLBURN. Yes; it was truthful.

Mr. REDDAN. I will read you a statement here. It says:

Warrant Officer Hugh C. Thompson distinguished himself by heroism by flying an OH-23G helicopter on 16 March 1968. His mission was to fly low level, and recon ahead of advancing elements of friendly ground forces. Sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces. Unhesitatingly, he landed his helicopter, and directed movement of the children to an area where an accompanying armed helicopter could land and move them to safety. He had just taken off again when he saw a wounded Vietnamese boy. Without hesitation, or regard for the Viet Cong fire, he landed and picked up the child, and flew him to the ARVN hospital at Quang Ngai City several minutes away.

This is signed, Lawrence M. Colburn, specialist, ed, A18975748, company B, 123 Aviation Battalion.

Mr. COLBURN. Yes; that's truthful.

Mr. REDDAN. This is the statement—

Mr. COLBURN. Yes.

Mr. REDDAN. I will be very happy to show it to you, if you want to see it.

Mr. COLBURN. Yes; that's the statement.

Mr. REDDAN. Now, who wrote this?

Mr. COLBURN. I have no idea.

Mr. REDDAN. Did you have any idea it was being written up before it was written?

Mr. COLBURN. No.

Mr. REDDAN. Somebody wrote it up and brought it to you to sign?

Mr. COLBURN. Brought it to me to look at, and asked me—

Mr. REDDAN. This was the first you knew that you were going to write Warrant Officer Thompson up for an award?

Mr. COLBURN. When I signed this?

Mr. REDDAN. Yes.

Mr. COLBURN. No, I knew about it before I signed it.

Mr. REDDAN. Well, tell us, did you ask anybody to write this up for you?

Mr. COLBURN. No; I didn't.

Mr. REDDAN. How did it come about? Tell us this.

Mr. COLBURN. I don't remember how it came about.

Mr. REDDAN. When did you first hear about it?

Mr. COLBURN. It was sometime after the mission. I don't remember how long.

Mr. REDDAN. A day?

Mr. COLBURN. Weeks.

Mr. REDDAN. Weeks?

Mr. COLBURN. As I remember. Maybe a week.

Mr. REDDAN. Maybe a what?

Mr. COLBURN. A week; 7 days.

Mr. REDDAN. Maybe a week later?

Mr. COLBURN. I don't know, really. I cannot remember.

Mr. REDDAN. Where were you when you first heard about it?

Mr. COLBURN. In Chu Lai.

Mr. REDDAN. But were you in a hootch, or—

Mr. COLBURN. I don't remember.

Mr. REDDAN. Did it come as a surprise to you?

Mr. COLBURN. No.

Mr. REDDAN. You hadn't requested anybody to write it up, had you?

Mr. COLBURN. No.

Mr. REDDAN. So that when you first heard about this, it did come as a surprise to you then?

Mr. COLBURN. I said it didn't come as a surprise to me.

Mr. REDDAN. I know you said that.

Mr. COLBURN. I had talked to people about writing Mr. Thompson up. I didn't know, I don't remember who wrote that up. I had talked to people about writing him up before I signed this. So it wasn't a surprise.

Mr. REDDAN. All right, now, who did you talk to?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Why did you talk to them?

Mr. COLBURN. Why?

Mr. REDDAN. Yes; what did you say to them? Did you say to them, "I am going to recommend him for the Distinguished Flying Cross"?

Mr. COLBURN. I don't remember what I said.

Mr. REDDAN. Did you enlist anyone's help in this thing? This is what I am trying to find out. Did you actually put in motion the machinery for this award? This is what I am trying to determine.

Mr. COLBURN. I thought he deserved the award.

Mr. REDDAN. Yes.

Mr. COLBURN. I did have help; someone did write it up.

Mr. REDDAN. All right. Who wrote it?

Mr. COLBURN. I told you. I don't remember who wrote it.

Mr. REDDAN. Did you go to someone for help on this thing?

Mr. COLBURN. Not one specific person, no.

Mr. REDDAN. How many specific persons did you go to?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Did you go to Major Watke?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Did you go to the chaplain?

Mr. COLBURN. I don't remember—no, I didn't go to the chaplain.

Mr. REDDAN. You didn't?

Mr. COLBURN. No.

Mr. REDDAN. You are sure of that?

Mr. COLBURN. Yes.

Mr. REDDAN. Who would you have gone to for help? Why couldn't you have written it yourself?

Mr. COLBURN. I had never done it before. I didn't know what the procedure was.

Mr. REDDAN. Did you go to the legal officer?

Mr. COLBURN. No.

Mr. REDDAN. Did you go to any officer?

Mr. COLBURN. I talked to officers about it. I am sure I did. Pilots.

Mr. REDDAN. Did you tell them that you wanted help?

Mr. COLBURN. That I wanted help in writing this up?

Mr. REDDAN. Yes.

Mr. COLBURN. No; I just asked them if it was possible for me to do it.

Mr. REDDAN. Yes. What did they tell you?

Mr. COLBURN. They told me yes.

Mr. REDDAN. Did you know what the qualifications were for the award that you were recommending him for?

Mr. COLBURN. No.

Mr. REDDAN. Did you know that this award was only given for action under enemy fire?

Mr. COLBURN. So is the bronze star.

Mr. HÉBERT. That is not the question.

Mr. REDDAN. I am going to ask you about the bronze star in a minute. That isn't the question. But I am asking you now about this one.

Mr. COLBURN. Action while under fire?

Mr. REDDAN. Yes.

Mr. COLBURN. No; I didn't know that about a DFC.

Mr. REDDAN. Well now, I want to know particularly about this. You say sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide.

Now, I had previously asked whether you had received any fire, and you told me no.

Mr. COLBURN. I told you we received fire that morning.

Mr. REDDAN. That's for sure. But this is a long time after. This sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker.

Mr. COLBURN. Well, flying toward the bunker.

Mr. REDDAN. The sniper fire you were talking about this morning, was south of the highway from Quang Ngai, you know that. Now let's not play games. And I asked you repeatedly whether you had received any other fire than that.

Mr. COLBURN. And I said no.

Mr. REDDAN. And you said no.

Mr. COLBURN. Not that I know of.

Mr. REDDAN. That is right. So now I am trying to find out the basis for this statement here, that while you were flying toward the sniper fire, you saw—

Mr. COLBURN. Could you read that statement again?

Mr. REDDAN. I will read it.

Sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces.

Mr. COLBURN. Well, flying toward the bunker.

Mr. REDDAN. That is what it says. No, "while flying toward the sniper fire," is what it says. "While flying toward the sniper fire."

Mr. COLBURN. Does it say "while flying toward the sniper fire?"

Mr. REDDAN. Let me read it one more time.

Mr. COLBURN. All right.

Mr. REDDAN. "Sniper fire had been received forward of friendly units, and while flying around it"—the only thing "it" refers to is the sniper fire—"while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces."

Now this says you were flying toward the sniper fire when suddenly Thompson saw children hiding in a bunker. Now, what about the sniper fire? Did you actually receive any sniper fire?

Mr. COLBURN. No, I told you we didn't.

Mr. REDDAN. Well, then, this is not correct, is it?

Mr. COLBURN. No; if it is read that we were flying toward sniper fire, no, it is not.

Mr. REDDAN. Then it goes on to say here, also, that this bunker was between friendly and enemy forces. Were there any enemy forces around there, that you knew of?

Mr. COLBURN. Not that I know of, no.

Mr. REDDAN. You had been flying around at shoelace level most of the morning and you hadn't seen any, other than that one fellow you saw south of the road, as I understand your testimony.

Mr. COLBURN. Yes.

Mr. REDDAN. So would that have been a correct statement, that there were enemy forces in the area?

Mr. COLBURN. It is not for me to say.

Mr. REDDAN. Well, you said it. This is your signature.

Mr. COLBURN. I didn't see enemy forces.

Mr. REDDAN. All right. Then you go on to say "He had just taken off again when he saw a wounded Vietnamese boy. Without hesitation or regard for Viet Cong fire, he landed and picked up the child and flew to Quang Ngai."

Now, this suggests that there was Viet Cong fire in that area. Was there any Viet Cong fire?

Mr. COLBURN. Not while we medevaced the child, no.

Mr. REDDAN. Before you medevaced him?

Mr. COLBURN. That morning.

Mr. REDDAN. Did you know of any Viet Cong fire there that morning?

Mr. COLBURN. Just that one time.

Mr. REDDAN. Well, this was again, now you are talking about down south of the road?

Mr. COLBURN. Yes.

Mr. REDDAN. But other than one individual, you didn't see any Viet Cong or observe any hostile fire at all?

Mr. COLBURN. Well, the friendlies were firing on the ground, and I took for granted that they were firing at enemy forces. I mean, there was a lot of firing going on on the ground.

Mr. REDDAN. Well, now, you have been, as I say, floating around just over the grass there for at least three-quarters of an hour, and you had not received any fire, had you?

Mr. COLBURN. Not after that one time, no. Not that I know of.

Mr. REDDAN. And you weren't within 500 meters of the village when you got that fire. That was down below the road. Do you know whether Thompson wrote this up himself?

Mr. COLBURN. I don't know.

Mr. REDDAN. Is he the one who gave it to you?

Mr. COLBURN. I don't remember.

Mr. REDDAN. Well, now, surely you would have remembered whether he gave it to you, wouldn't you?

Mr. COLBURN. This was almost 2 years ago, and——

Mr. REDDAN. Well, how many times have you recommended anybody for a Distinguished Flying Cross?

Mr. COLBURN. I don't remember. Once I have.

Mr. REDDAN. Just this once?

Mr. COLBURN. I don't remember who gave it to me.

Mr. REDDAN. Do you deny that Thompson gave it to you?

Mr. COLBURN. I don't remember who gave it to me.

Mr. REDDAN. No. Do you deny that he gave it to you?

Mr. COLBURN. No.

Mr. REDDAN. Do you know who wrote up Andreotta's citation?

Mr. COLBURN. No, I don't.

Mr. REDDAN. Now, your citation reads:

Specialist 4th Class Lawrence Colburn, et cetera; "United States, distinguished himself on 16 March '68 while serving as a gunner on the" so and so "helicopter in connection with a military operation against a hostile force in the Republic of Vietnam. The helicopter, assigned to the Aero-Scout Company, 123 Battalion, was on a mission providing aerial reconnaissance for Task Force Barker. While flying over the village of My Lai, 15 children were spotted by the crew chief of the aircraft, hiding in a bunker located between friendly and hostile forces engaged in a heavy fire fight. Specialist Colburn's aircraft landed and he got the children out of the bunker. At this time the UH-1B gunship that had been flying cover for the OH-23G aircraft landed and the children were put on the aircraft and evacuated to a secure area, thus saving the lives of the children. After S-4 Colburn's aircraft took off, a wounded Vietnamese child was spotted. The aircraft was landed and he helped pick up the wounded child and carry him to the aircraft. The child was taken to the Vietnamese hospital located at the town of Quang Ngai, thus saving the life of the wounded child. Specialist 4 Colburn's willingness to risk his life for others and unswerving courage under fire reflect great courage upon himself, his unit, the Americal Division and the United States Army."

Now, did you take any action under fire that day?

Mr. COLBURN. I never heard that statement before.

Mr. REDDAN. Would you say it was true?

Mr. COLBURN. I didn't get the people out of the bunker. Mr. Thompson did.

Mr. REDDAN. Well, now, I will read you—that's the award, the one I just read you. This is Thompson's statement.

On 16 March, SP-4 Colburn, et cetera, flying as gunner on an OH-23H helicopter assigned to Aero-Scout Company 123 Aviation Battalion, on a mission providing aerial reconnaissance for Task Force Barker, while flying over the village of My Lai, Specialist 4 Andriatta, the air crew chief, spotted 15 children hiding in a bunker located between friendly forces and hostile forces engaged in a heavy fire fight.

I will come back to that in a minute.

Specialist 4 Colburn's aircraft landed and he got the children out of the bunker. At this time the UH-1B gunship that was flying cover for the OH-23G aircraft landed and the children were put into the aircraft and evacuated to a secure area. After Specialist 4 Colburn's aircraft took off, a wounded Vietnam child was spotted. The aircraft landed and he helped pick up the wounded child and carried him to the aircraft. The child was taken to a Vietnamese hospital located in the town of Quang Ngai and treated for his wounds. Without Specialist 4 Colburn's great courage and intense professionalism, the lives of 16 innocent children may very well have been lost.

Now, this is signed "Hugh Thompson."

Now, did Thompson tell you that he was writing this up?

Mr. COLBURN. Not that I remember, no.

Mr. REDDAN. Would you say that this is an accurate description of what took place that day?

Mr. COLBURN. No.

Mr. REDDAN. I am not demeaning the fact that the children were saved. I am just trying to determine the accuracy of this, because this is in conflict with the testimony we have. This says there was—this says here that there was a heavy fire fight between friendly and hostile forces going on at the time. Now, that's not so, is it?

Mr. COLBURN. There were American soldiers on the ground shooting. I don't know what they were shooting at. I suppose they were shooting at what they thought were the enemy.

There wasn't a heavy fire fight. There was not a heavy fire fight. But there was firing on the ground, a lot of firing taking place on the ground.

Mr. REDDAN. Would you be surprised to learn that other helicopter crews who were there at that time said that they didn't hear a single shot?

Mr. COLBURN. Yes; I would be surprised. How can you hear a shot from a helicopter?

Mr. REDDAN. What?

Mr. COLBURN. How can you hear a shot from a helicopter?

Mr. REDDAN. There was more than one helicopter on the ground that day.

Mr. COLBURN. The ships that inserted the infantrymen.

Mr. REDDAN. That is right. In any event, you can be sure that other witnesses have said that while you were on the ground, that there was no firing.

Mr. COLBURN. While we were on the ground?

Mr. REDDAN. That is right.

Mr. COLBURN. Oh.

Mr. REDDAN. Now, did you hear any firing when you were on the ground?

Mr. COLBURN. No; I was standing probably 15 meters away from the helicopter that was cranking. I don't think I would have heard it if there was any.

Mr. REDDAN. When did you first learn you were being written up?

Mr. COLBURN. Within a week's time after the mission. Sometime within a week. I don't know.

Mr. REDDAN. Well, as you know, these are to be written up promptly.

Mr. COLBURN. Pardon me?

Mr. REDDAN. The rules require that these things shall be written up promptly after the action. You know that. Your recommendation was the 10th of April. But you can't help us at all in finding out who wrote the thing that you signed?

Mr. COLBURN. I cannot remember.

Mr. REDDAN. Did you read it before you signed it?

Mr. COLBURN. Yes, I read it before I signed it.

Mr. REDDAN. Did you tell him it wasn't right?

Mr. COLBURN. The way I read it, I thought it was right. Maybe I am just incompetent, I don't know.

Mr. REDDAN. Well, now, don't take that kind of a plea. I don't think that you are. I think you knew what you were signing. Do you have any reason to believe that Thompson wrote this himself?

Mr. COLBURN. Wrote himself up?

Mr. REDDAN. Yes.

Mr. COLBURN. I have no reason to believe that, no.

Mr. REDDAN. But you won't deny that he's the one who gave it to you to sign?

Mr. COLBURN. I can't remember. I can't deny if it was him if I don't remember who it was.

Mr. HÉBERT. Tell me, you say your home is in Virginia?

Mr. COLBURN. My home is Mount Vernon, Wash.

Mr. HÉBERT. Oh, Washington State.

Mr. COLBURN. Yes.

Mr. HÉBERT. Where did you go to school?

Mr. COLBURN. Mount Vernon High School, and Skagit Valley Junior College.

Mr. HÉBERT. When you were in the Army, had you been to junior college?

Mr. COLBURN. No.

Mr. HÉBERT. You went on the GI bill?

Mr. COLBURN. Yes.

Mr. HÉBERT. But you had graduated from high school?

Mr. COLBURN. No, I didn't.

Mr. HÉBERT. You had not yet graduated from high school?

Mr. COLBURN. No. I joined the Army when I was 17 years old.

Mr. HÉBERT. How old are you now?

Mr. COLBURN. I am 20.

Mr. HÉBERT. Twenty.

Mr. COLBURN. Yes.

Mr. HÉBERT. Did you hear any transmission on the radio coming from Thompson or some other pilot, in effect saying, "If he shoots me, I'll shoot him?"

Mr. COLBURN. If who shoots?

Mr. HÉBERT. "If he shoots," unidentified, but on the radio "If he shoots me, I'll shoot him?"

Mr. COLBURN. No.

Mr. HÉBERT. You did not hear that?

Mr. COLBURN. No.

Mr. HÉBERT. That is all.

Mr. REDDAN. Were you ever interviewed by Major Watke?

Mr. COLBURN. About the incident?

Mr. REDDAN. About the My Lai incident.

Mr. COLBURN. Not that I remember, no.

Mr. REDDAN. Were you ever interviewed by anyone about the My Lai incident?

Mr. COLBURN. Before this?

Mr. REDDAN. Yes, while you were still in the country over there.

Mr. COLBURN. Yes.

Mr. REDDAN. Who?

Mr. COLBURN. Colonel Henderson.

Mr. REDDAN. Colonel Henderson interviewed you?

Mr. COLBURN. He didn't interview me. We went in and talked to him, just for like 10 minutes.

Mr. REDDAN. When was this?

Mr. COLBURN. I remember it being the same day of the mission.

Mr. REDDAN. The same day as the operation?

Mr. COLBURN. Yes.

Mr. REDDAN. When and where did this take place?

Mr. COLBURN. LZ Dottie.

Mr. REDDAN. How did you happen to talk to Colonel Henderson?

Mr. COLBURN. Mr. Thompson and I went up there.

Mr. REDDAN. You accompanied Mr. Thompson?

Mr. COLBURN. Mr. Thompson asked me if I would like to tell the colonel, you know, what was going on or what I thought was going on out there. And I said yes. And I went up and told him.

Mr. REDDAN. Where did you talk to him?

Mr. COLBURN. It was up on a hill at the LZ. I don't know what the building was, or—it could have been a van or a building, I don't remember.

Mr. REDDAN. What did you tell him?

Mr. COLBURN. I told him that I thought that innocent people were being killed that day.

Mr. REDDAN. Did you go into any detail with him?

Mr. COLBURN. I told him about the ditch full of people.

Mr. REDDAN. How long did you talk to him?

Mr. COLBURN. Maybe 10 minutes; 5 or 10 minutes.

Mr. REDDAN. Did he take your name?

Mr. COLBURN. Yes.

Mr. REDDAN. Did he write it down?

Mr. COLBURN. He was writing something down. I couldn't see what it was.

Mr. REDDAN. Was he making notes as you talked?

Mr. COLBURN. He had a pencil and a pad of paper, yes, I guess he was taking notes.

Mr. REDDAN. Did he ask you any questions?

Mr. COLBURN. I suppose he did. Yes. I don't remember what they were.

Mr. REDDAN. Did you get the impression that you were getting through to him with your story?

Mr. COLBURN. Yes.

Mr. REDDAN. What was his reaction, as you could observe it?

Mr. COLBURN. I don't want to say that he was nonchalant about it, because I am sure he didn't really feel that way. I don't know what his reaction was.

Mr. REDDAN. Was anyone else present besides you and Warrant Officer Thompson?

Mr. COLBURN. Just the colonel and myself, as I remember.

Mr. REDDAN. Anyone else in the general vicinity?

Mr. COLBURN. Inside the building?

Mr. REDDAN. Yes.

Mr. COLBURN. Or inside the room?

Mr. REDDAN. Yes.

Mr. COLBURN. I don't think there was anyone inside the room.

Mr. REDDAN. Anyone from your outfit up there beside the two of you?

Mr. COLBURN. Mr. Thompson was outside, I think.

Mr. REDDAN. You went in by yourself?

Mr. COLBURN. Yes.

Mr. REDDAN. And just you and—

Mr. COLBURN. No, I think Mr. Thompson and I both went in and then he just left. Mr. Thompson left.

Mr. REDDAN. Had he already talked to—

Mr. COLBURN. I don't know. The colonel? I don't know.

Mr. REDDAN. How did he happen to know the colonel was up there?

Mr. COLBURN. I don't know.

Mr. REDDAN. Did you gather from the colonel, or anyone else, that the colonel was making an investigation of this matter?

Mr. COLBURN. No.

Mr. REDDAN. Did you know he was the brigade commander?

Mr. COLBURN. Of the 11th Brigade?

Mr. REDDAN. Yes.

Mr. COLBURN. Yes.

Mr. REDDAN. And is that why you went to talk with him?

Mr. COLBURN. Well, it was his unit that was out there, yes.

Mr. REDDAN. And what was your purpose in talking with him?

Mr. COLBURN. I thought he should know that there was unnecessary killing going on.

Mr. REDDAN. Did anyone subsequently tell you not to discuss this matter?

Mr. COLBURN. Before I talked to the colonel?

Mr. REDDAN. Either before or after you talked with him.

Mr. COLBURN. No.

Mr. REDDAN. Did Major Watke ever tell you individually or as a member of a group not to discuss this matter?

Mr. COLBURN. I don't remember him saying anything. He may have in a group. We did have like briefings. I can't remember.

Mr. REDDAN. Did you make any report of this other than to Colonel Henderson?

Mr. COLBURN. No.

Mr. LALLY. Didn't Andreotta go with you and Thompson that day?

Mr. COLBURN. No, I don't think he did.

Mr. LALLY. How come?

Mr. COLBURN. I don't know.

Mr. LALLY. Didn't Thompson invite him?

Mr. COLBURN. I don't know.

Mr. LALLY. Was this right after your return from the mission that morning?

Mr. COLBURN. As I remember, yes.

Mr. LALLY. Did you go to see Major Watke first?

Mr. COLBURN. No, not that I remember.

Mr. LALLY. You went right in to Colonel Henderson?

Mr. COLBURN. Yes.

Mr. GUBSER. Were you supposed to return to LZ Dottie after the mission or go back to Chu Lai?

Mr. COLBURN. Supposed to return to LZ Dottie.

Mr. GUBSER. You were?

Mr. COLBURN. Yes.

Mr. GUBSER. And Colonel Henderson was there asking questions at the time you got back there, and Thompson asked if you would like to go up and tell him your story, is that right?

Mr. COLBURN. I didn't say that.

Mr. GUBSER. Well, I know. I didn't say you did.

Mr. COLBURN. The colonel was there asking questions? I don't know.

Mr. GUBSER. When you are in this OH-23, this you call a bubble, how close are you sitting? The pilot sits in the middle, isn't that right?

Mr. COLBURN. Yes.

Mr. GUBSER. And how close then are you sitting to Warrant Officer Thompson?

Mr. COLBURN. All three people in the ship are touching each other, shoulder to shoulder.

Mr. GUBSER. You were at his right or his left side?

Mr. COLBURN. His right.

Mr. GUBSER. Facing in the same direction?

Mr. COLBURN. No.

Mr. GUBSER. Well, you said—then 90 degrees?

Mr. COLBURN. Yes.

Mr. GUBSER. However, you sweep your vision, I presume, so that you should be expected to see about the same things, isn't that right?

Mr. COLBURN. Everything except what is straight ahead. That is usually the pilot.

Mr. GUBSER. Now, you have testified, and correct me if I am taking liberties with your testimony, you have testified that with the exception of this situation where Captain Medina killed the woman, that you did not see anyone shoot a civilian, right?

Mr. COLBURN. No, I didn't.

Mr. GUBSER. And yet do you know whether Warrant Officer Thompson ever said that he saw anyone, aside from the Medina case?

Mr. COLBURN. I don't know if Warrant Officer Thompson did. I don't remember him saying that he saw anyone. I do remember the crew chief, we were around the ditch, and the crew chief saw there were some people still alive in the ditch, and there were infantry people around the ditch, and I remember the crew chief saying "He just shot the baby."

Mr. GUBSER. The crew chief is dead, is that right?

Mr. COLBURN. Yes, Specialist Andreotta.

Mr. GUBSER. But you remember him saying, "He just shot a baby?"

Mr. COLBURN. Yes.

Mr. GUBSER. Do you know whether he saw it happen or not?

Mr. COLBURN. I suppose he did see it, if he said that.

Mr. GUBSER. Did you, from your vantage point in the helicopter, ever see what could be characterized as wild firing?

Mr. COLBURN. How would you define "wild firing?" I don't—

Mr. GUBSER. Well, I would presuming firing at civilians.

Mr. COLBURN. Just that one incident.

Mr. GUBSER. Just that one?

Mr. COLBURN. Yes.

Mr. GUBSER. Did you notice any firing which was in your opinion in excess of the threat or the opposition or the hostile firing being received at any one time?

Mr. COLBURN. No.

Mr. GUBSER. You did not?

Mr. COLBURN. No.

Mr. GUBSER. Did you see any firing at all from the helicopter?

Mr. COLBURN. From the helicopter?

Mr. GUBSER. Yes.

Mr. COLBURN. Or on the ground?

Mr. GUBSER. Did you see any firing at all, aside from the Medina situation?

Mr. COLBURN. No; I think that's the only thing I actually saw.

Mr. GUBSER. In other words, you couldn't have seen any wild firing then, because you didn't see any firing, is that correct?

Mr. COLBURN. Yes.

Mr. GUBSER. When were you discharged from the Army?

Mr. COLBURN. September 11, 1969.

Mr. GUBSER. 1969. And you went straight back to Mount Vernon at that time, is that right?

Mr. COLBURN. Yes.

Mr. GUBSER. And you have been there ever since?

Mr. COLBURN. Yes.

Mr. GUBSER. Have you ever been interviewed by a Seymour Hersh?

Mr. COLBURN. I have talked to him on the telephone.

Mr. GUBSER. I am not going to ask about what or anything, but could you tell me when?

Mr. COLBURN. When?

Mr. GUBSER. Yes, approximately.

Mr. COLBURN. 2½ months ago.

Mr. GUBSER. To your knowledge, or to the best of your recollection, did you make any statement to Mr. Hersh which conflicts with your testimony here today?

Mr. COLBURN. No.

Mr. GUBSER. That is all I have. Thank you very much.

Mr. HÉBERT. Thank you very much. I appreciate your cooperation. [Whereupon, at 4:50 p.m. the subcommittee proceeded with another witness.]

Mr. HÉBERT. Mr. Thompson, you have been before the full committee?

TESTIMONY OF LT. HUGH C. THOMPSON, JR.

Lieutenant Hugh C. THOMPSON, Jr. Yes, sir.

Mr. HÉBERT. Earlier in the year. You are now down before the special subcommittee, which is operating under different rules from the full committee. This is a special subcommittee, with a special charter, special assignment. The subcommittee will protect your privacy to the limit. That privacy shall not be invaded by news media or by reporters, by television cameras or by walkie-talkies, and things of that nature. When you leave the room, you will leave by that door. An officer will be there. And if there is a reporter representing the news media, he is allowed to ask you one question. "Do you care to say anything or make any statement?" If you say, "No," that's the end of it. He cannot follow you around or under any circumstances take a picture of you. If you want to make a statement, that's your decision.

Now, you are now appearing in Executive Session, under oath. You will be sworn in. You were not under oath the last time you appeared before the full Armed Services Committee. And I must caution you that anything said during the course of these hearings is not to be discussed outside with anybody. The committee in its deliberations in this particular area is not fixing a blame on anybody for an illegal act. We are protecting, as far as we can, the individuals involved in the courts-martial now pending. By that, we are protecting not only the witnesses, the accused, but also the prosecution. In other words, this committee is with clean hands, and we will protect the rights of both sides.

So we will not discuss individuals or matters involving anything that has something to do with the charges now pending in the courts, in the court-martial of these individuals.

Your counsel is here. Your counsel has a right to protect your legal rights. He does not have the right to make a statement to the committee, nor—counsel understands what I am saying. Nor does he have the right or permission to prompt you in your statements. If a question comes up that you decide that you don't know how to answer or don't want to answer, you may consult him. He will give you the proper legal advice. There is only one condition under which you can refuse to answer any question, and that is by taking the fifth amendment. We accept that plea without question. However, we do not accept that plea if used facetiously or capriciously. For instance, if I asked you your name, and you refused to answer, well, obviously, that doesn't incriminate you. But things of that nature. Do you understand what I am talking about?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. Does counsel understand?

Captain JOHNSON. Yes, sir.

Mr. HÉBERT. Identify yourself for the record.

Captain JOHNSON. Captain Kenneth Johnson, stationed at Headquarters, Military District, Washington.

- Mr. HÉBERT. All right.
Lieutenant Thompson, if you will rise and be sworn.
[Witness sworn]
- Mr. HÉBERT. All right, sit down.
- Mr. REDDAN. Mr. Thompson, is your counsel your own personal choice of counsel, or has he been assigned to you? In other words, do you wish to be represented by counsel?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. And did you request that counsel be assigned to you?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. He is not here at someone else's direction?
- Lieutenant THOMPSON. It was about 4 or 5 months ago that I told them I wanted a counsel, and they got me Captain Johnson. He has been going to the hearings and such ever since with me, sir.
- Mr. REDDAN. All right. When did you make lieutenant?
- Lieutenant THOMPSON. The 28th of January, sir.
- Mr. REDDAN. Now, you have been before the full committee before, and it won't be necessary to go into as much detail with you as would be necessary had you not been before them, but there are certain things that we have to have in our record, because this is a separate committee.
- Now, you were in Vietnam during what period?
- Lieutenant THOMPSON. From December 27, 1967; until August 26, 1968, sir.
- Mr. REDDAN. All right. Now, in February of 1968, I believe you were temporarily assigned to the 123d Aviation Battalion, B Company?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. What were your duties while with that company?
- Lieutenant THOMPSON. Scout pilot, sir.
- Mr. REDDAN. And what did this require you to do?
- Lieutenant THOMPSON. Fly low level, recon areas, and recon Vietnamese.
- Mr. REDDAN. Coming up to the March 16, 1968 operation of Task Force Barker in the Son My area, did you participate in that action?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. You were to fly an observation for Task Force Barker that day?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. And you had gunships flying cover for you?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. Do you know who the pilots of your gunships were?
- Lieutenant THOMPSON. Throughout the whole day, Mr. Malianns was there. From reading a couple of articles in the newspapers, Captain Livingston was there. Mr. Baker was there at one time. I think Mr. Brown was there, but I am not sure.
- Mr. REDDAN. You had four or five gunships down there that day?
- Lieutenant THOMPSON. Yes, sir.
- Mr. REDDAN. Always two out with you? Would that be the normal?
- Lieutenant THOMPSON. That would be the normal, yes, sir.
- Mr. REDDAN. Now, as I say, there are one or two things we want to get squared away. We have had testimony about a call which you made sometime during that morning, either with respect to alleged indiscriminate fire, or civilian casualties. Do you have any recollection of having made such a transmission?

Lieutenant THOMPSON. This is just from memory, sir, over a 2-year period now.

Mr. REDDAN. Yes.

Lieutenant THOMPSON. I am pretty sure that I, you know, told the gunships that something didn't look right. But who I called, or if I even called anybody, I can't say that I did, sir, but of course I can't say that I didn't either.

Mr. REDDAN. What did you mean, things didn't look right?

Lieutenant THOMPSON. Well, there were people that had gotten killed that I didn't know how they got killed, and it just didn't make—

Mr. REDDAN. Civilian casualties, you are talking about?

Lieutenant THOMPSON. I didn't see any uniform, sir. Of course, Viet Cong, you know, don't wear uniforms.

Mr. REDDAN. But you saw bodies on the ground, and for some reason or other you didn't think it was quite right. I am just wondering what there was about it that—

Lieutenant THOMPSON. They—the ones I am speaking about were in a ditch, and I couldn't picture in my mind how they got in the ditch. I thought about it and it just didn't make sense how the bodies got in the ditch.

Mr. REDDAN. Well, was there something about the bodies that made you feel that they were not Viet Cong, had not been shot there while they were firing at troops or something of that sort? What did you see?

Lieutenant THOMPSON. Can I talk with my counsel?

Mr. HÉBERT. You can talk with him.

Lieutenant THOMPSON. Just the age of some of them, sir.

Mr. REDDAN. Yes.

Lieutenant THOMPSON. You know, their parents, they could have been Viet Cong. I am not saying they were or they weren't, because I don't know. But say if they all were Viet Cong, the parents, well, you know, eventually the kids will grow up to be Viet Cong, too. But some of them that were as small as that, they couldn't be Viet Cong then.

Mr. REDDAN. What you are saying then, you saw small children among the bodies, is that it?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. And that is one of the reasons why you felt something was wrong, something untoward was happening there?

Lieutenant THOMPSON. I saw one soldier, also, shot a girl that at that time I couldn't reason, you know, why he did it.

Mr. REDDAN. That, incidentally, I believe, has subsequently been identified as the time Captain Medina shot a woman?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Now, how many major actions had you been involved in prior to this one?

Lieutenant THOMPSON. I don't recall the number, sir. I mean every day we had gone out on a mission.

Mr. REDDAN. Yes. But that's just strictly a recon mission, or were you to fly in connection with a major operation of a ground force?

Lieutenant THOMPSON. We had flown with, you know, major operations, ground forces. A few times. And I can't remember, you know whether they were before this or whether they were after it, but I

remember going out on quite a few of them. When I say quite a few, I mean, well, I can't even put a number on them. I remember going out, screening for units, when they were being lifted in, in a CA, or a search and destroy, whatever it is called.

Mr. REDDAN. Do you recall when you got on station that morning?

Lieutenant THOMPSON. Not the exact time. I remember getting there, because—

Mr. REDDAN. Were you there before the Charlie Company came in? Were you there during any part of the artillery preparation?

Lieutenant THOMPSON. I remember we came along the road, the highway, 521 or 527.

Mr. REDDAN. That is the road from Quang Ngai over to the sea?

Lieutenant THOMPSON. Yes. In order to stay away from the gun target line. And it seems like there were some rounds, you know, still hitting, but I can't say that they were and you know I just can't remember, sir.

Mr. REDDAN. Did you see any of them impact?

Lieutenant THOMPSON. It seems like I did but I can't swear that I did, sir. I know part of the tree line there was smoking. You know, from the—well I guess it could have been by our artillery. It was on fire.

Mr. REDDAN. Now, do you have any estimate of how many bodies you saw on the ground that day?

Lieutenant THOMPSON. Seems like my first estimate, sir, was over 100, but you get to thinking about it, you know, especially this far off, and that is a lot of bodies. I don't know. I believe I said about 50, I think, something like that, in the ditch.

Mr. REDDAN. You saw them in a ditch?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Now, there is an aerial photograph behind you there. In the center is My Lai 4. Could you indicate on that map where the ditch is located that you have just referred to?

Lieutenant THOMPSON. Yes, sir. This whole area right here is a ditch, sir.

Mr. REDDAN. I see. Well now, we will mark that with a green pencil. If you will just circle it and put your initials on it, please.

Lieutenant THOMPSON. And you want as close as I can recollect where the bodies were?

Mr. REDDAN. Yes; as close as you can.

Lieutenant THOMPSON. All right.

Mr. REDDAN. And you think you saw about how many bodies in there?

Lieutenant THOMPSON. I would say approximately 50, I guess, sir. This goes back over the past testimony, and it is probably, you know, going to contradict itself back and forth, because I can't, you know, remember exactly what I said before.

Mr. REDDAN. All we want is your best recollection. At what altitude were you flying mostly around My Lai that day?

Lieutenant THOMPSON. How high is this room? I would say about 20, 25 feet or something like that, sir.

Mr. REDDAN. At one point did your rotor touch a tree or something?

Lieutenant THOMPSON. This is referring back to stuff that we uncovered when I went back to Vietnam with General Peers. And in

the log, it does say that the Scout helicopter hit a tree. I did hit a tree in that area, but I did not associate it with the same day. But after reading the log I would say it was the same day, sir. It was in the afternoon, though.

Mr. REDDAN. Now how many times did you put down that day?

Lieutenant THOMPSON. In the morning, it was four different times. And then apparently in the afternoon when I hit the tree, it would be another time.

Mr. REDDAN. Can you tell us about why you put down each time?

Lieutenant THOMPSON. One time I put down because a call came from one of my ships, you know, said they had a couple of people in the area.

Mr. REDDAN. Had people leaving the area?

Lieutenant THOMPSON. Yes, sir, leaving, and wanted us to detain them. So they were on 521—

Mr. REDDAN. Coming down the road there?

Lieutenant THOMPSON. Yes, sir. Coming down the one going to Tam Ky.

Mr. REDDAN. You can take down that map, if you want. That's all right, just take that down and put it on the desk in front of you. You may want to refer to it.

Lieutenant THOMPSON. All right, sir. 521.

Mr. REDDAN. Yes.

Lieutenant THOMPSON. They were leaving the area on 521. So the crew and I went out there to detain them, and shot in front of them, got them stopped, right on the road, and then a few minutes later a Slick landed. And I didn't know at the time who was in the Slick. And then the next time, or I can't say the next time, another time, I set down just east of the ditch, because one of the crew members had seen some of the bodies in the ditch were still alive. So I set down just east of the ditch.

Mr. REDDAN. Is this the ditch you marked there with the green pencil?

Lieutenant THOMPSON. Yes. Set down just to the east of it and talked to this American soldier, and told him that there were some bodies still alive in the ditch. Another time I set down would be we had spotted some women and kids in a bunker, and saw the Americans, you know, approaching the bunker, or the area that it was in, so stopped going, set down there to let them know that some women and kids were in the bunker. And I set down again.

Mr. REDDAN. Well now, on that particular occasion, did you have any conversation with your gunner or crew chief prior to setting down?

Lieutenant THOMPSON. Yes, sir, but I can't remember the exact words of what I said.

Mr. REDDAN. What were they about?

Captain JOHNSON. May we have a moment?

Mr. REDDAN. Yes.

Lieutenant THOMPSON. I remember telling them to cover me when I got off of the aircraft.

Mr. REDDAN. You told your gunner and crew chief to cover you?

Lieutenant THOMPSON. Yes.

Mr. REDDAN. For what purpose?

Lieutenant THOMPSON. If I started getting shot at.

Mr. REDDAN. Who was going to shoot at you. Had you been shot at that morning, at any time?

Lieutenant THOMPSON. No, sir, I don't believe so, but I hadn't been walking around on the ground either, sir.

Mr. REDDAN. Had you been flying around at shoestring level for sometime before you put down at that particular time?

Lieutenant THOMPSON. I would say it was about an hour and—I would say yes, sir, I had been flying around for some time.

Mr. REDDAN. Do you know whether anyone had shot at you?

Lieutenant THOMPSON. I don't think I had been shot at, sir.

Mr. REDDAN. Had you seen any Viet Cong during that time?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Where were they?

Lieutenant THOMPSON. Leaving the My Lai 4, running south, across the fields.

Mr. REDDAN. This was when you first came on My Lai 4?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. This was right after the artillery preparation had ceased?

Lieutenant THOMPSON. Yes, sir. Pretty sure I remember seeing the Slicks in the air, on a final approach. That's just from memory, too. I am pretty sure the Slicks were just landing or were on the approach at that time, sir.

Mr. REDDAN. What did you do? Did you notice anybody or did you go after them?

Lieutenant THOMPSON. Yes, sir, I opened up on them.

Mr. REDDAN. Did you get any of them?

Lieutenant THOMPSON. It wasn't but one.

Mr. REDDAN. Just one. And he got away?

Lieutenant THOMPSON. Well, he made it to a tree line. He didn't fall before. He got there and we shot at the tree line and had the gunship make a couple of runs on the tree line.

Mr. REDDAN. Was this south of the road from Quang Ngai?

Lieutenant THOMPSON. Yes, sir. The best I remember, I am pretty sure it was south, going right into—

Mr. REDDAN. Down toward hill 85, was it?

Lieutenant THOMPSON. Yes, sir. Yes, sir. Sort of at—the best I can remember about the eastern, northeastern end, north-northeastern end of hill 85, sir.

Mr. REDDAN. Now, was that the only Viet Cong you saw that day that you could identify as Viet Cong?

Lieutenant THOMPSON. That's the only person I saw other than Americans, with a weapon, sir, that best I can remember.

Mr. REDDAN. Did you fire at anybody else other than this one individual?

Lieutenant THOMPSON. Yes, sir, we fired in front of some of them, out on the highway that I mentioned to stop them because somebody called and said they wanted them.

Mr. REDDAN. I mean to fire at an individual?

Lieutenant THOMPSON. Not that morning, I don't believe, sir.

Mr. REDDAN. All right. Now, coming back to this time you told your gunners to cover you, what is your best recollection of what you told

them? Who did you expect to receive fire from, if you expected it at all?

Lieutenant THOMPSON. I wasn't caring about who was going to shoot, sir.

Mr. REDDAN. Well, you hadn't seen any Viet Cong around lately. You had been flying around there at grasstop level all morning, and as far as you know, nobody had shot at you. And now you were going to put down in that area, and you told your gunner and your crew chief to cover you. Now, I am just trying to understand why you did that?

Lieutenant THOMPSON. Any time you get out of the aircraft, you want to be covered, sir, over there. Any place you are, in my opinion, is Viet Cong's area.

Mr. REDDAN. Well, now, is that why you told them to cover you, so that the Charlies couldn't come out and capture your aircraft or fire at you? Is that what you meant? I am just trying to understand why—I mean, you are the only one who can tell us why you did it.

Lieutenant THOMPSON. I just told them to cover me, sir. Any time we got out of the aircraft—

Mr. REDDAN. This is three times you have told us this. Now, I want to know if you had any reason to suspect that you required cover because of the presence of enemy forces.

Mr. HÉBERT. Now, let me make one thing clear, Mr. Thompson. I said you have a right to counsel, and I advised counsel that he could protect your legal rights.

I admonished you that you could not prompt the witness. Now, every time we ask you a question which obviously can only be an answer of fact, there is no necessity to confer and be prompted with your reply. You either take the fifth amendment on that question or answer it.

Lieutenant THOMPSON. Yes, sir, Mr. Chairman.

Mr. HÉBERT. Now answer the question and no conferences. Your lawyer is competent. He will stop it if your legal rights are being violated.

Lieutenant THOMPSON. Yes, sir, Mr. Chairman. I didn't want to be shot by anybody that day, sir.

Mr. REDDAN. That is right.

Lieutenant THOMPSON. I cannot actually make a statement to the question that you are asking, after reading so much in the newspapers and the magazines, and wondering whether what I would be saying actually came from memory of 2 years, sir, or whether I had been picking up parts of it out of what I have read, sir.

Mr. REDDAN. Very well. I will ask you specifically. Did you tell your crew, your guns and your crew chief, to fire on American soldiers if they fired at you?

Lieutenant THOMPSON. To the best of my memory, I did not tell them that, sir.

Mr. REDDAN. Did you tell them anything that could have been construed as such a direction?

Lieutenant THOMPSON. Something could have been said, sir, but I don't remember the wording of it.

Mr. REDDAN. Well, what do you think you could have said that would have left such an impression?

Lieutenant THOMPSON. I do not remember, sir.

Mr. REDDAN. Did you expect American troops to fire at you?

Lieutenant THOMPSON. From where the American troops were and where the enemy was, if there was enemy there, I had been right in the middle of a crossfire, sir.

Mr. REDDAN. Well, now—

Mr. HÉBERT. That is not replying to the question, Mr. Thompson. Mr. Reddan asked you, did you expect American troops to fire on you?

Lieutenant THOMPSON. I didn't.

Mr. HÉBERT. You did not expect Americans to fire on you?

Lieutenant THOMPSON. That's right.

Mr. GUBSER. Did you consider it a possibility?

Mr. HÉBERT. Why would they want to fire on you? You wore their uniform?

Lieutenant THOMPSON. That is why I don't think an American would shoot another American, sir, in war.

Mr. HÉBERT. Then paraphrasing, perhaps, could you have said, in the state of mind that you were in at the particular time when you told your gun crew to cover you, and you were going to the bunker to get these youngsters out of there, that if any American should shoot one of those people, he should be shot? Did you say anything like that? Not those words, maybe, but—

Lieutenant THOMPSON. I could have said he should be.

Mr. HÉBERT. You could have said that?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. All right. That is what we are trying to find out.

Mr. REDDAN. As I understand your testimony, and if I am wrong, please correct the record, your testimony is that you had no intention to convey to your gunner and crew chief that you were in fear of harm from American troops, and that in covering you, if necessary, they should shoot Americans?

Lieutenant THOMPSON. Wait a minute. I didn't follow all of that, sir. I am sorry.

Mr. REDDAN. What I am saying is, as I understand your testimony, you are saying, one, that you did not tell your crew chief and your gunner that they should cover you, and if any American shot at you, they should shoot the Americans?

Lieutenant THOMPSON. No, sir, I am not saying that I said that.

Mr. REDDAN. And you didn't suggest that?

Lieutenant THOMPSON. I don't remember what was said, sir.

Mr. REDDAN. No, but did you suggest that?

Lieutenant THOMPSON. Sir, I cannot remember whether I suggested it, or said it or not, sir.

Mr. REDDAN. Did you have any reason to fear the American troops? You had been flying there, among them, all day long. Had any of them shot at you?

Lieutenant THOMPSON. Not to my knowledge, sir.

Mr. REDDAN. So was there any reason for you to think that there was a possibility that they might shoot at you now? This is what I am trying to find out. Or whether you said something which has, with the passage of time, gotten out of context and been misconstrued.

I am just trying to get back to what you expected your gunner and your crew chief to do that day.

Lieutenant THOMPSON. I expected them to cover me when I got out of the aircraft.

Mr. REDDAN. Would you have expected them to shoot any American troops?

Lieutenant THOMPSON. No, sir.

Mr. GUBSER. Can I ask one question? You did not order your crew to cover you against Americans?

Lieutenant THOMPSON. To the best of my knowledge, I did not, sir.

Mr. HÉBERT. Was there a possibility that you did?

Mr. GUBSER. You ordered them to cover you?

Lieutenant THOMPSON. Yes, sir. I told them, you know, to cover me, any time—

Mr. GUBSER. Did you order them to cover you against American troops?

Lieutenant THOMPSON. Not to the best of my knowledge, sir.

Mr. HÉBERT. Again, that is another answer which pauses.

Lieutenant THOMPSON. I am just trying to think, sir.

Mr. HÉBERT. I know it, but so are we, here on this side trying to find out exactly what has been quoted and this subcommittee has been challenged, members of this committee have been challenged about a statement that you allegedly made to the full committee. Let's get the cards on the table. I was the one individual that examined you on your appearance before the committee, and I examined you to the best of my ability to get an answer from you as to whether you had pointed your guns at American troops.

Lieutenant THOMPSON. Guns were pointed that way, and a gun was also pointed the other way, sir.

Mr. HÉBERT. Don't let's kid. We know what we are talking about. But the image has been given, by individuals who have written stories about this—now we are keeping away from the persons involved, but it certainly has been written. And the impression went out that you had told your people to train their guns, and rescued these people at gun point, because you were covering the Americans. Is that right, Mr. Gubser?

Mr. GUBSER. That is right. That is right.

Mr. HÉBERT. Now, this is all we are trying to find out. But when you tell us, "Well, I might have," then are we to understand that in your own mind you might have told people to shoot Americans? Ask me that, and I'll say no. I can't conceive under any condition that I would order my people, wearing the same uniform that my brothers and colleagues in arms are wearing, to say "Shoot them." I can tell you that definitely with finality. No hesitance on my part. And that is all we are trying to do, is find your state of mind.

Mr. GUBSER. I concede that there could be a big difference between a statement which might have been misinterpreted, and an order, but I asked you, did you give an order, and I think you ought to remember whether you did or not?

Lieutenant THOMPSON. I did not give an order to shoot Americans; no, sir.

Mr. GUBSER. Or to cover you against Americans?

Mr. REDDAN. As a result of your order, could Americans have been killed?

Mr. HÉBERT. Let him answer that. Answer Mr. Gubser.

Mr. GUBSER. Did you give an order to cover you against Americans?

Lieutenant THOMPSON. I gave an order to cover me, sir.

Mr. GUBSER. Well, then, the answer is—

Mr. HÉBERT. You might have.

Mr. GUBSER. Did you specifically give an order to cover you against Americans?

Lieutenant THOMPSON. To the best of my knowledge, I did not, sir.

Mr. GUBSER. That is good enough.

Mr. HÉBERT. Did you, on the radio, transmit a message which read something like this—unidentified voices, but coming from the area—“If he shoots me, I will shoot him.” Do you recall having said that before landing?

Lieutenant THOMPSON. No, sir.

Mr. HÉBERT. You do not recall having said that?

Lieutenant THOMPSON. No, sir.

Mr. HÉBERT. That is all we are trying to do, is find out. If you say, “No,” it is no.

Lieutenant THOMPSON. I don't remember it. It is the first time that one has been thrown at me.

Mr. HÉBERT. Well, you are pretty good on your feet. That's the reason I'm being very specific, because I recognize your ability. You received no fire—I mean, you were not under any enemy fire at all when you landed to rescue these people, which was commendable that you did that. You were not under fire?

Lieutenant THOMPSON. No, sir, not that I know of. I didn't hear anything.

Mr. REDDAN. Later on that day, did you go back to LZ Dottie and have any conversations with Colonel Henderson?

Lieutenant THOMPSON. I talked with some colonel, sir. And I don't remember whether it was that day or not. I don't think it was that day. I think it was within the following day, or a couple of days after that. And I wasn't sure who I talked to.

Mr. REDDAN. Were you in contact by radio with Major Watke while you were flying over My Lai that day?

Lieutenant THOMPSON. I don't remember, sir. On missions we have gone back to our company frequency. Whether we did that day, or not, I don't remember. Major Watke was in the area, I'm pretty sure, on the first or second lift. Now, he could have been the one I was talking to the whole day, if he was in the low gunship. I don't remember which gunship he was in. But he was flying in one of the gunships with Mr. Baker sometime during the day, I believe.

Mr. REDDAN. When did you first report to Major Watke what you had seen that day?

Lieutenant THOMPSON. I believe it was after we got back off the mission. After I got back from Quang Ngai hospital, sir.

Mr. REDDAN. Did you make any transmissions in an effort to stop what you thought was wrong out there that day?

Lieutenant THOMPSON. I am pretty sure I—I don't remember if I called back to any, you know, higher headquarters at the time, because I didn't see anything done that was wrong. I saw the aftermath of what appeared to have been wrong.

Mr. REDDAN. Did you see what has been described as indiscriminate firing?

Lieutenant THOMPSON. No, sir. Well, I saw one person standing at the ditch where the bodies were, and appeared to be shooting into

the ditch. That was the only firing I saw except the previous mentioned Captain Medina.

Mr. REDDAN. But you made no complaints that you had observed indiscriminate firing or unnecessary firing?

Lieutenant THOMPSON. To the best of my knowledge, I didn't, sir.

Mr. LALLY. As best you recall, Mr. Thompson, what did you report to Major Watke?

Lieutenant THOMPSON. I feel that I have, you know, said the same thing, just like, you know, talking to you all, about the ditch, about the bunker.

Mr. LALLY. As well as you recall it, just tell us what you told him?

Lieutenant THOMPSON. Just told him that I thought something was wrong out there, because I couldn't foresee any way of how the bodies got in the ditch. And it seems like I might have said something like, you know, if it was from, say, the artillery, the Vietnamese, you know, have been fighting that way a long time, they are not going to hide in an open, you know, an open ditch.

If they had gotten killed by the artillery, when the GI's came through, we usually don't pile the bodies up and put them in a ditch. We let the Vietnamese, you know, or somebody else, come back in and do that.

And I was wondering how the bodies got in the ditch. And I feel that I told him, you know, just about like that, sir. But I can't—

Mr. LALLY. Well, Major Watke didn't know anything about a ditch. You didn't go in and start talking about a ditch to him. What detail did you give him on what you had seen out there?

Lieutenant THOMPSON. This is strictly from memory, sir. I don't remember exactly what I told him. The ditch—

Mr. LALLY. As well as you recall?

Lieutenant THOMPSON [continuing.] The ditch stands out in my mind. I would believe, and this is strictly from memory that I told him about seeing a captain shoot the woman. The ditch. And the bunker. Getting the people out.

Mr. LALLY. And did you tell him about any infantry officer, or any conversation with an infantry officer?

Lieutenant THOMPSON. Yes, sir. I say yes. Now, this is something that I can't remember. I mean, I could ask you all, you know, what you said to somebody 2 years ago and—I can't remember exactly what I told him, sir.

Mr. HÉBERT. Well, the thing that impresses me, Mr. Thompson, when did you appear before the full committee?

Lieutenant THOMPSON. I think it was in December.

Mr. LALLY. December 10th.

Mr. HÉBERT. What has blunted your memory so dramatically between December and April? At that time you were vocal and articulate.

Lieutenant THOMPSON. I believe I told them the same thing I am trying to tell you all.

Mr. HÉBERT. You didn't say all that in December. In December you were positive, you were definite. You didn't rely on "I don't remember" this and that. You described matters to us which we will not discuss here because of the pending situation which we are avoiding. But you were certainly a definite and very positive witness. You even admitted that you were the one that blew the whistle on the whole thing.

Lieutenant THOMPSON. I went to see my CO about it if that's what you call blowing the whistle, sir. I didn't stop the uprising in Americal.

Mr. HÉBERT. You said it. I remember very well what you said because your presence impressed me a great deal. Your full knowledge and comprehension and ability to be articulate impressed me a great deal, because you carried great weight with your testimony. It has been the backbone of books and articles and everything as a result of your positiveness.

Lieutenant THOMPSON. Secret testimony.

Mr. HÉBERT. And now we come to the end of April. This is almost the end of April, and I find a different man on the stand. The man I find on the stand today just has a hard time remembering. He is not positive. He halts. Tell me this. You went to Vietnam with General Peers?

Lieutenant THOMPSON. Yes, sir, Mr. Chairman.

Mr. HÉBERT. You assisted him all over the place over there?

Lieutenant THOMPSON. Up at Chu Lai, sir.

Mr. HÉBERT. I say you assisted him. He depended on you a great deal. Have you discussed this case, this situation, with anybody?

Lieutenant THOMPSON. Let me see. Anybody. With counsel.

Mr. HÉBERT. How is that?

Lieutenant THOMPSON. I have talked to my counsel about it.

Mr. HÉBERT. Talked to your counsel, that is natural. Talked to anybody else about it?

Lieutenant THOMPSON. Some friends. I guess I mentioned a couple of things about it. Never mentioned anything that's in the testimony, because every one of them's been a sworn testimony, and they always say you can't mention anything that went on in here.

Mr. HÉBERT. What did you discuss out in that room today?

Lieutenant THOMPSON. Just asked if it was rough in here, sir.

Mr. HÉBERT. Is that all you did? What made you think it was rough?

Lieutenant THOMPSON. I heard it was going to be, sir.

Mr. HÉBERT. Well, I don't think it is. We are all kind people.

Mr. Colburn, he was your gunner, wasn't he?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. Did you talk to him this afternoon, out in that room?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. About this case?

Lieutenant THOMPSON. I asked him how it was. Was it rough?

Mr. HÉBERT. You didn't refresh his memory on a date?

Lieutenant THOMPSON. On a date?

Mr. HÉBERT. On March 16, it could have been March 17, and you reminded him it was March 16?

Lieutenant THOMPSON. Something was said about when we went to visit a colonel, went before him.

Mr. HÉBERT. Who brought that up?

Lieutenant THOMPSON. I don't remember which one of us brought it up, sir.

Mr. HÉBERT. It was discussed, though, wasn't it? The other folks were out there too, weren't they?

Lieutenant THOMPSON. Yes, sir, well we have been in and out.

Mr. HÉBERT. But this alleged incident was generally talked about in the waiting room out there, wasn't it? It is natural.

Lieutenant THOMPSON. I remember talking to him because there are a bunch of dates that I don't remember.

Mr. HÉBERT. That is right.

Lieutenant THOMPSON. And that is why I don't think we went to see the colonel on the 16th, because I don't believe—

Mr. HÉBERT. Because the only thing I am trying to establish is that fact that as of today, people involved here discussed this matter right in that room outside.

Lieutenant THOMPSON. Yes; there has been some talk about it, sir.

Mr. HÉBERT. There has been some talk about it. Are you a witness in a case of one of the defendants?

Lieutenant THOMPSON. A possible witness, sir.

Mr. HÉBERT. A possible witness.

Lieutenant THOMPSON. Yes.

Mr. HÉBERT. Have you been instructed by the court not to discuss this case?

Lieutenant THOMPSON. Against two individuals, sir.

Mr. HÉBERT. What?

Lieutenant THOMPSON. Calley and—

Mr. HÉBERT. I say, have you been instructed not to discuss anything in this case?

Lieutenant THOMPSON. Pertaining to those two individuals, yes, sir.

Mr. HÉBERT. By the court. Everybody's mixed up in this. That is the reason we are not mentioning names here. So what you did in that room out there, you have got to realize was a violation of court instructions. Your attorney can tell you that. Those are the things that concern us.

If you talked out there, you would talk someplace else, and you did refresh the memory of your gunner.

Mr. GUBSER. With respect to the day you visited the colonel. But also didn't you discuss the date upon which you set down because you had thought you had damaged your rotor, by hitting the tree?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. I merely give you these to show you this committee is cognizant of some things that go on.

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. To come to another matter, Andreotta was killed when?

Lieutenant THOMPSON. I think it was the first part of April, sir. It was right before I went on R. & R. And I went there in the middle of April, sir.

Mr. REDDAN. Did you write him up for a citation?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. For this action?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Before or after his death?

Lieutenant THOMPSON. Before, sir.

Mr. REDDAN. Did you write it up yourself?

Lieutenant THOMPSON. Yes, sir; I think I had somebody help me on that. I think I went over to Div. Arty.

Mr. REDDAN. To where?

Lieutenant THOMPSON. To Div. Arty. because I had to go there to get the regulations, because they have a book that has key phrases in it, and you are supposed to put in the citations and stuff like that.

Mr. REDDAN. And do you recall who helped you with the thing?

Lieutenant THOMPSON. No, sir, I don't.

Mr. REDDAN. Was it the legal officer?

Lieutenant THOMPSON. No, sir. I say no, sir, I don't ever recall going up to the main post, no, sir.

Mr. REDDAN. What did you do, go over and get the regulations, and copy out whatever was necessary?

Lieutenant THOMPSON. Yes, sir, the key phrases.

Mr. REDDAN. Did you do that yourself?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. And did you type it up yourself?

Lieutenant THOMPSON. No, sir, I didn't type it.

Mr. REDDAN. Where did you get that? Did you dictate it, write it out longhand and get somebody to type it for you?

Lieutenant THOMPSON. Yes, sir, I guess it was typed in the orderly room.

Mr. REDDAN. Well, I have a copy here that I would just like to read to you a moment, telling of this incident. I won't read the whole thing.

While flying over the village of My Lai, Specialist 4 Andreotta spotted 15 children hiding in a bunker located between friendly forces and hostile forces engaged in a heavy firefight.

Is that correct?

Lieutenant THOMPSON. Fifth amendment, sir.

Mr. HÉBERT. What is that? What did you reply?

Captain JOHNSON. He respectfully declines to answer questions about that citation.

Mr. HÉBERT. Fine, I want to hear that. We accept it.

Lieutenant THOMPSON. All right sir.

Mr. REDDAN. I am not sure the record is clear. Would you raise your objection again?

Lieutenant THOMPSON. Yes, sir. I just wished to take the fifth amendment on that last question you asked me, sir.

Mr. REDDAN. You decline to answer the question, and invoke the fifth amendment?

Lieutenant THOMPSON. Yes, sir.

Captain JOHNSON. If I may interrupt, this comes something as a surprise to us. We haven't had a chance to discuss it. If you want to give us 2 minutes, we may be able to go ahead.

Mr. HÉBERT. That's fair. Go ahead. Off the record.

[Discussion off the record.]

Captain JOHNSON. Could I ask, is that document signed by Lieutenant Thompson?

Mr. REDDAN. Yes.

Lieutenant THOMPSON. That is not my signature.

Mr. HÉBERT. How do you know? You haven't seen it.

Lieutenant THOMPSON. I just saw it, sir.

Mr. HÉBERT. You've got good eyesight.

Mr. REDDAN. I will be happy to find that out, because the Army has certified that this is yours.

Lieutenant THOMPSON. That is not my signature, sir.

Mr. REDDAN. Fine.

Lieutenant THOMPSON. Unless I have changed 100 percent.

Mr. REDDAN. Would you testify that's a forgery? I will hand you a pad, Mr. Thompson. If you will just write your signature.

Fine. Now would you write it with this, please?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Would you just date that for me, please?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. So we can identify it. Mark it exhibit C, as of this date. Just mark it exhibit C.

Lieutenant THOMPSON. How do you spell exhibit?

Mr. LALLY. Just mark it Ex. C.

All right, that's fine.

Mr. REDDAN. Do you have an I.D. card there or something?

Lieutenant THOMPSON. Yes, sir. I said that that is not my signature. I am going to say that I think you should have it checked by a handwriting expert, because it does not look like my handwriting. As you can tell, my handwriting is not legible, Mr. Chairman.

Mr. HÉBERT. That is all right. You can say that.

Lieutenant THOMPSON. That is why when you mentioned why I claimed it, you mentioned one part in that thing that my counsel said struck us as a little bit of a surprise.

Mr. REDDAN. What part took you by surprise?

Lieutenant THOMPSON. About the fierce fire fight, or whatever it was, sir.

Mr. HÉBERT. Do you want to change that plea? Will you answer the question?

Captain JOHNSON. Can we go on sort of question by question, sir, because as I say, this is unexpected to us. If we could go on question by question—

Mr. HÉBERT. All right. Do you want the other to stand?

Captain JOHNSON. Well, it is on the record.

Mr. HÉBERT. We will take it off the record. We want to be fair to you.

Captain JOHNSON. If you gentlemen would like to go on with your questioning in this area—

Mr. HÉBERT. Let him decide right now what he wants to do. Does he want to take the fifth?

Captain JOHNSON. You are not going to allow us to go question by question?

Mr. HÉBERT. We are going question by question, but right now, on this particular question, he can withdraw the fifth now. He is not going to have a whole package to take the fifth on.

Captain JOHNSON. I am saying, what is the question you are asking us now?

Mr. HÉBERT. Repeat the question that he took the fifth on.

Mr. REDDAN. All right.

[Question read.]

Captain JOHNSON. The meaning of your question, is everything contained in that excerpt true?

Mr. REDDAN. Is the part I read to him correct with respect to a "heavy fire fight." It said "The bunker was located between friendly forces and hostile forces engaged in a heavy fire fight," and I said, is that correct?

Lieutenant THOMPSON. I will just stay with that.

Mr. HÉBERT. You will stay with the fifth?

Lieutenant THOMPSON. Yes.

Mr. REDDAN. Did you sign a statement to support an award to Specialist Andriatta in connection with the March 16, 1968, operation at My Lai?

Lieutenant THOMPSON. To the best of my knowledge, I did, sir. And this is going from memory. If you would write somebody up, you are supposed to sign the statement. But I am saying that signature on that statement does not look like mine.

Mr. HÉBERT. You can challenge the signature. That's all right. But you have to sign a statement to put this—

Lieutenant THOMPSON. Yes, I did sign a statement.

Mr. HÉBERT. Did you sign a statement?

Lieutenant THOMPSON. To the best of my knowledge.

Mr. HÉBERT. You can challenge this later if you want.

Lieutenant THOMPSON. Yes.

Mr. REDDAN. I have shown you this copy, and I would like to get you to tell me, if you can, whether you recall that the copy you signed looked anything like this one that I have here today?

In other words, was it about that size, and was it placed on about that place on the paper? Was your signature a little bit above the center of the page?

Lieutenant THOMPSON. The one I wrote out, sir, was longhand.

Mr. REDDAN. You wrote out something in longhand?

Lieutenant THOMPSON. Yes, sir. I probably presented it. I didn't even write it. So I mean, I don't even remember what kind of paper it was on, sir.

Mr. REDDAN. I mean the one you signed. Do you remember what it looked like when it was typed up?

Lieutenant THOMPSON. No, sir. I don't guess I do because that's supposed to be it right there, I would say.

Mr. REDDAN. Well, now, you say, however, that that is not your signature?

Lieutenant THOMPSON. It does not look like my signature, sir.

Mr. REDDAN. Which suggests that somebody else substituted this for the one you did sign. Is that what you are saying?

Lieutenant THOMPSON. I don't believe I signed that statement, sir. So I don't know—

Mr. REDDAN. Your testimony is that you do not believe that the one I have shown you is what you signed. This does not look like your signature?

Lieutenant THOMPSON. Yes, sir. That's what I am saying, because I don't remember signing a typed statement.

Mr. REDDAN. I see.

Lieutenant THOMPSON. You know, I wrote it out and I assume a GI possibly took it to the orderly room, and you know, had it typed up.

Mr. REDDAN. I want to make sure I have an answer to this question. I will direct your attention again to that portion about the friendly forces and hostile forces engaged in a heavy fire fight, and ask you whether or not at any time that day, you observed any heavy fire fight between friendly and hostile forces in My Lai 4?

Lieutenant THOMPSON. No sir, I don't recall any heavy fire fight.

Mr. REDDAN. Now, did you also write up a justification for a citation for Specialist Colburn?

Lieutenant THOMPSON. Yes, sir, I believe I did.

Mr. HÉBERT. Well, now, you must know that, whether you did or didn't. You don't go around writing citations up every day.

Lieutenant THOMPSON. OK, I will say I did.

Mr. HÉBERT. Of course you did. It would make it easier if you would say yes.

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. I stopped pulling teeth long ago. It makes me tired.

Lieutenant THOMPSON. I am sorry, sir.

Mr. REDDAN. You can look at this entire thing if you want. I will just read a part of it here. It says "While flying over the village of My Lai, Specialist Andreotta, the aircraft crew chief, spotted 15 children hiding in a bunker located between friendly forces and hostile forces engaged in a heavy fire fight."

Did you write that?

Captain JOHNSON. Could we see that one, too?

Mr. REDDAN. Surely.

Lieutenant THOMPSON. That's the same thing, isn't it?

Mr. REDDAN. Regardless of whether he signed this, did he write that, is what I am asking.

Lieutenant THOMPSON. This is the same one you mentioned, sir, isn't it?

Mr. REDDAN. You will notice that's written up for Colburn.

Lieutenant THOMPSON. Oh, yes. That's what threw me. You mentioned Andreotta's name.

Mr. REDDAN. Andreotta is in there, you see.

Lieutenant THOMPSON. Yes.

Captain JOHNSON. May we have another minute on this one?

Mr. HÉBERT. Yes.

[Discussion off the record.]

Mr. REDDAN. Read the question.

Lieutenant THOMPSON. It is the same question.

Mr. REDDAN. Would you read the question back, please?

[Question read.]

Lieutenant THOMPSON. Fifth amendment, sir.

Mr. REDDAN. You are refusing to answer on the basis that your testimony would incriminate you? I mean, this is the fifth amendment.

Captain JOHNSON. It might tend to, sir.

Mr. REDDAN. That is right.

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. And that is the basis for your—

Lieutenant THOMPSON. I am also saying I don't believe that is my signature on that citation.

Mr. REDDAN. That was the next question I was going to ask you. You have examined this document. Is this your signature which appears on it?

Lieutenant THOMPSON. It does not look like my signature, sir.

Mr. REDDAN. Now, as I understood you to say, you did write up a recommendation or a supporting statement for both Andreotta and Colburn in connection with this matter?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Now, did anyone suggest to you this should be done?

Lieutenant THOMPSON. There was some talk around the company area, but I don't remember who with, or whether it was after I had stated that I was going to write them up, or before.

Mr. REDDAN. Did you ever talk to Major Watke about it?

Lieutenant THOMPSON. I don't remember, sir. Apparently I—I don't remember whether I talked to him about it, sir.

Mr. REDDAN. Do you have any recollection as to whether anyone suggested that you write these up? I am talking now about any superior officer.

Lieutenant THOMPSON. I don't remember, sir.

Mr. REDDAN. Do you recall how you came to be written up? You got a Distinguished Flying Cross out of this operation, did you not?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Do you recall how you came to be written up for that?

Lieutenant THOMPSON. No, sir. I don't know who wrote it up.

Mr. REDDAN. Your recommendation didn't go through the first time, because it was so late in being made, do you recall that?

Mr. HÉBERT. The recommendation for your decoration did not go through the first time.

Lieutenant THOMPSON. I didn't know that, sir, no, sir.

Mr. REDDAN. I have here the endorsement from DA Headquarters, Americal Division, on May 14, 1968, to the commanding officer, 123d Aviation Battalion, returning your recommendation for decoration without action. And " * * * request resubmission of recommendation with letter of explanation stating reason for delay."

In other words, it was returned without action, because the recommendation came through so long after the incident.

Now, did anyone talk to you about that?

Lieutenant THOMPSON. I don't remember, sir.

Mr. REDDAN. Did the commanding officer of the 123d Aviation Battalion ever discuss that with you?

Lieutenant THOMPSON. I don't remember.

Mr. REDDAN. Do you know a Capt. Bobby L. Dove?

Lieutenant THOMPSON. No, sir.

Mr. REDDAN. He was Assistant Adjutant General for the Division. I will read this. This is signed by Captain Dove, and it says:

The reason for the delay in submission of this recommendation is probably not justified. The date of valor was 16 March 1968 but Warrant Officer Thompson's role in the action was not known until a much later date. Warrant Officer Thompson recommended Specialist 4 Andreotta and Specialist 4 Colburn for awards for this same action. One 8 April 68. Specialist 4 Andreotta was killed by hostile action, and his recommendation for award was then given priority for submission by the Awards and Decoration Clerk. As this award was being processed, we realized that Warrant Officer Thompson's actions needed to be investigated to see if he merited an award. Specialist 4 Colburn was interviewed, and it was found that an award was appropriate. Necessary action was then initiated and the recommendation was submitted.

No. 2, it is felt that an appropriate award should be recommended for a deserving person when it becomes known to the Commander. In this case, it was not known until a later date and appropriate action was then taken.

And it's signed by Capt. Bobby L. Dove.

Now, did Captain Dove ever talk to you about that?

Lieutenant THOMPSON. I don't believe so, sir. Now, I went up to awards and decorations a couple of times, trying to track down my air medal. I had it, but it had the wrong number on it so they had to take it back up there, and I guess they had to stop that order on it, or issue another one, you know.

But I don't remember, you know, talking to any captain about anything like that letter states.

Mr. REDDAN. Did you ever talk to Colburn about his statement in support of your award?

Lieutenant THOMPSON. No, sir. I don't believe so.

Mr. REDDAN. Do you know who drafted it for him?

Lieutenant THOMPSON. No, sir.

Mr. REDDAN. Have you ever seen the statement?

Lieutenant THOMPSON. I guess it is the same thing on my, you know, order I got, when I got the award, sir.

Mr. REDDAN. Well, I don't know whether it is or not. There's the award of the Distinguished Flying Cross, which was signed by Colonel Parsons. But this is—

Lieutenant THOMPSON. That looks like what I've seen.

Mr. REDDAN. What I am referring to now is the statement in support of the recommendation which was signed by, or at least purportedly signed by Lawrence M. Colburn. Have you ever seen that?

Lieutenant THOMPSON. To the best of my memory, I haven't, sir.

Mr. REDDAN. Well, let me read it to you.

Warrant Officer Hugh C. Thompson distinguished himself by heroism while flying an OH-23 G helicopter on 16 March '68. His mission was to fly low level and recon ahead of the advancing elements of friendly ground forces. Sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces. Unhesitatingly, he landed his helicopter and directed movement of the children to an area where accompanying armed helicopter could land and move them to safety. He had just taken off again when he saw a wounded Vietnamese boy. Without hesitation or regard for Viet Cong fire, he landed and picked up the child and flew him to the ARVN hospital at Quang Ngai City several minutes away.

Signed, Lawrence M. Colburn, specialist, et cetera.

Have you ever seen that before?

Lieutenant THOMPSON. I don't believe so, sir.

Mr. REDDAN. Do you have any comments to make on the accuracy of anything contained in that statement?

Lieutenant THOMPSON. No, sir.

Mr. REDDAN. I will direct your attention specifically to the sentence which reads:

Sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces.

How would you characterize that statement?

Lieutenant THOMPSON. It doesn't say who received the sniper fire, sir.

Mr. REDDAN. That is right, it doesn't. So I am asking you how do you characterize that? Did you receive sniper fire?

Lieutenant THOMPSON. No, sir. I stated that I don't believe we got shot at. The ground people could have, sir. We could have been going, you know, to the north, or forward of them, to check out where the sniper fire was coming from.

Mr. REDDAN. The other part of that sentence refers to children trying to hide in an old bunker between the friendly and enemy forces.

Now, were there children trying to hide in a bunker between friendly and enemy forces, so far as you know?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. Where were the enemy forces?

Lieutenant THOMPSON. Probably in front of the friendly, sir.

Mr. REDDAN. Did you see them?

Lieutenant THOMPSON. No, sir.

Mr. REDDAN. Did you have any reason to believe they were there?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. What was your reason for that?

Lieutenant THOMPSON. It was in Vietnam, sir.

Mr. REDDAN. I see. So somewhere in Vietnam there were friendly forces to the east of where you were?

Lieutenant THOMPSON. Hostile forces, sir.

Mr. REDDAN. Hostile forces.

So this is a serious matter, Lieutenant, and I would appreciate an answer which is not facetious. I ask you again: Were there any enemy forces in the area of the bunker in which the children were trying to hide?

Lieutenant THOMPSON. Sir, I wasn't trying to be facetious or anything. I feel that enemy was there, but I didn't see them.

Mr. REDDAN. Why do you feel they were there? How long had you been in that area that day without receiving hostile fire?

Lieutenant THOMPSON. Since about, I'd say around 7 o'clock in the morning, sir.

Mr. REDDAN. And you had been on station in that area, in that particular area, for well over an hour, had you not?

Lieutenant THOMPSON. Yes, sir. I feel that I had been there that long.

Mr. REDDAN. And you had not received any fire?

Lieutenant THOMPSON. No, sir.

Mr. REDDAN. Why do you suspect that there were enemy there if they weren't firing? You'd make a nice target.

Lieutenant THOMPSON. Yes, sir, but you know, I had dealings with Charlie before. He is not going to shoot at you unless he's ready.

Mr. REDDAN. So you just figured that he wasn't ready, and your time hadn't come?

Lieutenant THOMPSON. Yes, sir, because he wasn't, you know—

Mr. REDDAN. You didn't think there was any enemy within 20 miles of there, did you, Lieutenant, as a matter of fact? I won't say 20 miles, because you would be out in the ocean then. Doubtless there was somebody over in Pinkville, but nobody within rifle shot of you.

Lieutenant THOMPSON. I don't think the thought entered my mind, sir. I felt I was safe when I set down on the ground.

Mr. REDDAN. Did you fly toward any sniper fire just before you landed to pick up these people?

Lieutenant THOMPSON. I don't remember whether we had gotten a call, sir, that said they were receiving sniper fire or not.

Mr. REDDAN. Pardon?

Lieutenant THOMPSON. I don't remember whether we had gotten a call that, you know, said check out an area over here, they said sniper fire was coming from it. I know I was heading east when we saw it.

Mr. REDDAN. Well, if it will help you, Colburn said he didn't hear a firecracker. He said he never saw this thing, and I am trying to find out who wrote it.

Lieutenant THOMPSON. I don't know who wrote it, sir.

Mr. REDDAN. Did you write it?

Lieutenant THOMPSON. No, sir. I don't believe so.

Mr. REDDAN. Well, I have to ask. I mean, there are strange things going on here, and I have to ask.

Lieutenant THOMPSON. Yes, sir. I realize your point, too, but a lot of times we have been told to check out.

Now, whether we would hear it or not, would be two different things. But if we get a call to check something out, we'd have to. Whether I got a call to check out sniper fire, I don't remember, sir.

Mr. REDDAN. Now, did you ever have any discussions about this matter with Colonel Holladay? When I say this matter, I'm talking about the My Lai incident.

Lieutenant THOMPSON. I don't remember, sir.

Mr. REDDAN. Did Colonel Parsons ever talk to you about it?

Lieutenant THOMPSON. I don't think so, sir, because I don't—I don't think—I don't know him. I don't think I ever went to the division headquarters; but I remember going to the division headquarters one time, and how I knew this is when I went back to Vietnam and went in the place, I knew how it was set up. You know, just remember that I had been in here before. But who I saw, or if I ever saw anybody when I went in there, I don't know who it was and I don't remember talking to anybody.

Mr. REDDAN. Did you ever talk to General Young about it?

Lieutenant THOMPSON. I don't believe so, sir.

Mr. HÉBERT. You talked a lot to General Peers about it, didn't you?

Lieutenant THOMPSON. Yes, sir.

Mr. REDDAN. I will ask you the same question with respect to General Koster.

Did you ever talk to him about it?

Lieutenant THOMPSON. I don't believe so, sir.

Now, that's what worries me, is because, you know, that's been asked before and I have said I don't believe so. But it struck me awfully funny how I knew American Division Headquarters was laid out when I was over there this last time with General Peers.

Mr. REDDAN. Well, did you talk to General Koster very often?

Lieutenant THOMPSON. I don't recall talking to him at all, sir.

Mr. REDDAN. Do you ever recall at all having talked to Colonel Parsons?

Lieutenant THOMPSON. No, sir, I don't recall it.

Mr. REDDAN. Did anyone ever tell you or suggest to you or direct you in any way, while you were in country over there, not to discuss this My Lai 4 matter with anyone?

Lieutenant THOMPSON. No, sir, I don't believe anybody said that.

Mr. GUBSER. You did witness the killing or the shooting of one woman, isn't this right?

Lieutenant THOMPSON. Yes, sir.

Mr. GUBSER. And that's the incident which has later been designated as the one involving Captain Medina?

Lieutenant THOMPSON. Yes, sir.

Mr. GUBSER. Now, did you, at any other time during the day of March 16, see any firing on the ground?

Lieutenant THOMPSON. I saw an individual shoot—well, I can't say he was shooting—appeared to be shooting in the ditch.

I can't say that he was or wasn't, though. I know somebody else said he was. They could see him better than I could.

Mr. GUBSER. Why do you say he appeared to be shooting, for the record?

Lieutenant THOMPSON. Well, the weapon was pointing down into the ditch.

Mr. GUBSER. And it was raised in a firing position? Is that what you mean?

Lieutenant THOMPSON. Yes.

And there were sounds.

Mr. GUBSER. But you didn't see any explosion or anything which would indicate to you that this weapon was actually fired?

Lieutenant THOMPSON. No, sir. Just heard a sound. And that was over, you know, I saw a gunship shooting, sir.

Mr. GUBSER. I mean on the ground.

Lieutenant THOMPSON. Oh.

Mr. GUBSER. On the ground.

Lieutenant THOMPSON. I don't believe so.

Mr. GUBSER. Now, then, with the exception of the Captain Medina incident, and the possibility that you saw one other man firing—how long a period of time would he have been firing, if he were firing?

Lieutenant THOMPSON. Three or four seconds—well, two or three seconds, I guess.

Mr. GUBSER. And with the exception of the Captain Medina incident, and the few seconds involved, that possibly might have been firing on the ground, did you see any other firing by American soldiers on the ground? Or any firing from hostile forces, for that matter?

Lieutenant THOMPSON. Right now, I don't believe I did, sir.

Mr. GUBSER. Did you ever, at any time, while you were flying around, see wild firing?

Lieutenant THOMPSON. No, sir, I don't believe so.

Mr. GUBSER. Well, obviously if you saw no firing except those two, you couldn't be seeing wild firing.

Did any member of your crew ever tell you that he saw firing take place from an American or a hostile?

Lieutenant THOMPSON. Yes, sir.

Mr. GUBSER. Does this go beyond the Captain Medina incident, and the other incident which we are referring to?

Lieutenant THOMPSON. The ditch, sir?

Mr. GUBSER. Yes, where you said you saw a man with the rifle raised in a position where it would be discharged.

Lieutenant THOMPSON. I think that was the only time.

Mr. GUBSER. Yes; in other words, these were the same two instances, which you were informed about by your crew members, right?

Lieutenant THOMPSON. Right, yes, sir, I believe so. Well, yes, sir—that was the two times, you know, that you're speaking about. One of them did say, he's shooting into the ditch, or something to that effect. I don't believe that anything was said about wild shooting.

Mr. GUBSER. Now, the Captain Medina incident, that you saw, resulted in, at the most, one death, right?

Lieutenant THOMPSON. Yes, sir.

Mr. GUBSER. Could the second incident which you're not sure you saw, but which you suspect was a firing, could that have resulted in as many as 50 deaths?

Lieutenant THOMPSON. No, sir.

Mr. GUBSER. In other words, you saw bodies to the extent of 50 to 75, or whatever it is, but you did not see any firing which would produce those corpses, is that right?

Lieutenant THOMPSON. No, sir, because not all of them—when we first saw them, there was some in there still alive. A few minutes later, we came back, after he had supposedly shot in there, and the ones—one particular one that was alive was dead then. So, you know, him shooting then couldn't be responsible for, say, 50, because I believe I said approximately 50 were in the ditch, and some of them were already dead before he went over there.

Mr. GUBSER. But your testimony is that you didn't see any firing except Captain Medina, and possibly one other?

Lieutenant THOMPSON. Yes, sir, I believe so.

Mr. GUBSER. One last question.

You shared a hootch with Warrant Officer Mansell, is that right?

Lieutenant THOMPSON. Yes, sir.

Mr. GUBSER. Did you discuss this incident with him at all, to your recollection?

Lieutenant THOMPSON. At the time? There in Vietnam?

Mr. GUBSER. After it occurred, after March 16?

Mr. HÉBERT. The evening of March 16th.

Mr. GUBSER. Or the evening of?

Lieutenant THOMPSON. Well, I don't remember, you know, going back to the hootch and discussing it. I know—you know, there was—there was a discussion, but now who all was around, I don't remember, sir.

Mr. GUBSER. That's all I have.

Mr. LALLY. Mr. Thompson, going back to your complaint to Major Watke, did you complain to him about the troops firing indiscriminately?

Lieutenant THOMPSON. At that particular time, sir, if you're saying indiscriminate firing—as has been later identified as Captain Medina, and possibly the shooting into the ditch, if that's what you're calling indiscriminate—

Mr. LALLY. I'm asking you if you complained of indiscriminate firing. Did you use those words, "indiscriminate firing"?

Lieutenant THOMPSON. No, sir, I didn't use those words, because I stay away from big words.

Mr. LALLY. What precisely was your complaint? Was it about civilians being killed, or was it about indiscriminate firing of troops?

Lieutenant THOMPSON. I'd say it had to be civilians being killed, sir.

Mr. LALLY. All right.

Now, when you were interviewed by Colonel Henderson, what was your statement to Colonel Henderson?

Lieutenant THOMPSON. I don't remember my statement to Colonel Henderson.

Mr. LALLY. As well as you can recall what you told Colonel Henderson.

Lieutenant THOMPSON. More than likely, I told him about seeing the Captain shoot, having the conversation on the ground with what I thought, at the time, was a Lieutenant, and the ditch, sir.

Mr. LALLY. But you do believe that you told Colonel Henderson that you saw this Captain shoot a woman, don't you?

Lieutenant THOMPSON. Yes, sir.

Mr. LALLY. And you believe you told him about the incident where you went to the bunker?

Lieutenant THOMPSON. Yes, sir.

Mr. LALLY. Now, did you tell him anything about a conversation with an infantry officer at the bunker?

Lieutenant THOMPSON. Yes, I feel I did. I can't say I did or didn't.

Mr. LALLY. Now, again, in this conversation, your interview by Colonel Henderson—

Lieutenant THOMPSON. Assuming it was Colonel Henderson, sir.

Mr. LALLY. All right, with the colonel.

Lieutenant THOMPSON. Yes, sir.

Mr. LALLY. But what was it that you complained of to him? Was it indiscriminate firing?

Lieutenant THOMPSON. I didn't use that word, sir.

Mr. LALLY. Wild firing?

Lieutenant THOMPSON. I don't believe I—I don't believe I was speaking so much of the firing that went on, because now I can't remember seeing that much firing.

Mr. LALLY. What was it? The killing of civilians that you were complaining of to Colonel Henderson?

Lieutenant THOMPSON. About the ditch, and how the bodies got in the ditch. I feel sure that I brought that up.

Mr. LALLY. What you were complaining about was that you had seen dead bodies that you believed to be civilians, is that correct?

Lieutenant THOMPSON. Yes, sir.

Mr. LALLY. You didn't know what the cause of their deaths was, but you were complaining about the fact that you did see those bodies? The bodies that were there?

Lieutenant THOMPSON. Yes, sir.

Mr. LALLY. So that so far as you can recall, you didn't complain to either Major Watke or Colonel Henderson about indiscriminate firing or wild firing?

Lieutenant THOMPSON. I don't believe I did, sir.

Mr. LALLY. Did you ever recall telling Colonel Henderson that his troops were like wild men on the ground?

Lieutenant THOMPSON. No, sir.

Mr. LALLY. You do not?

Lieutenant THOMPSON. No, sir.

Mr. LALLY. That's all.

Lieutenant THOMPSON. I was a W-1, at that time, sir, and I'm not going to tell a CO his troops are like wild men.

Mr. LALLY. On that day that you talked to the colonel, whether it was Colonel Henderson or some other colonel, that was the only time

you were interviewed in Vietnam in connection with this My Lai incident?

Lieutenant THOMPSON. To the best of my memory, it was, sir.

Mr. LALLY. Did anybody ever ask you to give a signed statement?

Lieutenant THOMPSON. I don't believe so, sir.

Mr. LALLY. That colonel did not ask you for a signed statement?

Lieutenant THOMPSON. He was taking down notes. Now, whether I signed anything or not, I don't remember, sir.

Mr. LALLY. Did you know Colonel Barker?

Lieutenant THOMPSON. No, sir, don't believe so.

Mr. LALLY. Did you know Major McKnight?

Lieutenant THOMPSON. Not there. I have met him since I have been coming to Washington, sir.

Mr. LALLY. How about Colonel Luper, did you know him?

Lieutenant THOMPSON. Yes, sir, I knew him real well.

Mr. LALLY. Did either Colonel Luper or Major McKnight ever come to you and interview you in connection with an investigation of this incident?

Lieutenant THOMPSON. Colonel Luper and I could have talked about it, sir. I don't—

Mr. LALLY. Do you have any recollection of it?

Lieutenant THOMPSON. No, sir, because, see, after—before I went to Div Arty, or before I went to 123, I was with Div Arty, flying Colonel Luper an average, say, of three or four times a week. And then after I left the 123d, I went back to Div Arty, and was flying him then.

So, now, we could have talked about it, but I don't remember, you know—

Mr. REDDAN. This would have been—approximately what date did you go back to them?

Lieutenant THOMPSON. Oh, I think it was in July, sir.

Mr. REDDAN. In July?

Lieutenant THOMPSON. Yes, sir.

Mr. HÉBERT. All right. Thank you very much.

[Whereupon, at 6:30 p.m. the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Thursday, April 23, 1970.

The subcommittee met, pursuant to recess, at 10 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Gubser, Mr. Stratton and Mr. Dickinson.
Also present: Frank Slatinshek, assistant chief counsel, John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Will you identify yourself to the reporter?

TESTIMONY OF RONALD L. HAEBERLE

Mr. HAEBERLE. My name is Ronald L. Haeberle.

Mr. REDDAN. And your address?

Mr. HAEBERLE. 3303 Linden Road, apartment 605, Rocky River, Ohio 44116.

Mr. HÉBERT. Your present employment?

Mr. HAEBERLE. Business management, Premier Industrial Corp., 4415 Euclid Avenue, Cleveland, Ohio.

Mr. HÉBERT. And on March 16, 1968, what were you doing?

Mr. HAEBERLE. March 16, 1968?

Mr. HÉBERT. Yes.

Mr. HAEBERLE. I was assigned as a photographer to accompany Charlie Company on their operation, which took us to My Lai 4.

Mr. HÉBERT. Now, the committee wishes to inform you that we will give you full protection as a witness, when you are in our jurisdiction. You are not compelled to be photographed or to give interviews, except if you so desire. When you leave the room, you will leave by that door. An officer will be there, and if a representative of the news media is there, he is allowed to ask you one question, and that question is, "Do you care to be interviewed," or "Do you care to make a statement?" And in the event you do not care to, you merely tell him that and you will be escorted under the protection of the committee away from any cameras, or away from any news media. Now, have the rules of the committee been given to you?

Mr. HAEBERLE. The little booklet?

Mr. HÉBERT. Yes.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. You know that you are entitled to counsel?

Mr. HAEBERLE. Right.

Mr. HÉBERT. You have no counsel, so obviously you do not choose to be represented by counsel?

Mr. HAEBERLE. No.

Mr. HÉBERT. The committee is in executive session and we must caution you that the discussions before this committee are privy only to this committee, and you are not to discuss them outside of this committee at all.

Now you will be placed under oath.

[Witness sworn.]

Mr. REDDAN. Mr. Haerberle, how long prior to March had you arrived in that country?

Mr. HAEBERLE. I arrived—we left December 6, 1967, for Vietnam, and I believe we arrived about 15 days after that, the last part of December.

Mr. REDDAN. I see. And you went immediately to Duc Pho?

Mr. HAEBERLE. Yes, we did.

Mr. REDDAN. How many operational assignments had you been on prior to March 16?

Mr. HAEBERLE. I had been on some search and destroy, generally around our area. I traveled out to some of the outlying areas. I would say maybe about three or four.

Mr. REDDAN. Were any of them major operations?

Mr. HAEBERLE. Not as compared to this one.

Mr. REDDAN. Had you been assigned to any operation in the Son My area prior to March 16?

Mr. HAEBERLE. No; I don't believe so.

Mr. REDDAN. You were not there in February when Captain Trinkle was wounded?

Mr. HAEBERLE. Captain Trinkle?

Mr. REDDAN. He was with "A" Company.

Mr. HAEBERLE. No; I don't believe so. I don't remember him.

Mr. REDDAN. As far as you know, this was the first operation in the Son My area that you were assigned to, right?

Mr. HAEBERLE. I was at Task Force Barker before, but I went out once with Company C. The only thing they were doing was loading rice aboard a helicopter. There was no battle.

Mr. REDDAN. What was your official Army designation?

Mr. HAEBERLE. Army designation? As a photographer, shooting hometown news releases and newsworthy events on black and white film with the Army's cameras.

Mr. GUBSER. Was that the exact wording of your MOS, or your duty?

Mr. HAEBERLE. That's mainly what I was told to shoot.

Mr. GUBSER. Were you told that orally, or was that ever in writing?

Mr. HAEBERLE. I believe I never had anything in writing. It was all oral.

Mr. GUBSER. What would be your official MOS?

Mr. HAEBERLE. Photographer. Still photographer. I believe it was 84B40. My MOS.

Mr. GUBSER. But did your oral instructions get down to the specifics of what kind of film you were to use?

Mr. HAEBERLE. No, not really. I chose my own film. I had more or less a free hand at this. I had been doing it throughout the brigade. What film I wanted, what cameras I wanted. Hometown news releases. We did run into some action, newsworthy events for publication throughout the news media.

Mr. GUBSER. But it didn't get down to the specifics in your standing orders as to what kind of film you would use?

Mr. HAEBERLE. No.

Mr. GUBSER. That's the impression you gave.

Mr. HAEBERLE. It would have to be black and white film for the Government.

Mr. GUBSER. Why?

Mr. HAEBERLE. Because there is no facility for processing color around our area or the news media didn't handle color.

Mr. REDDAN. Were you given any guidelines or directions as to the specific kind of material that you were to cover? Or photograph?

Mr. HAEBERLE. Just what I said before. Hometown news releases.

Mr. REDDAN. That's where it is going to be distributed. I am talking about were you given any directions as to the types of pictures that you were to try to get?

Mr. HAEBERLE. Well, the type is newsworthy events. Like maybe a battle scene, maybe GI charging ahead with his rifle. Hometown news releases.

Mr. REDDAN. Were any restrictions placed on you as to the type of pictures taken?

Mr. HAEBERLE. I have never had a restriction placed on me.

Mr. REDDAN. You could take any kind of picture you wanted?

Mr. HAEBERLE. That is right.

Mr. REDDAN. Any place within your area of assignment?

Mr. HAEBERLE. That is right.

Mr. REDDAN. What kind of camera did you use?

Mr. HAEBERLE. I used the Army's two Leicas, the 35 millimeter lens and one with a 50 millimeter lens, and I used for the color my own personal camera, a Nikon F, with a Micronik or a 55 millimeter lens.

Mr. REDDAN. Where did you get your color film?

Mr. HAEBERLE. I either bought my color film in Hawaii or Hong Kong.

Mr. REDDAN. And where did you have it processed?

Mr. HAEBERLE. I processed this film myself, when I returned from Vietnam, about a month after I returned.

Mr. REDDAN. You didn't have it processed while you were in country?

Mr. HAEBERLE. No, I did not.

Mr. REDDAN. When you went into the field on an assignment, was it your duty to cover it, or the events, to the fullest extent possible?

Mr. HAEBERLE. In the area where it would be hometown news releases, newsworthy event, is that right?

Mr. REDDAN. And anything that you photographed would be some newsworthy event, is that right?

Mr. HAEBERLE. That's correct.

Mr. REDDAN. Now, how many photographers were there in your unit?

Mr. HAEBERLE. I was in charge of about, let's see, I believe four men.

Mr. REDDAN. You were in charge of the photographic section in the brigade?

Mr. HAEBERLE. No. I had superiors above me in charge of me, but I more or less instructed what type cameras for them to use when they went out to film. Maybe pick the one to go out on assignment when I was there.

Mr. REDDAN. Was it permitted to carry personal cameras with you?

Mr. HAEBERLE. Yes, it was permitted. I always did carry a personal camera to photograph—I used my own camera at times for the brigade releases since at the time they didn't have any of their own cameras. I

have always used a personal camera. There's been nothing said whatsoever about not using it.

Mr. REDDAN. Did your superiors know that you were using personal cameras?

Mr. HAEPPERLE. Yes, they did.

Mr. REDDAN. How were assignments made to the photographers?

Mr. HAEPPERLE. Usually assignments would come in through the Public Information Office, and they were put on a chart in the PIO Office, and more or less we could choose, well, let's go on this one or this one. Just general.

Mr. REDDAN. And how were the individual cameramen assigned to a particular operation?

Mr. HAEPPERLE. Either by me or Sergeant Stonich, S-t-o-n-i-c-h, or someone else who might be there.

Mr. REDDAN. How did you happen to be assigned to this March 16, 1968 operation?

Mr. HAEPPERLE. I wasn't really assigned. I volunteered to go on it.

Mr. REDDAN. Why?

Mr. HAEPPERLE. Well, I was what you call in Vietnam as a short-timer. In Vietnam I was called a short-timer. You have very little time in country before you are discharged from the service, and I volunteered for this last mission because I heard it was supposed to be a hot one, and I wanted to shoot some photographs of this.

Mr. REDDAN. Who was the short-timer?

Mr. HAEPPERLE. I am the short-timer. That is a slang term.

Mr. REDDAN. You had just arrived there shortly before that, had you not? You arrived in December of 1967?

Mr. HAEPPERLE. Right. The latter part of December.

Mr. REDDAN. And this was March 1968?

Mr. HAEPPERLE. Right.

Mr. REDDAN. Well now, I never heard that term short-timer applied to someone who had only been in country?

Mr. HAEPPERLE. Short term was applied to a person who would be discharged from the service after 2 years' service. My time was running out.

Mr. REDDAN. Now, would you explain to us, please, just how this influenced your decision? Did anybody have more than a 2-year stay of duty over there?

Mr. HAEPPERLE. I was drafted for 2 years. That's my time of tour.

Mr. REDDAN. That is not my question. By your definition, I assume everybody over there was a short-timer, is that right?

Mr. HAEPPERLE. A short-timer—I will explain it to you.

You have about maybe, oh 10 days left in country. I am due to be discharged in March, correct? You consider that a short-timer.

Mr. REDDAN. You were due to be discharged in March?

Mr. HAEPPERLE. That is right.

Mr. REDDAN. You had only been there 4 months, as I understand?

Mr. HAEPPERLE. I am only drafted for 2 years. I missed a cutoff date by about 1 day.

Mr. REDDAN. You arrived in country in December 1967, I thought you said?

Mr. HAEPPERLE. That is right.

Mr. REDDAN. Now, how long had you expected to be in country?

Mr. HAEBERLE. Until April 4, 1968.

Mr. REDDAN. Why only a 6-month period?

Mr. HAEBERLE. Because I am drafted for only 2 years. That's my time of service. I'm finished after 2 years.

Mr. REDDAN. Yes. In other words, your 2-year period was up in April?

Mr. HAEBERLE. That is right.

Mr. REDDAN. I see.

Mr. HAEBERLE. That's considered a short-timer. That is what I am explaining.

Mr. REDDAN. Well, sometimes I have a little trouble grasping these things. If you will just bear with me, I am sure we'll work them out.

So you volunteered for this assignment because you said one of the reasons you understood this was to be a hot operation?

Mr. HAEBERLE. Correct.

Mr. REDDAN. What do you mean by that?

Mr. HAEBERLE. Viet Cong were supposed to be operating in the area.

Mr. REDDAN. What made the Viet Cong operation in that area different from any place else in Vietnam?

Mr. HAEBERLE. Because really, I don't think the brigade had met that much contact. There was supposed to be a large sized force of Viet Cong. Nobody in the brigade really made big contact, and this was supposed to be a big contact.

Mr. REDDAN. And how did you obtain this intelligence?

Mr. HAEBERLE. Pardon?

Mr. REDDAN. How did you obtain this intelligence, that this was going to be a hot operation, a large number of Viet Cong?

Mr. HAEBERLE. There was talk around the office. I don't know where they obtained the information from. Military intelligence.

Mr. REDDAN. Did anyone accompany you from the Public Information Office?

Mr. HAEBERLE. Yes, Jay Roberts, the writer.

Mr. REDDAN. And what was his rank?

Mr. HAEBERLE. His rank was Specialist 5th Class.

Mr. STRATTON. You mean the talk around the headquarters was that this was going to be a pretty exciting operation?

Mr. HAEBERLE. That's correct.

Mr. STRATTON. And there was more interest than usual, presumably in photographic coverage, is that correct?

Mr. HAEBERLE. That's correct. PR for the brigade.

Mr. REDDAN. Who assigned Roberts to this operation?

Mr. HAEBERLE. I have no idea.

Mr. REDDAN. Who would normally make the assignment?

Mr. HAEBERLE. Someone in the office.

Mr. REDDAN. Could you be a little more definite than that?

Mr. HAEBERLE. No, I cannot because I don't know who assigned Roberts.

Mr. REDDAN. I am not speaking of the name of the individual, but—

Mr. HAEBERLE. It would come from within the PIO Office.

Mr. REDDAN. What would be the title of the person in charge of the PIO Office?

Mr. HAEBERLE. The title, Information Officer, which would be Lieutenant Moody, at the time, which is now, I believe, Captain Moody.

Mr. REDDAN. Do you know whether he was assigned, or whether he volunteered for this operation?

Mr. HAEBERLE. Jay had quite a bit of time in country left, I believe, until September. I believe he was assigned, but who assigned him, I don't know. We usually worked together.

Mr. REDDAN. When is the last time you were in contact with Mr. Roberts, either by telephone, writing or any other way?

Mr. HAEBERLE. In contact with Mr. Roberts? I would say the latter part of December 1969.

Mr. REDDAN. And where was he at that time?

Mr. HAEBERLE. Arlington, Va.

Mr. REDDAN. Do you know where he is at the present time?

Mr. HAEBERLE. No idea.

Mr. REDDAN. What time did you leave Duc Pho on the morning of March 16?

Mr. HAEBERLE. It was still dark when we walked to the helicopter pad. I would say it must have been about 6 o'clock in the morning.

Mr. REDDAN. Did Mr. Roberts accompany you?

Mr. HAEBERLE. Yes, he did.

Mr. REDDAN. Did anyone else accompany you?

Mr. HAEBERLE. No; they did not.

Mr. REDDAN. Just the two of you?

Mr. HAEBERLE. Just the two of us from the PIO left together.

Mr. REDDAN. And the crew of three on the helicopter?

Mr. HAEBERLE. I believe it would have to be a crew of four. The two pilots and the two door gunners.

Mr. REDDAN. And where did you go?

Mr. HAEBERLE. We went to Task Force Barker.

Mr. REDDAN. LZ Dottie?

Mr. HAEBERLE. I believe that's LZ Dottie.

Mr. REDDAN. And what did you do when you got there?

Mr. HAEBERLE. We got off the helicopter, walked down toward Colonel Barker's hootch, found out where Company C was leaving from, walked on down to another launch pad, just mingled with the troops until the helicopters came in. We were assigned to the second lift.

Mr. REDDAN. Did you take any pictures at that time?

Mr. HAEBERLE. I took one photograph of the helicopters on the first lift coming in.

Mr. REDDAN. The helicopters coming in to take the troops out?

Mr. HAEBERLE. Right. Color.

Mr. REDDAN. You took color pictures?

Mr. HAEBERLE. Yes; I did.

Mr. REDDAN. Why didn't you take black and white pictures?

Mr. HAEBERLE. Because really, that to me wasn't that much of a newsworthy event. Helicopters coming in. You see it all of the time.

Mr. REDDAN. Then why did you take color pictures?

Mr. HAEBERLE. My own personal use. Just like every other GI shoots photographs in Vietnam.

Mr. REDDAN. Something you did regularly, take pictures of helicopters coming in? I mean, if there is nothing newsworthy about it, why did you—I am just trying to understand your rationale here. Why did you take pictures of the helicopters coming in that day?

Mr. HAEERLE. Why did I take pictures? Just more or less for my own personal remembrance of Vietnam.

Mr. STRATTON. You mean to say you, as a photographer, were allowed to take pictures for your own use?

Mr. HAEERLE. That is correct. I have been doing it ever since I was in the brigade.

Mr. STRATTON. And this is with your own camera as distinct from the camera you got from the Government?

Mr. HAEERLE. That is right.

Mr. STRATTON. What was the color camera?

Mr. HAEERLE. The color camera was a—you want the make, model? A Nikon F 55 millimeter micronik lens.

Mr. STRATTON. And this was your own camera?

Mr. HAEERLE. My own personal camera.

Mr. STRATTON. What was the one you used in your own capacity?

Mr. HAEERLE. Two Leicas, one with 35 millimeter, wide angle, and the other with a 50 millimeter, normal.

Mr. STRATTON. And those were all black and white?

Mr. HAEERLE. Those were all black and white.

Mr. REDDAN. How long did you stay at the LZ?

Mr. HAEERLE. At the LZ, I imagine it could have been just about half an hour, or longer.

Mr. REDDAN. Were you there when the troops took off?

Mr. HAEERLE. The first lift?

Mr. REDDAN. Yes.

Mr. HAEERLE. Yes; I was there. That's the color photographs showing the helicopters coming in.

Mr. REDDAN. Did you take off with them when they left?

Mr. HAEERLE. No; I did not. I was on the second lift.

Mr. REDDAN. The second lift of Charlie Company?

Mr. HAEERLE. Right, second lift of Charlie Company.

Mr. REDDAN. What time did they take off, about?

Mr. HAEERLE. They'd have to take off about 7:20, 7:25 a.m.

Mr. REDDAN. And what time did you arrive—did you go directly to My Lai 4?

Mr. HAEERLE. We arrived at 7:47 a.m.

Mr. REDDAN. How do you pinpoint that time?

Mr. HAEERLE. General Peers pinpointed that time.

Mr. REDDAN. What we would like to have here, Mr. Haeberle, is your best independent recollection.

Mr. HAEERLE. That was my independent recollection.

Mr. REDDAN. Just a moment. Not what anybody else told you, but your best present recollection.

Mr. HAEERLE. That is my best present recollection.

Mr. REDDAN. With an assist from General Peers, is that right?

Mr. HAEERLE. To the exact time. My statement was exactly or generally around that time. But that is specific. The facts.

Mr. REDDAN. Now, directly behind you is an aerial photograph of My Lai 4. Could you orient yourself with that photograph and indicate to the committee where you landed with that second lift of Charlie Company?

Mr. HAEERLE. All right; we landed generally in this area right here.

Mr. REDDAN. Just to the west of My Lai 4?

Mr. HAEBERLE. Just to the west, right.

Mr. REDDAN. How close to the tree line were you when you landed?

Mr. HAEBERLE. I would say we were about right out in this area, some place in here. It was close, but not that close.

Mr. REDDAN. Within 100 yards of the tree line, would you say?

Mr. HAEBERLE. I would say within that general area, some place in there.

Mr. REDDAN. Now, were you in the area during any of the time the artillery fire was impacting in—

Mr. HAEBERLE. I don't believe so, no.

Mr. REDDAN. You didn't see it?

Mr. HAEBERLE. I didn't see it. I didn't hear any artillery fire.

Mr. REDDAN. Did you see any gunships make any runs in the LZ area, or along the tree line?

Mr. HAEBERLE. I witnessed gunships flying above, but I didn't see any one of them make a run. The only one, anything happened with—the gunship or observation helicopter was dropping a red smoke bomb down in this area right in here.

Mr. REDDAN. Now, did you see them dropping that smoke after you had gotten on the ground?

Mr. HAEBERLE. Yes. Down in that area.

Mr. REDDAN. When you got out of the helicopter, what did you do?

Mr. HAEBERLE. I ran away from the helicopter, toward the west, turned around, shot a photograph back of the helicopters, the GI's jumping out. And we just more or less waited there for about 5 minutes. Then we grouped and moved on, in a southerly direction.

Mr. GUBSER. Was that photograph you took of the fellows jumping out of the helicopters in color, or black and white?

Mr. HAEBERLE. That one is in color.

Mr. GUBSER. Thus far to this point you have taken no black and white?

Mr. HAEBERLE. I believe that's true.

Mr. REDDAN. Now, why did you take those pictures in color?

Mr. HAEBERLE. Just, I have seen photographs of GI's jumping out in newspapers already. It was nothing new. Personal remembrance.

Mr. REDDAN. You felt that nobody would run those pictures?

Mr. HAEBERLE. It wasn't that newsworthy.

Mr. STRATTON. How did you determine, when you were on duty there, Mr. Haerberle, as to which time was yours to spend as you liked, and which was your duty time where you were supposed to carry out your assigned mission?

Mr. HAEBERLE. It is mainly what I felt like it should be. An individual doing something that would be considered a hometown news release, you know, send home, this is the GI in Vietnam, what he is doing. Or else we did run into some contact, which we really didn't.

Mr. STRATTON. When you went on an operation, your time was duty time, wasn't it?

Mr. HAEBERLE. Duty time, that is right.

Mr. STRATTON. And that ought to be spent doing things that were connected with your assignment?

Mr. HAEBERLE. Which I did.

Mr. STRATTON. Well then, how could you decide that you could take time off to undertake photographic assignments on your own?

Mr. HAEBERLE. There was no time off. It is just a simple click. That is all there is to it.

Mr. STRATTON. If you were running in one direction to take one picture, you weren't running in another direction where you might take another picture?

Mr. HAEBERLE. I was taking the pictures in the same general area, with both cameras at the same time. Maybe different shots, ones I felt would be newsworthy.

Mr. STRATTON. I thought you said you didn't take any black and white of the helicopters landing?

Mr. HAEBERLE. That is right. Because I have seen pictures published before of the helicopters landing. Same thing.

Mr. STRATTON. So the time you spent running over to the west to take a picture of the helicopter was time that you weren't—

Mr. HAEBERLE. I didn't run off to the west. Ran off to the west when I got off the helicopter. Because that is the thing to do, get away from the blades so they can take off again.

Mr. REDDAN. Let's get the record straight, Mr. Haeberle. My recollection is that you just testified that you ran to the west to get a picture of the helicopter, not to get away from the helicopter.

Mr. HAEBERLE. Well, all right. When you get off a helicopter, you don't stand underneath the helicopter. You move out from the helicopter and secure the area.

Mr. REDDAN. For your own information we have all flown on helicopters. We have been in Vietnam probably longer than most short timers. So you don't have to patronize us with descriptions of what you do when you get off a helicopter.

Mr. HAEBERLE. I am just telling you what I did.

Mr. REDDAN. I just want to know what you did on this day.

Mr. HAEBERLE. That is just what I did.

Mr. REDDAN. What did you do?

Mr. HAEBERLE. Got off the helicopter, ran, which we are supposed to do, supposed to secure the area, and I went along with everyone else. I just turned around, shot a photograph of the helicopters, the GI's jumping off.

Mr. GUBSER. At that point, though, it was in your mind that it was necessary to secure the area, because you thought probably the landing zone was hot, correct?

Mr. HAEBERLE. That is right.

Mr. GUBSER. Did you secure it by stopping in the middle of it and shooting a color photograph that is not part of your official duty?

Mr. HAEBERLE. I shoot a photograph any time I feel like it.

Mr. HÉBERT. That was not the question Mr. Gubser asked you.

Mr. HAEBERLE. Will you repeat the question, please?

(Question read).

Mr. HAEBERLE. I really didn't stop in the middle. I was down there in the rice paddies, kneeling down, waiting to find out what we were going to do next.

Mr. GUBSER. Did you carry any side arms?

Mr. HAEBERLE. Just an Army .45 automatic. That was it.

Mr. STRATTON. You were apparently a part of a unit, then, when you went in. You said your job was to secure the area?

Mr. HAEBERLE. Yes.

Mr. STRATTON. Who was your immediate commander?

Mr. HAEPPERLE. Immediate commander? I have no idea who would be my immediate commander.

Mr. STRATTON. I got the impression you were responding to some sort or order, that you had to secure the area?

Mr. HAEPPERLE. Jay Roberts accompanied me as a photographer. We were both together.

Mr. STRATTON. He is a reporter, isn't he?

Mr. HAEPPERLE. That is right.

Mr. STRATTON. You are not suggesting that the reporters and photographers are being relied on to secure part of the objective area, are you?

Mr. HAEPPERLE. We can help out when we have to.

Mr. STRATTON. Were you operating on your own, or were you operating as part of a unit?

Mr. HAEPPERLE. We were more or less operating on our own at times. This time here when we got off the helicopter, they just mentioned, the GI's in the helicopter, what to do. Then we grouped.

Mr. STRATTON. Did somebody tell you to go to the west and secure the area?

Mr. HAEPPERLE. That's right. If I remember right.

Mr. STRATTON. Who was it?

Mr. HAEPPERLE. I have no idea. I don't know the GI's there.

Mr. STRATTON. Well, I am trying to find out whether you were part of a military operation, or whether you were on your own. I got the impression you were on your own. You volunteered for the assignment. You said you could take pictures any time you wanted to?

Mr. HAEPPERLE. Yes.

Mr. STRATTON. I am trying to find out whether this is what you were, or whether you were part of a military operation, one portion of which was to secure a certain area at a certain particular time.

Mr. HAEPPERLE. Aboard the helicopter, whoever was in there said,

You get off on this side and go out in the area there to secure the area, until the helicopters lift off.

And then we regrouped.

Mr. STRATTON. And who said that?

Mr. HAEPPERLE. I have no idea of the name of the person.

Mr. STRATTON. Who was in charge of that particular helicopter?

Mr. HAEPPERLE. I have no idea who was in charge of it.

Mr. DICKINSON. Mr. Chairman.

Mr. HEBERT. Yes.

Mr. DICKINSON. Would you describe for us what your duties were? What was your job? What were you supposed to do?

Mr. HAEPPERLE. I was a photographer, who volunteered for this mission. My job was to take hometown news releases plus newsworthy events.

Mr. GUBSER. Well now, I want to pursue that a little bit further.

Mr. HAEPPERLE. All right.

Mr. GUBSER. Are you telling this committee that at no time did you feel that it was a part of your assignment to take photographs which would be useful to the Army in an historical and have a very historical operational significance, and that you were not supposed to take any pictures which dealt with the history of a particular operation, and might be utilized later on?

Mr. HAEBERLE. These photographs could be used for that.

Mr. GUBSER. You were only there for the purpose of getting news photographs?

Mr. HAEBERLE. That's mainly——

Mr. GUBSER. I want to know, was that the only reason you were there, as you understood it?

Mr. HAEBERLE. As I understood it, yes.

Mr. GUBSER. And you were never told to take any pictures that would have any historical or operational significance? You understood that you were only there to take news photographs for hometown newspapers. This was a publicity operation?

Mr. HAEBERLE. More or less. It was more or less publicity.

Mr. GUBSER. More or less. I don't want to know more or less. I want to know how you understood it. Was it exclusively that, or do you think you were obligated to take pictures which had historical or operational significance to the U.S. Army?

Mr. HAEBERLE. That's kind of hard to remember after 2 years.

Mr. GUBSER. No, you were pretty specific in your memory. Now you can be specific in this one.

Mr. HAEBERLE. All right. As I said, it is take hometown news releases and to take the others I said.

Mr. GUBSER. What?

Mr. HAEBERLE. Let me get it straight.

Mr. HÉBERT. I can't understand you. Speak louder.

Mr. HAEBERLE. Hometown news releases—and newsworthy events.

Mr. GUBSER. And newsworthy events. It was all publicity, as you understood it?

Mr. HAEBERLE. Yes.

Mr. GUBSER. And nothing that would be historical, operational as far as the Army is concerned?

Mr. HAEBERLE. Not at the time I left from the base camp.

Mr. GUBSER. Did you attend a photographer's school before you went overseas?

Mr. HAEBERLE. No, I did not.

Mr. GUBSER. How were you assigned this MOS?

Mr. HAEBERLE. Back when I was—I was assigned to the Public Information Office, as a photographer with the brigade, shortly after I arrived in Hawaii, through Colonel Henderson. I started out as photographer for the brigade using my own camera, my own film, shooting photographs for publicity purposes for the brigade. And he approved.

Mr. GUBSER. And what instructions were given that you recall?

Mr. HAEBERLE. I never really had any instructions. Just go out and shoot photographs of the brigade for publicity purposes, for the Hawaiian Army Weekly which is a newspaper in Hawaii.

Mr. HÉBERT. Tell me this. What were you before you were drafted into the Army?

Mr. HAEBERLE. I was in college making up an incomplete major in photography.

Mr. HÉBERT. You were majoring in photography?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. Did you work on a newspaper before you were drafted into the Army?

Mr. HAEBERLE. No, I did not.

Mr. HÉBERT. Did you have any news experience before you were drafted into the Army?

Mr. HAEBERLE. No, I was merely in commercial and illustrative.

Mr. HÉBERT. Commercial and illustrative. Then what made your judgment of what is news and what is not news?

Mr. HAEBERLE. This had to be approved by an officer before I could release any of the photographs in Hawaii.

Mr. HÉBERT. Well that is not your testimony. Your testimony is that your function was to take newsworthy pictures.

Mr. HAEBERLE. We are talking about back in Hawaii.

Mr. HÉBERT. No, I am not talking about Hawaii. I asked you what you did before. Now I am placing you in My Lai 4—

Mr. HAEBERLE. I am sorry, I thought we were back in Hawaii.

Mr. HÉBERT. No. We are in My Lai 4 on March 16, 1968, at which time you testified that you were shooting newsworthy pictures for local consumption.

Now, what made you an adequate judge or an expert on what was newsworthy, if you had never had any experience on a newspaper?

Mr. HAEBERLE. Nothing.

Mr. HÉBERT. So you were not qualified to judge what was news and what was not news?

Mr. HAEBERLE. My own mind, I could feel that—

Mr. HÉBERT. Your own mind. But you were really not a qualified newsman?

Mr. HAEBERLE. That depends on what sense I am. What you are trying is to place me as a newsman.

Mr. HÉBERT. I will tell you, as a newsman of 23 years experience, you are not a qualified newsman, according to the testimony that you have just given here.

Mr. HAEBERLE. OK.

Mr. HÉBERT. You have had no previous experience as a news reporter. You have had no previous experience as a news editor. You have had no previous experience as a photo editor. You were drafted into the Army.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And you had no schooling according to your own testimony, in this particular area and you set yourself up in the field as an expert on news for hometown consumption.

Mr. HAEBERLE. The only training I have had in news would be starting in Hawaii with the brigade.

Mr. HÉBERT. That is right. But you didn't have—now what was the general practice, when you decided what was newsworthy. Did you identify the GI?

Mr. HAEBERLE. Roberts would identify the GI.

Mr. HÉBERT. Then you didn't do it?

Mr. HAEBERLE. I just shot the photograph. I said I took a picture of this fellow, see if you can get his name. That is what he was along for.

Mr. HÉBERT. Then he would go over and ask the GI his name?

Mr. HAEBERLE. That is right, and record it and I would tell him the frame number of that photograph.

Mr. HÉBERT. That was the judgment that you exercised?

Mr. GUBSER. Tell me how you gave Roberts the frame number as you took it?

Mr. HAEBERLE. Well, you have on the top of the camera, is the little dials going around the frame number.

Mr. GUBSER. I know. I own a Nikon F.

Mr. HAEBERLE. This is a Leica.

Mr. GUBSER. All right. I still know a little bit about a Leica too.

Mr. HAEBERLE. OK.

Mr. GUBSER. All right. And you stopped this combat situation and you looked down to get the frame number and gave it to the newsman is that correct?

Mr. HAEBERLE. Usually, yes.

Mr. GUBSER. That is sure securing the area, too.

Mr. HÉBERT. Let me ask you this.

Mr. HAEBERLE. OK.

Mr. HÉBERT. You went into combat with two cameras?

Mr. HAEBERLE. Three.

Mr. HÉBERT. I mean two so-called official cameras and one was a color camera which you claim is your private camera?

Mr. HAEBERLE. My personal camera.

Mr. HÉBERT. Your personal camera. And you went in there with the intent of taking personal color pictures for your own use?

Mr. HAEBERLE. No. No. I shot maybe about, only 20 or less color photographs and I shot over 50 black and white photographs.

Mr. HÉBERT. All right. Then you shot 20 color photographs, and you took those photographs for your personal use or disposition?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. That is why you took them?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. So you could dispose of them and do as you pleased after you had developed them.

Mr. HAEBERLE. As a personal remembrance to me.

Mr. HÉBERT. As a personal remembrance to you.

Mr. HAEBERLE. I have other slides—

Mr. HÉBERT. If you will just answer the questions we are going to get along fine because we are going to keep asking you the questions until you respond and answer the questions.

You took 20 slides for your own personal use. That is a correct statement, isn't it?

Mr. HAEBERLE. That's correct.

Mr. HÉBERT. All right. What personal use, at the time you were taking those color pictures, did you intend?

Mr. HAEBERLE. What I intended to do with them is combine them with my other photographs of Vietnam as a personal remembrance to me of Vietnam.

Mr. HÉBERT. And you had nothing in your mind of personal profit?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. You had nothing in your mind as to personal lecture tours?

Mr. HAEBERLE. I showed these—may I explain how this came about?

Mr. HÉBERT. Certainly.

Mr. HAEBERLE. OK. As personally, I had no intention of any profit off these whatsoever. I showed these to some friends. I started off with

a lecture of Hawaii, went through Vietnam, my complete experience of the service, and I was asked to show these in front of different groups, which I did for no profit, for 1½ years.

Mr. HÉBERT. All right. For 1½ years you showed these.

Mr. HAEERLE. Right.

Mr. HÉBERT. Now, these pictures—let him identify these color pictures. Make sure we are talking about the same thing.

Mr. DICKINSON. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. DICKINSON. I do think we ought to go on and develop this professional background and experience as completely as possible somewhere in the testimony. If you want to do it now, all right.

Mr. HÉBERT. Yes.

Mr. DICKINSON. Mr. Haerberle, would you explain to us—you have already answered very briefly—but explain to us what training you had in the military, both as a combat photographer and what general training you took.

Mr. HAEERLE. OK. As general training, basic and in advanced infantry training as a mortar man. I had that. In Hawaii, when I arrived, they wanted to make me a clerk-typist. I was with that for maybe about 1½ weeks, and I put the paperwork through to become a photographer with the brigade, saying why I felt I could do certain things. And Colonel Henderson approved this, and I was put there about 3, 4 weeks, working on the base photo lab shooting photographs of GI's and what they were doing—training—also of ceremonies. And then later Sergeant Stonich arrived, and he took me under his guidance and we went around together and shot different things.

Mr. DICKINSON. Sergeant who?

Mr. HAEERLE. Sergeant Stonich.

Mr. DICKINSON. How would you spell that?

Mr. HAEERLE. S-t-o-n-i-c-h.

Mr. STRATTON. Would the gentleman yield there just for one question?

Mr. DICKINSON. Yes.

Mr. STRATTON. He was the NCO in charge of this PIO detachment of which you were a part, is that not correct?

Mr. HAEERLE. At the time I was in Hawaii, yes.

Mr. DICKINSON. All right.

Mr. STRATTON. How about Vietnam? Wasn't he also in charge in Vietnam?

Mr. HAEERLE. He was the NCO, but we had a first lieutenant and two other lieutenants.

Mr. STRATTON. Thank you.

Mr. DICKINSON. Now, what other training or instructions did you get while in Hawaii, or anywhere else, while in the military, prior to going to Vietnam as a combat photographer, as to what your duties were and what was expected of you?

Mr. HAEERLE. Really, I didn't have that much training. I just was told what the assignments were there, and to go out and photograph the best way I saw fit.

Mr. DICKINSON. And you got your instructions again from Stonich?

Mr. HAEERLE. Oh—

Mr. DICKINSON. Or from whom?

Mr. HAEBERLE. It would be for a period Sergeant Stonich, then it would be Lieutenant Moody after that.

Mr. DICKINSON. And at no time were you instructed as to what your responsibilities or duties were as to the film that you took, or the type of film that you were to take, or what you took would have some significance for the Archives or anything of this nature? This was never discussed with you, and you really didn't know—

Mr. HAEBERLE. Mainly we shot, if I remember right, for scrapbooks for the general and people departing and for the Army Hawaiian Weekly. That's where most of the photographs went to.

Mr. DICKINSON. This was strictly news publicity while in Hawaii?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. What is the MOS? I believe that is what the Army calls it.

Mr. HAEBERLE. It would be 84B40.

Mr. DICKINSON. 84B40.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. And this is photographer, combat photographer?

Mr. HAEBERLE. Still photographer.

Mr. DICKINSON. Still photographer.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. All right. Were you ever promoted in this MOS?

Mr. HAEBERLE. Yes; I believe so.

Mr. DICKINSON. Did you have to stand any examination or take any sort of—

Mr. HAEBERLE. Yes; I did.

Mr. DICKINSON. Was it written?

Mr. HAEBERLE. No; it was oral.

Mr. DICKINSON. Oral. And who tested you on this?

Mr. HAEBERLE. Oh, gee—

Mr. DICKINSON. You don't recall? Was it in Hawaii?

Mr. HAEBERLE. It was in Hawaii, yes.

Mr. DICKINSON. Well, I seem to be trying to just pull something out of you, and I really prefer if you understand what I am trying to get at, if you could volunteer. I don't mind doing it. I am just trying to save time. I am trying to find out what formal training, if any, you had; what instructions, if any, you had, as to what your duties were as a combat photographer, or still photographer.

Mr. HAEBERLE. OK. The training would be OJT, on-the-job training.

Mr. DICKINSON. But you had no one over you, is that right?

Mr. HAEBERLE. I had just Sergeant Stonich or maybe Lieutenant Moody, over me, just to give me the assignment. They wanted the photographer. I chose the way to shoot the photograph.

Mr. DICKINSON. All right.

Mr. HAEBERLE. That was it.

Mr. DICKINSON. Well somewhere, it would seem to me, somewhere along the line you had to be instructed as to what your responsibilities and duties were. Now, where did this come in?

Mr. HAEBERLE. There was no formal instruction whatsoever on that that I can recall.

Mr. DICKINSON. Was there ever any formal instruction or training as to what your duties were so far as military regulations are concerned?

Mr. HAEBERLE. Regulations, no. I never had anything on regulations.

Mr. DICKINSON. Nothing on regulations?

Mr. HAEBERLE. No.

Mr. DICKINSON. Well, this is jumping a bit, but at any time were you ever given any training, or instructions, or education as to what you should do with photographs or information coming to you, as to atrocities, for instance?

Mr. HAEBERLE. No.

Mr. DICKINSON. You never heard anything about that?

Mr. HAEBERLE. I never really have heard anything about it.

Mr. DICKINSON. Or anything that you would consider to be a war crime? You were never, in all of your military service, never given any instruction formally or informally and had no knowledge of any action you should take if such incidents came to your attention?

Mr. HAEBERLE. Not that I can recall.

Mr. DICKINSON. All right. We will get back to your instructions. Now, didn't Sergeant Stonich, or anyone else, ever at any time, in writing or orally, give you any instructions as to the use of your personal camera while on official duty?

Mr. HAEBERLE. The best way I can explain that, I was allowed on every operation I went on, both in Hawaii and in Vietnam, to carry my personal camera. There was nothing said that I could not carry my personal camera, and people knew that I was going to carry my personal camera.

Mr. DICKINSON. Well, to be more specific and direct in your answer, are you saying that you were at no time ever given any instruction, any order, and had no knowledge of any regulation prohibiting your use of a private camera while on official duty?

Mr. HAEBERLE. No.

Mr. STRATTON. Would the gentleman yield at that point?

Mr. DICKINSON. Yes.

Mr. STRATTON. Isn't it true that there was a standing order, Mr. Haerberle, that if photographers used their own cameras, they were told that the pictures would be considered official and should be turned in to the military?

Mr. HAEBERLE. I never knew that. I was never instructed.

Mr. STRATTON. We have had testimony to this effect. Is it your testimony you never heard of that?

Mr. HAEBERLE. I can't recall that.

Mr. STRATTON. You can't recall it. Wasn't that the standing rule?

Mr. HAEBERLE. I knew of no such rule.

Mr. DICKINSON. I think I would rather yield back and take it up when we get to Vietnam, because I think the sequence would be better.

Mr. GUBSER. Let me follow along the same line. Were you ever at any time instructed as to the classification of photographs?

Mr. HAEBERLE. Would you explain that, please?

Mr. GUBSER. Yes. Were you ever warned that photographs you might take on your personal camera could be classified either secret, top secret, or confidential?

Mr. HAEBERLE. No; not that I can recall.

Mr. GUBSER. The subject of classification never came up, was never discussed with you?

Mr. HAEBERLE. Not that I can recall.

Mr. GUBSER. I remind you now that you are under oath.

Mr. HAEBERLE. Yes.

Mr. GUBSER. And other witnesses will be testifying.

Mr. HAEBERLE. Yes.

Mr. GUBSER. So I urge you and suggest to you respectfully that you search your memory very carefully.

Mr. HAEBERLE. I am trying to.

Mr. GUBSER. In other words, none of your superiors ever discussed the problem of classification of personal photographs or the security aspects of personal photographs with you?

Mr. HAEBERLE. Not that I can recall, no.

Mr. GUBSER. Did you know enough that you wouldn't go out and take a photograph on your personal camera of a highly classified piece of military equipment? You knew that, didn't you?

Mr. HAEBERLE. Repeat that again, please?

Mr. GUBSER. Did you know enough about the security requirements of a man in uniform—

Mr. HAEBERLE. Yes.

Mr. GUBSER [continuing]. That you would not have gone out with your own camera and taken a photograph of a very top secret, highly classified weapon of some kind, or aircraft, and kept that photograph without clearing it with your superiors?

Mr. HAEBERLE. I knew nothing about that.

Mr. GUBSER. You knew nothing in the world about the possibility that you were dealing with classified material at times?

Mr. HAEBERLE. No; I never dealt with classified material.

Mr. GUBSER. For example, had you been over in—let's use an example.

Mr. HAEBERLE. OK.

Mr. GUBSER. Had you been over in Thailand, the Air Force base, would you feel privileged to photograph aircraft on the flight line and keep that photograph?

Mr. HAEBERLE. It depends on what my assignment would have been.

Mr. GUBSER. You personally. I want to know your personal view.

Mr. HAEBERLE. Not if it said restricted area, keep out.

Mr. GUBSER. Supposing it didn't say that.

Mr. HAEBERLE. Well, if I didn't know anything about it, or wasn't off limits, I would probably photograph it.

Mr. GUBSER. And keep it?

Mr. HAEBERLE. Because I wouldn't—

Mr. HÉBERT. Mr. Slatinshek.

Mr. SLATINSHEK. Do you know what the term "classification" means?

Mr. HAEBERLE. Classification of what?

Mr. SLATINSHEK. From a security sense. You have heard the term "classification" in the military.

Mr. HAEBERLE. I have heard of top secret, priority, and—

Mr. SLATINSHEK. In other words, you understand there is such a thing as security policy in the military?

Mr. HAEBERLE. Oh, yes, there is security.

Mr. SLATINSHEK. And you were considering at that time that there were certain things that were classified and utilizing information of

this kind for personal purposes would be considered a violation of security and regulations? Are you aware of that?

Mr. HAEBERLE. Are we speaking of this in My Lai?

Mr. SLATINSHEK. No, I am speaking generally, just to get your understanding and comprehension of the term "classification."

Mr. HAEBERLE. I know what it means generally.

Mr. SLATINSHEK. In other words, you are aware that there is such a thing as classification, and a security problem?

Mr. HAEBERLE. Yes.

Mr. SLATINSHEK. And you are aware that the Army has regulations on the subject?

Mr. HAEBERLE. I know they have regulations, but I have never seen them or read about them.

Mr. SLATINSHEK. You have never been told of any policy on the part of the Department of the Army in respect to security, in any of your training, formally or informally?

Mr. HAEBERLE. I will say in basic we probably had a course in that, but I can't recall it, on security. Like say guard duty and that.

Mr. SLATINSHEK. And throughout your military service, you have never been aware since that time, or conscious of the fact that there is a requirement in the military for security?

Mr. HAEBERLE. I knew there was a requirement for security.

Mr. SLATINSHEK. And you know also that this relates to the duties you perform, and to the the actions you may take? You are conscious of that and were at that time, is that right?

Mr. HAEBERLE. I wasn't conscious of it at the time, no. I was just told what to do and I did my job.

Mr. SLATINSHEK. Now, I would like to pursue this subject, but I am afraid it is going to get into a completely new area.

Mr. STRATTON. Mr. Chairman.

Mr. GUBSER. I would simply like to state for the edification of the witness that I have been over a good part of Vietnam and I have shot a lot of film, and on no less than half a dozen occasions I have been told in shooting a certain aircraft, a certain situation, that that was classified. please don't do it, and on one occasion I was asked to give them the film.

Now, when a Congressman who has top secret clearance is told things like this, it is inconceivable to me that you had no concept of an obligation insofar as security on your own part. It is absolutely inconceivable.

Mr. STRATTON. Mr. Chairman. Mr. Haerberle, how many color photographs did you take of the My Lai incident?

Mr. HAEBERLE. Anywhere between 18 and 20.

Mr. STRATTON. You took more photographs than appeared in this Life article then, is that correct?

Mr. HAEBERLE. Yes.

Mr. STRATTON. Where are the other photographs?

Mr. HAEBERLE. The CID has the other photographs.

Mr. STRATTON. The CID has them?

Mr. HAEBERLE. Right, and the Peers Committee has them.

Mr. REDDAN. Do you have copies of them?

Mr. HAEBERLE. I have some copies, yes.

Mr. REDDAN. Do you have copies of them—do you have copies of all the photographs you took at My Lai 4 that day on your color camera?

Mr. HAEPPERLE. Yes, I do.

Mr. STRATTON. And you have photographs—do you have copies of photographs that are different from those that are published in Life?

Mr. HAEPPERLE. Yes. Not all of them were published.

Mr. STRATTON. What are the ones that were not published?

Mr. HAEPPERLE. That would be the ones, well, the CID has the whole set. I am not sure right offhand without looking through that.

Mr. STRATTON. Well, speaking generally, how do they differ from the ones that were published?

Mr. HAEPPERLE. They are basically just about the same.

Mr. STRATTON. Basically the same.

Mr. HAEPPERLE. Yes.

Mr. STRATTON. You said that you had two black and white cameras and one color camera.

Mr. HAEPPERLE. That is right.

Mr. STRATTON. You are sure of that?

Mr. HAEPPERLE. I am positive. That is a misprint in Life, plus in that article.

Mr. STRATTON. The article that appears in Harpers magazine, which says that you had three cameras with you, one to shoot black and white and two to shoot color "for his own use." That is not correct?

Mr. HAEPPERLE. That is not correct. I had one color camera and the black and whites. That is a misprint.

Mr. STRATTON. All right.

You want to go ahead and develop chronology here?

Mr. HÉBERT. I would like to, if it pleases the committee, it becomes obvious we are going to need this witness for a long time. I think we know what he has to say now. There is just one feature of this I'd like to develop at just one time, which I think is important to the committee, and then we excuse the witness until another time, because we are going to need this witness for a long time.

Mr. DICKINSON. I agree with the Chair, and that's the reason I terminated my questioning then, because we do have to go in a sequential manner.

Mr. HÉBERT. We are going to have to reevaluate, because it becomes obvious now to the committee we have conflicting testimony and information given to the staff that studied this situation, which is in direct contradiction to what the witness has said, so it becomes obvious this is going to be long.

But there is just one thing I want to develop, since it has been injected, and this is the Life article. How did Life come in possession of the film that you had?

Mr. HAEPPERLE. The film that I had? I gave it to Life magazine.

Mr. HÉBERT. How did you come to give it to Life magazine?

Mr. HAEPPERLE. Through the Cleveland Plain Dealer.

Mr. HÉBERT. Through the Cleveland Plain Dealer.

Mr. HAEPPERLE. Yes.

Mr. HÉBERT. What occurred that you gave it to the Cleveland Plain Dealer to give it to Life magazine?

Mr. HAEPPERLE. I just wanted to get it off my chest, let the people know exactly what happened.

Mr. HÉBERT. Did you voluntarily go to the Cleveland Plain Dealer?

Mr. HAEPPERLE. Yes, I did.

Mr. HÉBERT. And tell the Cleveland Plain Dealer "Here are these pictures, give them to Life magazine?"

Mr. HAEBERLE. No, I did not say "Give them to Life magazine". That developed later.

Mr. HÉBERT. What did you tell the Cleveland Plain Dealer when you went to them with this colored film?

Mr. DICKINSON. Just describe the whole circumstances.

Mr. HÉBERT. That is what I am trying to do. But it is difficult to make the man answer.

Mr. DICKINSON. Just describe the circumstances, will you?

Mr. HAEBERLE. OK. I was questioned by the CID the latter part of August, on this. I knew nothing about it. I didn't even know this was My Lai. I was informed through my testimony with them exactly, found out what had happened, and after that, I did nothing, I started reading about Calley in the newspaper, and I called a friend who was a newspaper writer down in school, Joe Eszterhas, I told him "Joe, I had some photographs which might be this, what they are talking about, this massacre in Vietnam." He said "OK let's see them." And I gave them to him.

He checked everything out, and I believe it was Captain Daniels called me that day and he wanted to see me. I said "Fine." And not to publish these. I said "OK, fine." So Joe in turn—

Mr. REDDAN. Who is Captain Daniels?

Mr. HAEBERLE. I believe he had something to do with the case down in Fort Benning, Ga. He called—Joe Eszterhas—caller back, and he confirmed that I was there, on this operation. He gave that statement out. And it went to print Wednesday night, and also they received a letter or telegram from some other officer down at Fort Benning not to publish these, and this is what they need to confirm that I was there on that operation.

Mr. HÉBERT. Go ahead, continue.

Mr. DICKINSON. You sort of skipped one thing. What do you mean, they went to print?

Mr. HAEBERLE. Went to press—

Mr. HÉBERT. What, who, when?

Mr. HAEBERLE. All right. The photographs and the testimony, I believe it was on a Wednesday, November 21, if I am not mistaken. Could be wrong. It went to press.

Mr. REDDAN. What testimony went to press?

Mr. HAEBERLE. My story. What I have seen, what I have experienced.

Mr. REDDAN. Who interviewed you?

Mr. HAEBERLE. Joe Eszterhas.

Mr. REDDAN. Your friend that you had talked to?

Mr. HAEBERLE. I had gone to school with, yes.

Mr. REDDAN. Was he a reporter with the Cleveland Plain Dealer?

Mr. HAEBERLE. Yes, he was.

Mr. HÉBERT. He had the pictures then, you had already given him the pictures?

Mr. HAEBERLE. That's correct.

Mr. HÉBERT. And then the Cleveland Plain Dealer published the pictures?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. In color?

Mr. HAEBERLE. No; black and white.

Mr. HÉBERT. Well, did you give them color or black and white?

Mr. HAEBERLE. I gave them color. You can make black and white from color.

Mr. HÉBERT. We are familiar with what you can do with it. I just wanted to know what you gave them. You gave them the color.

Mr. HAEBERLE. Color.

Mr. HÉBERT. And the Cleveland Plain Dealer published the pictures?

Mr. HAEBERLE. That's correct.

Mr. HÉBERT. And that was the first time the pictures had been published?

Mr. HAEBERLE. Published, yes.

Mr. HÉBERT. And then the next time you saw them published was in Life magazine?

Mr. HAEBERLE. They were published in Life magazine. Joe Eszterhas went to Life magazine, and I came up the next day.

Mr. HAEBERLE. That is right.

Mr. HÉBERT. What do you mean you came up the next day?

Mr. HAEBERLE. To New York.

Mr. HÉBERT. To New York, to talk to Life magazine?

Mr. HAEBERLE. Right.

Mr. HÉBERT. What did you talk to Life magazine about?

Mr. HAEBERLE. I talked to them about publishing my photographs in their magazine.

Mr. HÉBERT. The color ones?

Mr. HAEBERLE. The color ones.

Mr. REDDAN. Who did you talk to?

Mr. HAEBERLE. It was Gerald Moore.

Mr. HÉBERT. Gerald Moore.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And what did he tell you about publishing your photographs.

Mr. HAEBERLE. That this ought to be checked out.

Mr. HÉBERT. What?

Mr. HAEBERLE. This had to be checked out. They wanted—this is not my testimony. The other ones that—

Mr. HÉBERT. We want your testimony.

Mr. HAEBERLE. OK.

Well, they questioned the authenticity of the photographs, whether they were true or not, and somehow they got the information from some other men also on the operation. And they started, you know, questioning them.

Mr. REDDAN. Did you give them the names of any persons to contact?

Mr. HAEBERLE. Jay Roberts.

Mr. REDDAN. You gave them Jay Roberts' name?

Mr. HAEBERLE. Right.

Mr. REDDAN. Did you give them any other names?

Mr. HAEBERLE. Not that I can recall, because I don't know any other GI's on the operation, except for one of Lieutenant Colonel Barker's men, and I don't know his last name.

Mr. HÉBERT. Then what did Life tell you? Did they make a monetary offer to you for those pictures?

Mr. HAEBERLE. Yes; there was an offer made.

Mr. HÉBERT. What offer did they make to you?

Mr. HAEBERLE. It was about—it was through Life that these people were working. It was from some other papers over in England, \$125,000.

Mr. HÉBERT. You wanted \$125,000 for the pictures that had already been published?

Mr. HAEBERLE. No; I received a less amount from Life Magazine. I'd rather have it with a reputable magazine than with anybody else.

Mr. HÉBERT. All right, then. Let's find out how it ended up. You sold the pictures to Life, did you?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. How much did you receive from Life for those pictures?

Mr. HAEBERLE. Life, \$17,500.

Mr. HÉBERT. They gave you \$17,500?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Did you ask for more, or was that a compromise price?

Mr. HAEBERLE. I could have had more. I could have had a hundred—

Mr. HÉBERT. I didn't ask you what you could have had. I asked did you ask for more?

Mr. HAEBERLE. I settled for that. I was satisfied with that.

Mr. HÉBERT. Did you ask for more and compromise at \$17,500?

Mr. HAEBERLE. At first, yes.

Mr. HÉBERT. What did you ask for?

Mr. HAEBERLE. We asked for \$125,000.

Mr. HÉBERT. "You" asked, now, not "we." What did you ask Life for, \$125,000?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. And you finally came down and settled for \$17,500?

Mr. HAEBERLE. With Life Magazine.

Mr. HÉBERT. With Life Magazine.

Mr. HAEBERLE. I wanted it published in—

Mr. HÉBERT. The one who published it. But you got nothing from the Cleveland Plain Dealer?

Mr. HAEBERLE. Just \$500 as a gift after this was all over.

Mr. HÉBERT. I want to know if you got anything for it?

Mr. HAEBERLE. Yes, after about, I said—

Mr. HÉBERT. I don't care about afterward. Just yes or no. You got \$500 from the Cleveland Plain Dealer?

Mr. HAEBERLE. Yes, I did.

Mr. HÉBERT. So you have received a total of \$18,000 for these pictures. Or have you received other money for them?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. From whom have you received the money?

Mr. HAEBERLE. The London Times.

Mr. HÉBERT. All right now. What did you receive from the London Times?

Mr. HAEBERLE. \$5,400.

Mr. HÉBERT. Now, from who else did you receive any money?

Mr. HAEBERLE. Stern Magazine.

Mr. HÉBERT. Who?

Mr. HAEBERLE. Stern.

Mr. HÉBERT. Stern Magazine. How much did you receive from Stern Magazine?

Mr. HAEBERLE. \$6,400.

Mr. HÉBERT. \$6,400.

Mr. REDDAN. What do they publish?

Mr. HAEBERLE. German magazine.

Mr. HÉBERT. Did you receive any money from anybody else, any other publication?

Mr. HAEBERLE. Not at the time, I can recall.

Mr. HÉBERT. What?

Mr. HAEBERLE. I cannot recall.

Mr. HÉBERT. You would know if you got more money than that from anybody else.

Mr. HAEBERLE. There is one from a Canadian paper.

Mr. HÉBERT. A Canadian newspaper?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. What did they pay you?

Mr. HAEBERLE. About \$500.

Mr. HÉBERT. They gave you \$500?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Did anybody else give you any money?

Mr. HAEBERLE. Australia, \$1,000.

Mr. HÉBERT. An Australian paper. What was that paper in Australia?

Mr. HAEBERLE. I have no idea.

Mr. HÉBERT. You don't know the name of it?

Mr. HAEBERLE. No.

Mr. HÉBERT. Did anybody else give you any money?

Mr. HAEBERLE. A \$20 check from someone in Cleveland that approved of what I did.

Mr. HÉBERT. What?

Mr. HAEBERLE. That approved of what I did.

Mr. HÉBERT. He sent you a contribution of \$20 as a gesture for what you did?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Any other money you received?

Mr. HAEBERLE. No.

Mr. HÉBERT. Have you totaled how much money you have received?

Mr. HAEBERLE. No, I haven't.

Mr. HÉBERT. You have never taken the time to total the total amount of money you got from these pictures?

Mr. HAEBERLE. No, because it was split between 2 years, 1969 and 1970.

Mr. HÉBERT. What do you mean, split?

Mr. HAEBERLE. I received some in 1969 and received some in 1970.

Mr. HÉBERT. Why did you make a split of it?

Mr. HAEBERLE. Income tax purposes.

Mr. HÉBERT. Income tax purposes. Who was advising you?

Mr. HAEBERLE. I have a person figuring my income tax.

Mr. HÉBERT. Who is advising you to use this income tax dodge?

Mr. HAEBERLE. Well, it is just the way the checks came in, actually. Life gave me the whole thing. The other ones came in in 1970.

Mr. HÉBERT. But you requested it be made in 1970 for your income tax purposes?

Mr. HAEBERLE. No, I didn't.

Mr. HÉBERT. You didn't? They told you they would give it to you in 1970?

Mr. HAEBERLE. It would be better, they advised me.

Mr. HÉBERT. They advised you to take it, because then you would receive money from other places?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And it was Life Magazine who advised you not to take all the money in 1969?

Mr. HAEBERLE. There was some mention of that, yes.

Mr. REDDAN. Who said that to you?

Mr. HAEBERLE. I am not sure who said that. It was just general talk.

Mr. HÉBERT. You take general talk this way, when you are dealing in thousands of dollars, of selling Government pictures?

Mr. HAEBERLE. They are not Government pictures. They are personal pictures.

Mr. STRATTON. Well, Mr. Haerberle, if these pictures were considered official, as we have had testimony that they were, then if you sold them, you were selling Government pictures, were you not?

Mr. HAEBERLE. No, I was not selling Government pictures.

Mr. STRATTON. I say, if the procedure was that any pictures you took on your own time with your own camera, as a combat photographer, were to be regarded as official Government pictures, and you sold those pictures, then you were selling Government pictures, were you not?

Mr. HAEBERLE. No, I was not.

Mr. STRATTON. Well, if they were considered Government pictures, and you sold them, then you were selling Government pictures.

Mr. HAEBERLE. How could they be considered Government pictures?

Mr. STRATTON. We have had testimony that they were. You say they weren't. So it really hinges on whether they were or weren't.

Mr. HAEBERLE. May I say one thing? I just asked myself "How many other GI's carry cameras and have taken pictures of different things in Vietnam?"

Mr. STRATTON. I am not interested in what you asked yourself.

Mr. HAEBERLE. OK.

Mr. STRATTON. But I say the question hinges on whether these were or were not Government pictures, isn't that correct?

Mr. HAEBERLE. They were not Government pictures.

Mr. STRATTON. You say they weren't. We have had testimony that they were. So it would depend on which particular point of view is correct as to whether they were or weren't, isn't that true.

Mr. HAEBERLE. In my view, they are personal pictures.

Mr. STRATTON. That is your view, and there are other views, therefore, we have to determine which is the correct view.

Mr. HAEBERLE. Well, you would have to determine it is my view that they are personal pictures.

Mr. STRATTON. That is your view, but the committee is trying to find out what the truth is.

Mr. HAEBERLE. I realize that.

Mr. STRATTON. All right. Did Mr. Hersh get his cut from you or did that come directly from the people that used the pictures?

Mr. HAEBERLE. I have not—I have talked to Mr. Hersh for just a matter of about 5 minutes on the telephone.

Mr. STRATTON. Well, I know, but would you answer the question? Did he get his cut on these pictures from you or—

Mr. HAEBERLE. No.

Mr. STRATTON. Did it come directly from those who used them?

Mr. HAEBERLE. From those that used the photographs. Mr. Hersh has nothing to do with me.

Mr. STRATTON. He got his money directly from those who used the photographs?

Mr. HAEBERLE. Not that used the photographs. I don't know how Mr. Hersh is operating. I have no idea.

Mr. STRATTON. Well, he got money in connection with these photographs, did he not?

Mr. HAEBERLE. Nothing from me.

Mr. STRATTON. Nothing from you, but did he get it directly from the London Times?

Mr. HAEBERLE. I have no idea.

Mr. STRATTON. And Stern?

Mr. HAEBERLE. I have no idea how Hersh received his money.

Mr. GUBSER. You know he got money, though?

Mr. HAEBERLE. No; I do not.

Mr. HÉBERT. Tell me this: In all these various negotiations, did you initiate the negotiations with these people, and say "I have got some pictures I want to sell you"?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. Or did they come to you?

Mr. HAEBERLE. They more or less came to myself and Joe Eszterhas. I didn't initiate this.

Mr. HÉBERT. Joe Eszterhas. Did you split everything with Joe Eszterhas?

Mr. HAEBERLE. Yes; Joe Eszterhas received some money for this.

Mr. HÉBERT. How much did you give Joe Eszterhas?

Mr. HAEBERLE. I believe Joe Eszterhas received from Life magazine, \$5,000.

Mr. HÉBERT. In addition to the \$17,500 that Life paid you?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Did you personally give Joe Eszterhas any money as a commission or as a split in profits?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. You did not?

Mr. HAEBERLE. No.

Mr. HÉBERT. Now, Mr. Haerberle, I am going to ask that you produce your income tax return for the year 1969 to this committee.

Mr. HAEBERLE. I am on—on some list. They haven't been filed yet, due to the Government. I lost one record of return for the year 1966, and they have not mailed it to me yet. They sent me two letters saying they are working on this.

Mr. HÉBERT. You have not filed a return for 1969?

Mr. HAEBERLE. No; I have not, on the advice of my income tax people.

Mr. REDDAN. Who are your income tax people?

Mr. HAEBERLE. I can't remember the fellow's name. It is right in my own hometown area.

Mr. REDDAN. Well, now, let's think a little bit. This is the one that prepares your tax returns?

Mr. HAEBERLE. It is the one that prepares it, yes.

Mr. REDDAN. All right. Now, what is the name?

Mr. HAEBERLE. I can't recall his name.

Mr. REDDAN. What is that?

Mr. HAEBERLE. I cannot recall his name.

Mr. REDDAN. What is your hometown?

Mr. HAEBERLE. Rocky River.

Mr. REDDAN. Rocky River.

Mr. HAEBERLE. Yes.

Mr. REDDAN. And what is the size of the town?

Mr. HAEBERLE. No idea of the size. I just moved there.

Mr. REDDAN. I see. Now, is this an accounting firm?

Mr. HAEBERLE. Bookkeeping firm, yes.

Mr. REDDAN. And they are in Rocky River?

Mr. HAEBERLE. They are in Fairview Park.

Mr. REDDAN. Where?

Mr. HAEBERLE. West 213, Fairview Park.

Mr. REDDAN. West 213, Fairview Park?

Mr. HAEBERLE. Yes.

Mr. REDDAN. And what State is that in?

Mr. HAEBERLE. That is Ohio.

Mr. REDDAN. Ohio, also. Now, we could place a call there, then, to West 213, Fairview Park, and we could then get the accounting firm, is that right?

Mr. HAEBERLE. Yes; you can.

Mr. STRATTON. What floor is that?

Mr. HAEBERLE. It is a single building.

Mr. STRATTON. Single floor?

Mr. HAEBERLE. Yes.

Mr. STRATTON. You can't remember the name of the firm?

Mr. HAEBERLE. I can't. It is not a firm. It is the fellow's name.

Mr. REDDAN. What is the name of the firm?

Mr. HAEBERLE. I can't recall that. If you have a phone book from Ohio, I can give you the name. Yellow pages.

Mr. STRATTON. How many in the firm?

Mr. HAEBERLE. Oh, gee, about three.

Mr. DICKINSON. Mr. Haerberle, you made a statement earlier that wasn't picked up, and I really think we ought to find out exactly what you meant. You said when you were first contacted by a member of the CID.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. That he was the one that informed you that the photographs you had were of My Lai 4, is this correct? Did I understand you to say that? You didn't know that they were of My Lai 4?

Mr. HAEBERLE. I did not remember the name My Lai 4, or else some of the other names mentioned with this operation.

Mr. DICKINSON. And not until you were interviewed by some representative of the CID in connection with what? Do you know what he was investigating?

Mr. HAEBERLE. At the time, no. Until we started, you know, going—we spent all day on this. Then that night I gave him copies of my personal slides.

Mr. DICKINSON. Well, did you know what he was investigating at the time?

Mr. HAEBERLE. After we got into it, yes.

Mr. DICKINSON. What did you learn from him?

Mr. HAEBERLE. Mainly that something had happened there, out of the ordinary.

Mr. DICKINSON. Well, now, is this the first time that you knew that something had happened, where you were, that was out of the ordinary?

Mr. HAEBERLE. In a sense, yes, because I more or less was there in Vietnam when the Tet offensive was going on, so I sort of in my own mind compromised.

Mr. DICKINSON. Well, I guess we are getting back to that, because I don't know what that means either. But how did the fellow from CID happen to contact you in the first place? Do you know this?

Mr. HAEBERLE. He knew there was a photographer on the mission. That's what he told me. And he was able to have a copy of my record, stating my MOS as a photographer, and that's how he told me he contacted me.

Mr. DICKINSON. And he tracked you down more or less, and came to see you?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. And then he asked you about the mission that you went on and the photographs that you took on this particular date?

Mr. HAEBERLE. Yes; he gave me a personal property receipt for my personal photographs.

Mr. DICKINSON. Yes; you are sort of preceding me. I didn't even ask that. But that's fine.

Now, then he discussed with you this operation on which you went on March 16, and he was the one that told you it was My Lai 4, and until that time you did not even know the name?

Mr. HAEBERLE. That's correct.

Mr. DICKINSON. Did you know the name of the operation that you accompanied?

Mr. HAEBERLE. No; I am sorry. I can't recall the name of the operation at the time.

Mr. DICKINSON. At the time you went on this operation, you didn't know the name of the operation, and you didn't know where you were going?

Mr. HAEBERLE. I imagine at the time I knew it but I couldn't recall it when he came to question me about it.

Mr. DICKINSON. And you didn't even know when you got back where you'd been, right?

Mr. HAEBERLE. No; I didn't.

Mr. STRATTON. You mean this was just another routine operation that you had been on, so it sort of got lost in the blur, is that true?

Mr. HAEBERLE. I wanted to lose it.

Mr. STRATTON. Pardon me?

Mr. HAEBERLE. What happened there, I just really—just more or less in a daze about it.

Mr. STRATTON. It was just a routine operation and didn't stand out in your mind at all?

Mr. HAEPPERLE. It stood out in my mind, as I can recollect, to a certain extent, but I more or less wanted not to really recall that much about it.

Mr. STRATTON. It didn't really impress you very much at the time? You just thought it was a routine experience, is that correct?

Mr. HAEPPERLE. No; I wouldn't say it would be actually routine.

Mr. STRATTON. Did it impress you or didn't it?

Mr. HAEPPERLE. It did to a certain extent, yes.

Mr. DICKINSON. Now, how many combat missions did you accompany?

Mr. HAEPPERLE. I would say about three or four.

Mr. DICKINSON. Only three or four?

Mr. HAEPPERLE. Yes.

Mr. DICKINSON. Did you accompany Task Force Barker on any other mission?

Mr. HAEPPERLE. I flew with Colonel Barker one time, Company C area, where they were loading captured rice on a helicopter.

Mr. DICKINSON. For 18 months you have lectured and shown slides to various groups?

Mr. HAEPPERLE. Small groups. Not that many.

Mr. DICKINSON. Well, I don't know how many, because I don't know that you have given us a number. But I am using your words, and you correct me if I am wrong.

Mr. HAEPPERLE. OK.

Mr. DICKINSON. You said over a period of about 18 months, you did make appearances?

Mr. HAEPPERLE. That is right.

Mr. DICKINSON. And give slide lectures?

Mr. HAEPPERLE. That is right.

Mr. DICKINSON. On your experience in the military?

Mr. HAEPPERLE. Plus, yes, in the military.

Mr. DICKINSON. All right. In these presentations that you made, you showed the pictures that later were produced in Life magazine, is that correct?

Mr. HAEPPERLE. Repeat that again, please?

Mr. DICKINSON. In the presentations that you made—

Mr. HAEPPERLE. Yes.

Mr. DICKINSON [continuing]. Of your military tour, they were slide lectures where you depicted on screens to your audiences photographs that you had taken in the military, including what later you learned to be My Lai, is that right?

Mr. HAEPPERLE. Yes.

Mr. DICKINSON. How did you identify where and when these photographs were taken?

Mr. HAEPPERLE. I did not.

Mr. DICKINSON. When you were making your lectures?

Mr. HAEPPERLE. I just mainly stated that these were shot around—I had nothing to say about what area, or the name or anything. No names were used, because I couldn't recall My Lai. If it hadn't been for the CID, I would have never known the names.

Mr. DICKINSON. I think it would probably be better, Mr. Chairman, if you wanted to get into the My Lai thing itself, per se, at a later date.

Mr. HÉBERT. Not at this time.

Mr. Gubser has a question.

Mr. GUBSER. I would like to know when you were shooting your own personal camera—in color, for your own personal use—did you use a variety of film or did you pretty much stick to the same film?

Mr. HAEBERLE. Mostly to the same film.

Mr. GUBSER. Which film did you use?

Mr. HAEBERLE. It would be the Ektachrome family.

Mr. GUBSER. And which is more adaptable to the making of color transparencies than a film like Kodacolor?

Mr. HAEBERLE. Yes.

Mr. GUBSER. Which you can't project.

Mr. HAEBERLE. Yes.

Mr. GUBSER. All right. But did you ever shoot Kodacolor at all or a similar film that was designed for making prints?

Mr. HAEBERLE. I liked the color ball of Ektachrome. I have always shot Ektachrome.

Mr. GUBSER. And you used this all the time, in other words, you made slides out of everything, right?

Mr. HAEBERLE. My own personal shots, when I shot, I always used Ektachrome.

Mr. GUBSER. You testified you got this in Hong Kong or Hawaii.

Mr. HAEBERLE. In Hawaii.

Mr. GUBSER. And I think it was probably available in PX's over there too, wasn't it?

Mr. HAEBERLE. The main PX, they had very good Kodak film.

Mr. GUBSER. In other words, you didn't just happen to select Ektachrome for this particular operation. You used it for everything?

Mr. HAEBERLE. That is right.

Mr. GUBSER. Did you use any Kodacolor or print type at all?

Mr. HAEBERLE. No, I did not.

Mr. GUBSER. Ever?

Mr. HAEBERLE. In some other operations I may have used it. Not in Vietnam, though. But it may have been something in Hawaii. I can't say I never used it, because I could have.

Mr. GUBSER. But almost always you used Ektachrome or that type of film?

Mr. HAEBERLE. That is right.

Mr. GUBSER. All right, thank you.

Mr. STRATTON. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. STRATTON. That was issued to you, was it not?

Mr. HÉBERT. No, he said he bought it.

Mr. HAEBERLE. I bought it either in Hong Kong or Hawaii.

Mr. STRATTON. Well, Ektachrome was on issue to the PIO section. Didn't you take advantage of what was available on issue?

Mr. HAEBERLE. No, because I—I really didn't use the Ektachrome because of the storage conditions of the film.

Mr. STRATTON. I thought you said you used Ektachrome.

Mr. HAEBERLE. My own Ektachrome, bought either from Hong Kong or Hawaii, but not the PIO's.

Mr. STRATTON. But you knew it was available, is that right?

Mr. HAEBERLE. It is available, yes.

Mr. STRATTON. And S-4 issued Ektachrome to the PIO section, did they not?

Mr. HAEBERLE. I am not sure who issued it.

Mr. STRATTON. But it was issued. It was available.

Mr. HAEBERLE. If we had it in stock, it would be available.

Mr. STRATTON. Well, we have testimony that it was available, that S-4 issued Ektachrome film. You wouldn't contest that testimony, would you?

Mr. HAEBERLE. If they—no.

Mr. STRATTON. All you are saying is that you were so anxious to have up-to-date film that you didn't take what was issued, you bought your own, is that right?

Mr. HAEBERLE. I wanted my own because when I went on leave shortly before this to Hong Kong and I shot some photographs—a few photographs of Hong Kong.

Mr. STRATTON. Now, Mr. Haeberle—

Mr. GUBSER. Can I pursue that very point right there?

Mr. STRATTON. Go ahead.

Mr. GUBSER. Now, you say you didn't want to use the PIO issue film because you felt the storage was inadequate, and I presume you thought the quality of the film wouldn't be good.

Mr. HAEBERLE. And I like using my own, I like to buy my own film.

Mr. GUBSER. What kind of storage did you use. You didn't get to Hong Kong on R. & R. too often, did you?

Mr. HAEBERLE. I went on leave.

Mr. GUBSER. Was your storage of the film you bought—I presume in quantity at Hong Kong—was your storage any better than PIO would have?

Mr. HAEBERLE. I believe it would be because our stuff was shipped from Hawaii in the hold of a ship.

Mr. GUBSER. Well, now a little while ago you testified that PIO used black and white exclusively, because there were no facilities for processing.

Mr. HAEBERLE. Color.

Mr. GUBSER. Color. All right.

Now you tell me that PIO did issue Ektachrome. Why?

Mr. HAEBERLE. They had it. You said S-4 issued it to PIO. But over there we never used it that I can recall. I never used it because there were no facilities to process it. If it was there, it was just sitting in the refrigerator.

Mr. GUBSER. In other words, it was there as a fifth wheel, correct? Useless.

Mr. HAEBERLE. Could be, right. Useless.

Mr. GUBSER. But your earlier testimony then was not correct that they didn't ever use color?

Mr. HAEBERLE. Well, when I was there, I never used color whatsoever.

Mr. GUBSER. Did any of the photographers use color?

Mr. HAEBERLE. I have no idea. I don't believe so.

Mr. GUBSER. How about it?

Mr. HAEBERLE. Like you said, it was a fifth wheel sitting there.

Mr. GUBSER. How about the cinema photographers?

Mr. HAEBERLE. Cinema photographers? They merely turn into still photographers, because of the lack of motion picture equipment. We had a big 35 millimeter motion picture camera they never used.

Mr. GUBSER. Reminding you that you are under oath, did you ever draw any Ektachrome or other color film from the PIO office?

Mr. HAEBERLE. In Vietnam?

Mr. GUBSER. Yes.

Mr. HAEBERLE. No, I did not.

Mr. STRATTON. Still on that subject, you have heard of the U.S. mail, haven't you?

Mr. HAEBERLE. Yes, I have.

Mr. STRATTON. It is possible to send the color film back to the States to be processed, is it not?

Mr. HAEBERLE. It is possible, yes.

Mr. STRATTON. And a lot of GI's do that, do they not?

Mr. HAEBERLE. Yes, they do.

Mr. STRATTON. This never occurred to you?

Mr. HAEBERLE. No, because every piece of all my color film I shot in Vietnam was saved by me and processed all at once when I returned home.

Mr. STRATTON. Well, it could have been sent back, could it not?

Mr. HAEBERLE. I never sent any of my film back, but it could have been.

Mr. STRATTON. The fact that you didn't send it back and you kept it, didn't discourage you from taking color shots, did it?

Mr. HAEBERLE. No, because all my film that I had in Hawaii and Hong Kong, I saved until I went back. I sent a first load of color film back with Cliff Barnett, which I sent back with him when he was discharged from Vietnam.

Mr. STRATTON. You say you never used color film because you couldn't get it processed, and yet you have testified that you used color film.

Mr. HAEBERLE. I am talking about— you are getting mixed up. The PI office never requested use of color film because they did not have the facilities to process it. But my own personal film I shot color film all the time I was in Vietnam, for personal remembrances like any other GI does.

Mr. STRATTON. The color film was kept in an icebox, isn't that correct?

Mr. HAEBERLE. That is right.

Mr. STRATTON. And you didn't really have to requisition it, did you?

Mr. HAEBERLE. Requisition color film? No.

Mr. STRATTON. If you wanted it.

Mr. HAEBERLE. If we had it there.

Mr. STRATTON. You could just go into the icebox and pick it up any time you wanted it?

Mr. HAEBERLE. I could, yes.

Mr. STRATTON. You are telling us you never took advantage of the free color film that was in the icebox?

Mr. HAEBERLE. No, not in Vietnam.

Mr. STRATTON. All right, now, let me ask another question, Mr. Haerberle.

Mr. GUBSER. When you sent this film home with this—what is his name?

Mr. HAEBERLE. Cliff Barnett.

Mr. GUBSER. Cliff Barnett. Did you have it checked for security?

Mr. HAEBERLE. No.

Mr. GUBSER. Did you think about it?

Mr. HAEBERLE. No.

Mr. STRATTON. By the way, did you have an icebox of your own?

Mr. HAEBERLE. Of my own? No.

Mr. STRATTON. Then how did you store your film that you brought back from Hong Kong?

Mr. HAEBERLE. I had my own, I carried it with me in my camera bag, and in my hootch I had a cool area where I kept my own personal film.

Mr. STRATTON. A cool area?

Mr. HAEBERLE. Yes.

Mr. STRATTON. How was that cooled?

Mr. HAEBERLE. It was—just seemed like it was the coolest area in the place to store the film.

Mr. STRATTON. And you thought that was better storage than the refrigerator?

Mr. HAEBERLE. Well, there, I didn't have that many rolls left when I was about ready to leave.

Mr. REDDAN. How many rolls did you have. You didn't have that many. You are trying to imply you had hardly any?

Mr. HAEBERLE. When I left Vietnam, my last roll was put into the camera on my travels up from Duc Pho to Chu Lai.

Mr. REDDAN. This was your last roll of film?

Mr. HAEBERLE. That is right, up to Chu Lai.

Mr. REDDAN. How many rolls of color film did you have when you went up to My Lai?

Mr. HAEBERLE. My Lai? I believe I had two rolls.

Mr. REDDAN. Could you have kept those rolls in the refrigerator?

Mr. HAEBERLE. No, I didn't.

Mr. REDDAN. I say could you?

Mr. HAEBERLE. I could have, yes. Yes, I could have.

Mr. REDDAN. As a photographer you knew what heat does to color film?

Mr. HAEBERLE. Yes, I do.

Mr. REDDAN. But your testimony under oath to this committee, is that despite that, you decided to keep them in some corner of the hootch?

Mr. HAEBERLE. Which was a cool area.

Mr. REDDAN. How was it cooled? Did you have air-conditioning?

Mr. HAEBERLE. No.

Mr. REDDAN. How did you keep the corner cool?

Mr. HAEBERLE. I put some of this—we had plastic bags with—I put some silicone inside.

Mr. REDDAN. That is for humidity.

Mr. HAEBERLE. All right. The film was—it was in the hootch, was in a cool area—

Mr. REDDAN. Now, how cool?

Mr. HAEBERLE. I don't know. I didn't have a thermometer.

Mr. REDDAN. You said it was a cool area. Now, Mr. Haeberle, you are under oath here.

Mr. HAEBERLE. Yes.

Mr. REDDAN. We don't want you just trying to make up stories because you think this is the testimony we want to hear. We want your best testimony.

Mr. HAEBERLE. That is what I am trying to do.

Mr. REDDAN. Because I think you should know that if you fail to testify to the best of your knowledge, this could have serious consequences on your future well being. So if you didn't do something, don't make up a story to make it just sound good.

Mr. HAEBERLE. I am trying to tell you—

Mr. REDDAN. All right. I don't want you to be taken by surprise at a later date.

Now, so how did you select this cool area of your hootch?

Mr. HAEBERLE. The best I can remember, just going—it was away from the sun, it was up about midway up, we had these little pullout deals where you can put things, and that was the coolest area because on the other side there was an opening. If I remember right the tent came down and it had where a brace could come through. This was shortly, when I returned from Hong Kong, which I can't recall when I returned, but shortly after that I went on this mission.

Mr. STRATTON. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. STRATTON. If I can get back to this other item that I wanted to take up. Mr. Haeberle, one of the things that impresses me is that with all the shooting that supposedly went on at My Lai, we don't have published in Life a photograph of anybody actually being shot or killed. Why is that?

Mr. HAEBERLE. I will say from my own thing, I am not sure if all the photographs, black and white photographs, are there.

Mr. REDDAN. Black and white photographs are where?

Mr. HAEBERLE. Are made available.

Mr. REDDAN. Made available to whom?

Mr. HAEBERLE. To you, CID.

Mr. STRATTON. Well, now, did you or did you not take a photograph of somebody shooting somebody else?

Mr. HAEBERLE. I can't recall.

Mr. STRATTON. You can't recall?

Mr. HAEBERLE. No, I cannot.

Mr. STRATTON. Well, do you have in your possession a photograph of somebody shooting somebody else?

Mr. HAEBERLE. No, I do not.

Mr. STRATTON. You don't?

Mr. HAEBERLE. No.

Mr. STRATTON. You don't have one in your color photographs?

Mr. HAEBERLE. No, I do not.

Mr. STRATTON. Why is that, Mr. Haeberle, when you followed this operation so closely?

Mr. HAEBERLE. That is what I try asking myself and I can't come up with an answer.

Mr. STRATTON. Well, there must be some answer?

Mr. HAEERLE. I still—no, I can't, I am sorry, but I can't come up with an answer.

Mr. STRATTON. Mr. Haerberle, you saw a good deal of the My Lai operation, did you not?

Mr. HAEERLE. To the outside, yes. I was, I believe, with the 3d platoon.

Mr. STRATTON. That's Lieutenant Calley's platoon?

Mr. HAEERLE. No, it is not. I believe he had the 1st platoon.

Mr. STRATTON. Pardon me?

Mr. HAEERLE. I believe he was head of the 1st platoon.

Mr. STRATTON. You and Mr. Roberts were together quite a bit, were you not?

Mr. HAEERLE. Yes, we were.

Mr. STRATTON. Well now, I read you from the account written by Mr. Hersh which appears in Harpers:

Roberts and Haerberle also moved in just behind the 3d platoon. Haerberle watched a group of 10 to 25 GI's methodically pump bullets into a cow until it keeled over.

Mr. HAEERLE. Yes.

Mr. STRATTON [continuing]:

A woman then poked her head out from behind some brush. She may have been hiding in a bunker. The GI's turned the fire from the cow to the woman. They just kept shooting at her. You could see the bones flying in the air, chip by chip.

Before moving on, the photographer took a picture of the dead woman. Haerberle took many more pictures that day. He saw about 30 GI's kill at least 100 Vietnamese civilians.

Is that account substantially true?

Mr. HAEERLE. I am sorry, but I did not take a picture of that woman.

Mr. STRATTON. I asked you whether this account that I read is substantially true?

Mr. HAEERLE. Some of it is true, except for the photograph—

Mr. STRATTON. Did you—

Mr. HAEERLE. Except for the photograph of the woman.

Mr. STRATTON. It says before moving on the photographer took a picture of the dead woman. Is it your testimony now you didn't take a picture of the dead woman?

Mr. HAEERLE. I didn't—that is right. I didn't take a picture of that dead woman there, that was shot, by the cow. Hersh was never in contact with me except about 5 minutes by telephone.

Mr. STRATTON. I am not talking about whether Hersh was in contact with you. I am trying to find out what you did during this operation.

Mr. HAEERLE. Yes.

Mr. STRATTON. You were there when the cow was shot and when the woman was shot, is that correct?

Mr. HAEERLE. I was there, yes.

Mr. STRATTON. Your testimony is that you did not take a picture of that shooting of the cow?

Mr. HAEERLE. I did not.

Mr. STRATTON. You didn't take a picture of the shooting of the woman?

Mr. HAEERLE. I did not.

Mr. STRATTON. You didn't take a picture of the woman when she was dead?

Mr. HAEBERLE. I did not.

Mr. STRATTON. Now, it says Haerberle took many more pictures that day. "He saw about 30 GI's kill at least 100 Vietnamese civilians." Is that true?

Mr. HAEBERLE. I would say it was closer to between 75 and 100.

Mr. STRATTON. All right. You saw 30 GI's kill about 75 Vietnamese, is that right?

Mr. HAEBERLE. I wouldn't say it was as high as 30 GI's.

Mr. STRATTON. All right. Well, what is your figure?

Mr. HAEBERLE. I would say maybe it was—I would say more or less 15, 20.

Mr. STRATTON. You saw 15 to 20 GI's?

Mr. HAEBERLE. In the group that I was with.

Mr. STRATTON. You saw 15 to 20 GI's kill about 75 Vietnamese civilians?

Mr. HAEBERLE. At different times throughout the village.

Mr. STRATTON. Yes. Now, is it your testimony you never took a single photograph of any one of those killings?

Mr. HAEBERLE. Well, I can't recall that, because there are so many black and white. I didn't even process the black and white. I just turned it in to the office.

Mr. STRATTON. Well, how is it that you avoided taking pictures of people being killed when you were obviously interested in getting some shots for your own mementos? Wouldn't that have been an interesting memento?

Mr. HAEBERLE. For a hometown news release?

Mr. STRATTON. I am not talking about hometown news release; I am talking about the shots that you took for your own personal files. You said that you wanted to have a memento of Vietnam?

Mr. HAEBERLE. That is right.

Mr. STRATTON. Now, wouldn't that have been a rather interesting memento?

Mr. HAEBERLE. It probably would have.

Mr. STRATTON. Why didn't you take that picture?

Mr. HAEBERLE. I don't know. That is what I am trying to ask myself.

Mr. STRATTON. Well, why did you take the ones that you did, and didn't take somebody being killed?

Mr. HAEBERLE. I don't know.

Mr. STRATTON. You don't know?

Mr. HAEBERLE. No.

Mr. GUBSER. It is more interesting than a helicopter landing.

Mr. STRATTON. Now, here is another item that is referred to, and I ask you whether this account is correct or not. This is west's 3d platoon. They diverted south toward the CP.

Mr. DICKINSON. Excuse me just a minute. Let me raise a point of order with the Chair. I thought we were agreed we were going to wait to get into the My Lai development until another date. Am I wrong on that, Mr. Chairman?

Mr. HEBERT. No; I think that is correct.

Mr. DICKINSON. I didn't go into the development of anything to do with My Lai, in my questioning, because I thought that is what we were supposed to be doing.

Mr. STRATTON. I am not trying to get the sequence in My Lai but just see how it is we had some photographs and not others, Mr. Chairman.

Mr. HÉBERT. Suppose we go into it when we have a chance in executive session, exactly what our procedure on this matter will be, Mr. Stratton.

Mr. STRATTON. All right. I will suspend. Let me just ask one other question. Were you aware of the fact, after this operation was concluded, that Mr. Roberts was disturbed by what he had seen?

Mr. HAEBERLE. I feel we were both disturbed.

Mr. STRATTON. You were both disturbed?

Mr. HAEBERLE. Yes.

Mr. STRATTON. Well now, Mr. Roberts was concerned about the gap between the high body count and the low number of weapons. Were you concerned about that, too?

Mr. HAEBERLE. No; because I did not know what the weapon or the body count was for that day.

Mr. STRATTON. Did Mr. Roberts see all of the killings that you saw?

Mr. HAEBERLE. I would say the majority of them, yes.

Mr. STRATTON. Well, now, I ask you this. Why did you not bring this matter to the attention of somebody or other if you were disturbed about what you saw and about—

Mr. HÉBERT. Mr. Stratton, please don't get into that until later.

Mr. STRATTON. All right. I withdraw that question.

Mr. HÉBERT. Now, Mr. Reddan, do you want to instruct this witness?

Mr. REDDAN. Mr. Haerberle, we are going to suspend at this point, but the Chair has asked me to instruct you to remain over and appear again at 10 o'clock tomorrow morning.

Mr. HAEBERLE. All right.

Mr. REDDAN. The Chair has further directed me to instruct you to call your accounting firm, whose name you couldn't recall this morning, and have them airmail, special deliver copies of your tax returns for 1969.

Mr. HÉBERT. 1968.

Mr. REDDAN. No; for 1969.

Mr. DICKINSON. If I understood it correctly, there has been no return for 1969. So there can't be a copy of a return.

Mr. REDDAN. He had prepared a return which had not been filed.

Mr. DICKINSON. I see.

Mr. REDDAN. Is that correct?

Mr. HAEBERLE. That is correct.

Mr. REDDAN. Yes.

Mr. HAEBERLE. May I ask you something?

Mr. REDDAN. Yes.

Mr. HAEBERLE. Is this legally possible for you to do this?

Mr. REDDAN. Yes.

Mr. HÉBERT. Yes, sir, we do not do anything that is not possible for us to do.

Mr. HAEBERLE. I just wondered if I had a lawyer here what he would say to anything like that.

Mr. REDDAN. You can get a lawyer and he will tell you we can issue a subpoena forthwith to the accounting firm to produce those records immediately.

Mr. HAEBERLE. All right, fine, that is all I wanted to know.

Mr. REDDAN. There is no privilege attached to accounts.

Mr. HAEBERLE. All right.

Mr. REDDAN. So we will suspend at this point, and if you will return tomorrow.

Mr. HÉBERT. 10 o'clock tomorrow morning.

Mr. HAEBERLE. All right; fine.

[Whereupon, at 11:45 a.m., the subcommittee adjourned.]

The subcommittee met, pursuant to recess, at 11:50 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Gubser, Mr. Stratton, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel and John F. Lally, assistant counsel.

Mr. HÉBERT. Major, identify yourself to the reporter, please.

TESTIMONY OF MAJ. CHARLES C. CALHOUN

Major CALHOUN. Yes, sir, I am Maj. Charles C. Calhoun, sir.

Mr. HÉBERT. And your assignment?

Major CALHOUN. Assigned to Headquarters, 1st Army, with duty station at Headquarters, CONARC.

Mr. HÉBERT. And your assignment on March 16, 1968?

Major CALHOUN. Sir, my assignment on that date was the S-3 XO, Task Force Barker, sir.

Mr. HÉBERT. Now, Major, the committee wishes to inform you that you are the full protection of the committee, when you are under our jurisdiction here. We will protect your privacy to the limit. You are not compelled at any time to talk to news reporters, allow yourself to be photographed, or make any statement at all. We instruct you that this is your choice, if you want to say anything to anybody.

When you leave the room, you will leave by the door over there. An officer will be there. If a representative of the news media is there, he is allowed to ask you only one question, and that is if you care to make a statement or do you care to be interviewed. And if you reply in the negative, you will be escorted safely away from the area.

Now, you have been furnished a copy of the rules of the committee, haven't you?

Major CALHOUN. Yes, sir.

Mr. HÉBERT. And that tells you that you may have counsel of your choice. I notice that you do have counsel. Counsel, will you identify yourself?

Major ENDICOTT. Major James A. Endicott, Jr. I am assigned to the Judge Advocate General's School, U.S. Army, Charlottesville, Va. I am certified under the Uniform Code of Military Justice by the Judge Advocate General of the Army as competent to perform duties as counsel.

Mr. HÉBERT. Now, Major, you are present here to protect the legal rights of your client. You are not here to prompt him in his testimony, or to advise him as to his testimony, but merely to protect his legal rights. If he does not care to answer a question, as you well know he can rest on his constitutional rights, the committee will not press him. At the same time, we urge that you recognize the fact that using the

constitutional rights cannot be used in a sort of capricious or loose manner. I think you recognize that as a lawyer. Understood?

Major ENDICOTT: Yes, sir.

Mr. HÉBERT: Now, Major Calhoun, rise and I will swear you in.

[Witness sworn.]

Mr. HÉBERT: All right. We recognize the fact that you are under charges now. You have been charged?

Major CALHOUN: Yes, sir.

Mr. HÉBERT: There is no question to be asked by this committee that will in any way be asked to prejudice your case. We are very solicitous about the situation of protecting not only your rights but the rights of the Government, and protecting the sanctity of the court itself. And we recognize the restraint put on witnesses in the testimony before this committee. We respect that in the fullest. And we will refrain from asking any question that could be used as evidence if and when you face your trial.

Mr. DICKINSON: Mr. Chairman, may I ask something off the record?

Mr. HÉBERT: Off the record.

[Discussion off the record.]

Mr. HÉBERT: All right. Back on the record.

Major CALHOUN: Mr. Congressman, on March 17, 1970, I was informed that I had been charged with several offenses under the Uniform Code of Military Justice. These offenses concerned certain events that allegedly occurred in the vicinity of My Lai 4—Hamlet, Republic of Vietnam, on or about March 16, 1968. These charges apparently rose from several Army investigations of the events that transpired in the vicinity of My Lai 4, on or about March 16, 1968. Namely, investigations by the Army Inspector General, the United States Army Criminal Investigating Agency, and the Peers Inquiry Panel. I have been informed that representatives of the Commanding General, 1st United States Army, Fort Meade, Md., are presently reviewing these charges with a view to recommending disposition of these charges which might include a trial by general court-martial. I have been advised by counsel that the files supporting these charges are not presently available, and are voluminous. The Peers Inquiry reportedly contains over 20,000 pages of testimony transcript, and hundreds of pages of assorted documents. The Inspector General Report and Criminal Investigation Report are each hundreds of pages in length. My counsel has been informed that the complete Peers Inquiry will be available about May 15, 1970, and that the other reports are in various states of availability.

Because of the unavailability of the bulk of the case file, my counsel has advised he cannot properly advise me at this time as to the effect of testimony which this panel may call upon me to give. Therefore, my counsel has advised me to exercise my rights under the fifth and sixth amendments to the United States Constitution, and respectfully decline to answer any questions at this time.

At this point I would like to emphasize that I would prefer to answer all questions from this panel, but feel compelled to decline to answer for the reasons stated. As you are aware, I previously testified at length before this subcommittee. I also testified at length before the Peers Panel—

Mr. HÉBERT. May I make one correction there just for accuracy? You testified before the staff. This is the first appearance before the subcommittee.

Major CALHOUN. Right, sir.

Mr. HÉBERT. It is just a technicality, but I want to be sure.

Major CALHOUN. All right, the staff. I also testified at length before the Peers Panel, the Army Inspector General, and to the Criminal Investigators. These charges subsequently preferred against me have not changed my desire to cooperate fully with this or any other panel, but the legal effect of now being charged, my present status as an accused, dictate my position today.

Mr. HÉBERT. Very well. Thank you very much.

Major ENDICOTT. Thank you.

[Witness excused.]

[Whereupon at 12 noon the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 12:05 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Gubser, Mr. Stratton, and Mr. Dickinson, members of the subcommittee.

Also present: Frank M. Slatinshek, assistant chief counsel, John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Major Watke, identify yourself to the reporter.

TESTIMONY OF MAJ. FREDERICK W. WATKE

Major WATKE. Major Frederick W. Watke.

Mr. HÉBERT. Your assignment?

Major WATKE. The Office of the Deputy Chief of Staff for Military Operations, Pentagon, Washington, D.C.

Mr. HÉBERT. Your assignment on March 16, 1968?

Major WATKE. I was the Company Commander of Company B, 123d Aviation Battalion, Americal Division, stationed at Chu Lai, Republic of Vietnam.

Mr. HÉBERT. Now, Major, we desire to inform you that the committee will give you its fullest protection of your privacy. We inform you that you are not under any compulsion at all to speak to any news media to discuss anything, or to have your photograph taken. You are in the complete protection of the committee. When you leave the room, you will leave by that door in the back. An officer will be there. If a news media representative is there, and one representing all the news media, is authorized to be there, and he is allowed to ask you one question only, and that is, do you care to make a statement or do you care to say anything. You, replying in the negative, can leave under full protection. They cannot put a microphone before you; they cannot steal a picture. I don't even know whether photographers are out there or not. And we want you to feel that you are under the full protection of the committee. If you desire to say anything, that's your business, not ours. If you don't desire, you can leave and not be embarrassed in any way.

Now, you have a copy of the rules of the committee?

Major WATKE. Yes, sir.

Mr. HÉBERT. You know that you are entitled to counsel of your choice and obviously you have availed yourself of that?

Major WATKE. Yes, sir.

Mr. HÉBERT. And will counsel identify himself.

Major SHIMEK. Major Daniel W. Shimek, S-h-i-m-e-k. I am assigned to the Judge Advocate General School, Charlottesville, Va. And I am authorized to practice before the U.S. Supreme Court and the Supreme Court of the State of Wisconsin.

Mr. HÉBERT. And you are here at the major's request?

Major SHIMEK. Yes, sir.

Mr. HÉBERT. Now, Major, I will swear you in. You will be under oath, and I caution you this is an executive hearing, and the matters discussed in here are not to be discussed with unauthorized personnel outside of this committee room. If you will stand, I will swear you in.

[Witness sworn.]

Mr. HÉBERT. Very well, Mr. Reddan.

Mr. REDDAN. Major, you are presently under charges?

Major WATKE. Yes, I am.

Mr. REDDAN. Could you tell us the nature of the charges? That is, the substance of the charge.

Major SHIMEK. If I may, I have a copy of the charges.

Mr. REDDAN. Well, instead of reading the whole thing, if you can just tell us briefly what the major is charged with so that we will—

Major SHIMEK. May I?

Mr. REDDAN. Yes.

Mr. HÉBERT. You may interrupt to clarify this.

Major SHIMEK. Yes, sir.

Mr. HÉBERT. We are very zealous of not interfering in whatever future legal action will be taken that would be prejudicial either to the defendant or to the Government. The committee will ask no questions that would prejudice testimony that would be given in the future, if you are brought to a court-martial trial. As I understand it now, the investigation is being made as to whether you will be formally court-martialed or not.

Major WATKE. Yes, sir.

Mr. HÉBERT. Mr. Counsel, we again reiterate our determination to protect the interests of the individuals all the way through and we will not indulge in asking any questions that would be prejudicial.

Major SHIMEK. Yes, sir. Major Watke is charged with a violation of the Uniform Code of Military Justice, article 92—that is, 10 U.S.C. section 892. The first specification is that on or about March 16 he violated the MACV directive by failing to report to his Commanding Officer as soon as practicable incidents and actions thought to be a war crime, to wit, an intentional killing of noncombatant Vietnamese human beings at My Lai 4. The next three specifications are of dereliction of duty, the first one being on or about March 16, he failed to make a timely and adequate report of the incident to his commanding officer. The next one was that on the next day, March 17, he failed to make a complete report of the allegations to Bridadier General Young.

Mr. REDDAN. Does it specify what he is supposed to have reported? What do they mean?

Major SHIMEK. He was derelict in the performance of his duties of that having knowledge of an alleged war crime, to wit, the inten-

tional killing of noncombatant Vietnamese humans, at My Lai 4 on or about March 16, 1968, he negligently failed to make a complete report of the allegations to Brig. Gen. John H. Young, Jr., as it was his duty to do so.

The fourth specification is identical with the third, except that it is on the 18th of March, he failed to make a similar report to Col. Oran K. Henderson. These are the three specifications—four specifications, sir. I submitted all, or Major Watke submitted a letter requesting a postponement of this because of the fact that I had just come on the case this week. We have not received any reply.

Mr. REDDAN. I talked to Major Watke about that yesterday, and informed him that the chairman was out of the city, and that I wanted him to know this, because he was to appear here today. And that our schedule was so tight that I was not in a position to rearrange the scheduling of witnesses at this time, so I suggested to him he be here this morning.

Major SHIMEK. One last procedural thing, sir, is it is not stated in the authority of United States Code section 192?

Mr. REDDAN. If you will notice in the rules, it states the authority for the issuance of subpoenas.

Major SHIMEK. Well, has the possibility of 18 U.S.C. section 3486 been considered, since this is apparently a matter of national security, and considering the rather major charges that it appears—

Mr. REDDAN. I don't know what you mean, Major.

Major SHIMEK. I am referring to matters of national security in which, if the full committee consents, a grant of immunity could be given to Major Watke, and he could be compelled to testify without any defense of self-incrimination.

Mr. REDDAN. The committee has not given that any consideration up to this point.

Mr. HÉBERT. But I may say that even if we did give that consideration, and did grant the immunity, then the committee would be going into matters which the committee is trying to avoid. It would become a record here, that we do not want to have on the record here. We have the Major's testimony informally before the subcommittee staff, which is available to us, and without saying what you already know, it is perfectly permissible for him to stand on his constitutional rights. We don't challenge it a bit. That's why he's got you here to advise him.

Major SHIMEK. I see.

Mr. DICKINSON. May I ask a question?

Mr. HÉBERT. Yes.

Mr. DICKINSON. Are you again requesting or still requesting a postponement of your appearance here today, Major? Either you or counsel?

Major WATKE. Well, sir, there is so much testimony that was made before General Peers and his committee, in the few days that Major Shimek has been on the case, he obviously has not had time to fathom it all. And really, to do justice to him, and, in turn, to do justice to me, I felt a delay before you would be appropriate, that I do not object personally to testifying. I did this once before.

Mr. DICKINSON. Well, because we assiduously are trying to avoid going into areas that would be sensitive to your trial, I don't think it

would be of any consequence whether counsel was new on the case or not; if it would prejudice it in any way, he could object or you could object to answering and that's the end of it.

We don't want to get into the area that involves charges against you, and I don't think that it would prejudice you in any way to give what testimony we are going to ask, formally today before the committee. This is the Chairman's decision. I have nothing to do with the ruling as to the continuance, or a postponement of your appearance here, I don't think that your fears are well founded if you think it is going to prejudice you in any way by appearing today rather than later.

Major SHIMEK. Will the testimony here remain available?

Mr. HÉBERT. The testimony is available to you, certainly, sir.

Major SHIMEK. To the Government? To the Army?

Mr. DICKINSON. Only if they compel it.

Mr. HÉBERT. We don't volunteer it to them.

Mr. DICKINSON. There is a legal question, as I understand it, whether or not they can compel the production of this testimony, and for that reason, we want to avoid putting anything in that might prejudice you.

Mr. HÉBERT. Off the record.

[Discussion off the record.]

Mr. HÉBERT. On the record. At the request of the witness, Major Watke, the Chair will grant a delay, subject to call during the month of May.

All right, thank you, gentlemen.

[Witness excused.]

[At 12:20 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 2:10 p.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Colonel, will you identify yourself to the reporter?

TESTIMONY OF LT. COL. JOHN L. HOLLADAY

Colonel HOLLADAY. John L. Holladay, lieutenant colonel.

Mr. HÉBERT. What is your assignment?

Colonel HOLLADAY. I am assigned to the U.S. Aeronautical Service Office, at Cameron Station, Va. My duty station is Los Angeles, Calif.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel HOLLADAY. I was the battalion commander of the 123d Aviation Battalion, Americal Division.

Mr. HÉBERT. Where was that located?

Colonel HOLLADAY. Chu Lai.

Mr. HÉBERT. Chu Lai.

Colonel HOLLADAY. Republic of Vietnam.

Mr. HÉBERT. Colonel, the committee wants you to know that you are under the full protection of the committee while you are appearing before us.

Colonel HOLLADAY. What does that mean, sir?

Mr. HÉBERT. I will explain it to you.

Colonel HOLLADAY. All right.

Mr. HÉBERT. Your privacy will be fully protected. In other words, the committee will not allow you to be photographed without your consent, will not allow you to be interviewed without your consent. It means that when you leave here, you will leave through that door, and there will be an officer there to meet you. If the news media has a representative—they are privileged to have a representative, not a group—and that representative can ask only one question, if he is there. I don't know whether he will be there or not. But if he is there he can ask you only one question, and that is, do you care to make a statement. And if you say no, that's the end of it. They can't invade your privacy. They can't put a microphone up in front of you, they can't steal a picture of you leaving the room. This is what we mean by protecting you, when you are before the committee.

The committee cautions you to this extent, that you will be under oath, that you are not to discuss what takes place in this room with unauthorized personnel. We recognize that there are authorized personnel that you will discuss the matter with. Your own testimony is available to you. You have read the rules of the committee, I presume.

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. Mr. Reddan has given you the book.

Colonel HOLLADAY. Yes.

Mr. HÉBERT. In there you have learned that you are entitled to counsel. Obviously, you do not choose to have counsel, or else you would have counsel with you?

Colonel HOLLADAY. I have counsel, but he is not here today.

Mr. HÉBERT. Well, will you proceed without counsel?

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. All right. I will swear you in. Will you stand, please.
[Witness sworn.]

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Colonel, you are familiar with the interests of this subcommittee in the My Lai matter. You appeared before. You have talked to subcommittee staff previously?

Colonel HOLLADAY. I talked to you.

Mr. REDDAN. Yes.

Colonel HOLLADAY. And Mr. Lally.

Mr. REDDAN. Yes. We are concerned not so much with what happened at My Lai that day, although this is, of course, a basic concern of everyone, but what we want to find out is what happened after the occurrence on the 16th, what steps were taken to investigate and look into this matter, these allegations of alleged atrocities or civilian casualties at My Lai 4.

Now, the Aero-scouts who participated in the March 16, 1968, operation of Task Force Barker were under your command, were they not, sir?

Colonel HOLLADAY. They were a part of the battalion that I commanded, yes, sir.

Mr. REDDAN. Yes. And they were directly under Major Watke?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. And were you airborne at all in the Son My area on March 16, 1968?

Colonel HOLLADAY. I was not. As a matter of fact, I didn't even fly that day, according to my flight records.

Mr. REDDAN. Did it subsequently come to your attention that there were allegations of either atrocities or civilian casualties at My Lai 4?

Colonel HOLLADAY. About 10 o'clock that evening, the 16th.

Mr. REDDAN. Could you tell us the circumstances under which this did come to your attention, sir?

Colonel HOLLADAY. Major Watke, the company commander of the aero-scout company, came to my quarters about 10 o'clock that evening, as I place it in time, and told me that he wanted to tell me something that he thought I should know, words to that effect. I said, "Go ahead." I had just gotten to my quarters, as a matter of fact.

Mr. REDDAN. Excuse me, Colonel. Had you attended an evening briefing that night, in which the events of the day at My Lai were reviewed?

Colonel HOLLADAY. I am sure I attended a briefing, because I attended it every day.

Mr. REDDAN. Yes?

Colonel HOLLADAY. But I can't recall that specific briefing.

Mr. REDDAN. Had you seen Major Watke sometime during the afternoon or evening prior to that?

Colonel HOLLADAY. No; I hadn't.

Mr. REDDAN. Prior to the 10 p.m. visit?

Colonel HOLLADAY. Not that I remember. I don't remember seeing him before that. I had seen him in the morning, probably.

Mr. REDDAN. Yes?

Colonel HOLLADAY. I saw him every morning.

Mr. REDDAN. All right. Just go ahead, sir.

Colonel HOLLADAY. And he proceeded to tell me essentially the story of a great many civilians being killed by the ground troops that day.

Mr. REDDAN. Could you tell us, to the best of your recollection, just what he did tell you, not characterizing it yourself, but see if you can reconstruct for us what he did tell you?

Colonel HOLLADAY. I am going to have to give you the thrust of this conversation, because I can't pinpoint details. I just don't remember them.

Mr. REDDAN. Yes. All right.

Colonel HOLLADAY. We talked for the better part of 2 hours. And all I can tell you out of that 2 hours came the information to me that a great many people had been killed, civilians, by ground forces. An incident of the sergeant standing on a ditch firing into the civilians hiding, crouching, somehow being in that ditch, was a part of this conversation that sticks to my memory.

And this sergeant was armed either with an M-16 rifle or an M-60 machine gun. I don't remember which, out of that conversation.

Mr. REDDAN. Did Major Watke say he observed these things or these things had been reported to him?

Colonel HOLLADAY. This was the story brought to him principally by Mr. Thompson.

Mr. REDDAN. He was relating then not his first-hand experience but what Warrant Officer Thompson had told him, is that right?

Colonel HOLLADAY. Yes, sir. Mr. Thompson. And there were others whose names, for the life of me, I cannot associate with that conversation.

Mr. REDDAN. All right.

Colonel HOLLADAY. Another principal portion of that conversation had to do with specifically Mr. Thompson, who in the course of these events observed a group of civilians, men, women, and children, as I remember it, either in a cave, and that's the term that was used at that time, as I remember it, as against a bunker—the term that I remember was a cave—and the Americans were—an American force, an officer was involved in this, a ground officer, advancing on this cave, and about this time Mr. Thompson threatened this force, that he would fire on them. He was going to shoot them, is the way that I remember the story if they didn't stop their advance toward these 12 people. They elected to advance no further. And about this time he either got them to a place of relative security, or they remained there. I am still not sure. In any event, the threat to the 12 was, by his actions, offset. And about this time Mr. Thompson evacuated a child to the hospital in his helicopter. Now, that, in essence, is the story that I remember, and as I pointed out earlier, we talked about this for the better part of 2 hours. It was after midnight.

Mr. REDDAN. It was after midnight when you finally concluded your discussion?

Colonel HOLLADAY. Yes, sir.

Mr. GUBSER. The entire 2 hours was devoted to this alleged killing of civilians?

Colonel HOLLADAY. Yes, sir.

Mr. GUBSER. In other words, it was obvious Major Watke was very impressed with it, and you were, too, to discuss it for that long a period of time, at that time of night?

Colonel HOLLADAY. Yes, sir. That's quite true. Much of that was spent on our own agonizing, I have used that term before, because I can't express it any better, about the magnitude of this thing. And I wanted very much to impress upon Major Watke, which was not necessary on my part, the seriousness of it, that much of that was give and take, like, "Do you know what you are saying, Fred?" "Yes, sir, I know what I'm saying." And then we'd go back over it and recount it. But the guts of that 2 hours, approximately, are what I have given you.

Mr. STRATTON. Colonel, could I ask a question. Do I understand that had it not been for Major Watke bringing this to your attention you would not have heard about it otherwise?

Colonel HOLLADAY. No, sir; I didn't say that.

Mr. STRATTON. Well, is that the case? He was the first to bring it to your attention?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. Did most of the time that you spent discussing this center around this particular incident?

Colonel HOLLADAY. I believe all of the time that we spent centered around this particular incident.

Mr. STRATTON. I am talking about the incident—the so-called confrontation between—the Warrant Officer and the ground troops?

Colonel HOLLADAY. No. That was a part of it. That was a part of it.

Mr. STRATTON. What was your reaction to this particular confrontation, as such?

Colonel HOLLADAY. Well, I knew, felt that this young man would have to be emotionally overwhelmed to do such a thing.

Mr. GUBSER. You mean Thompson?

Colonel HOLLADAY. Yes, Thompson. It just doesn't happen, in my experience, and this is my third war, I believe as I mentioned to Mr. Reddan the last time I was here. Not that that makes me any sort of an expert on war, but I have been associated with infantry people in three of these things and it was just unbelievable to me.

So to answer your question again, or reanswer it, I knew that he would have to be overwhelmed to do this thing.

Mr. HÉBERT. To do which thing, Colonel?

Colonel HOLLADAY. Threaten to shoot other American soldiers.

Mr. HÉBERT. That's what you mean?

Colonel HOLLADAY. Yes, sir.

Mr. GUBSER. Which did you, in your conversation with Major Watke, consider the most serious revelation that he made to you? The fact that an American had had to threaten American troops, or the alleged massacre?

Colonel HOLLADAY. Would you say that again, sir?

Mr. GUBSER. In this 2 hour conversation, which impressed you the most, the fact that an American, Thompson, had to threaten an advancing American troop, or the fact of the alleged massacre?

Colonel HOLLADAY. The alleged massacre. I considered the confrontation..if that's what it was, as an outgrowth of that product of it, if you will.

Mr. GUBSER. You felt the allegation amounted to an allegation of a war crime?

Colonel HOLLADAY. I don't know that I thought of that term. I think I thought of it in terms of murder. I think that that's the term I would possibly have thought of.

Mr. STRATTON. In other words, if I could just sort of nail down my previous question, in other words, you felt that the alleged killings must have been a very substantial portion in order to have had this kind of effect on Mr. Thompson, to do something that was so unusual in the ordinary combat situation? Is that correct?

Colonel HOLLADAY. Yes, sir. I was, if I can use the term, overwhelmed by the magnitude of the killing that took place down there that day. And as a part of that, there had been a confrontation between one of my pilots and ground troops.

Mr. REDDAN. Did Major Watke give you any figure as to the possible number of civilian casualties at My Lai 4?

Colonel HOLLADAY. The figure 120 sticks in my brain, and I don't remember whether—I can't sit here and tell you under oath that it was an outgrowth of that conversation or not. I think it was.

Mr. REDDAN. Now, in your conversation with Major Watke that night, did you have any discussion with him as to how to handle this matter?

Colonel HOLLADAY. I am sure we did. It was my decision at this time to handle the report, and it was my decision whether to go that night and wake up General Young, or to wait until the following morning. And I did in fact wait until the following morning.

Mr. REDDAN. And the next morning you went to see General Young?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Was this before breakfast or after breakfast?

Colonel HOLLADAY. This was after breakfast. I put it some place around 7, 7:30. We ate at 6 o'clock.

Mr. REDDAN. Did you see him in his quarters or his office?

Colonel HOLLADAY. His office.

Mr. REDDAN. And could you tell us about that meeting, and what was said?

Mr. STRATTON. First of all, if I could interrupt, you went from where to where, Colonel? You were based at LZ Uptight, was it?

Colonel HOLLADAY. No, sir, I was at Ky Hau.

Mr. REDDAN. It is not on that map. It may be on the larger map over on your left.

Colonel HOLLADAY. I doubt it. Ky Hau wasn't much of a swinging town. It was just up the road from Chu Lai.

Mr. STRATTON. Oh, I see. To the north of Chu Lai, then?

Colonel HOLLADAY. Yes, sir. Only three-quarters of a mile or so.

Mr. STRATTON. And you came to Chu Lai to see General Young?

Colonel HOLLADAY. Yes, sir. At the division headquarters.

Mr. STRATTON. Thank you.

Mr. REDDAN. If you would just continue, then. You came in to see General Young, and just tell us your conversation with him, what he said to you, what you said to him, to the best of your recollection.

Colonel HOLLADAY. General Young was my immediate superior.

Mr. REDDAN. Was Major Watke or anyone else accompanying you?

Colonel HOLLADAY. Yes, he did, Major Watke came with me.

Mr. REDDAN. Was anyone else present beside you, Major Watke, and General Young?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. All right. Go ahead, sir.

Colonel HOLLADAY. General Young was my boss, my immediate superior, assistant division commander. And, well, he had a little hole in his door that you could see through, and on many occasions I would just look through that window and if he wasn't on the phone, I'd go on in. And I say that because I don't remember saying anything to anyone else that morning, the clerk that sat out there or his aide, nor anyone else. I believe that's what I did. I simply looked through that window and saw that he was not on the telephone and walked into his office, and told him that I had something that he should know.

He said, "Come on in." And Major Watke and I went in, and I asked Major Watke to relate the same story that he had told me the preceding night, which he did.

Mr. REDDAN. In the same substance?

Colonel HOLLADAY. The same substance, yes, sir.

Mr. REDDAN. Did he tell General Young that there had been a large number of civilians killed by the ground forces?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. How long was your meeting with General Young that morning?

Colonel HOLLADAY. I would put it at about 45 minutes, I think we were in there.

Mr. REDDAN. Did General Young question Major Watke as he told his story?

Colonel HOLLADAY. I can't remember any specific questions, but there were interruptions from time to time, as I recall that conversation.

Mr. REDDAN. Could you gather from the general's questions, or his acceptance of your story, whether or not this was the first time he had heard of this?

Colonel HOLLADAY. It was my impression that it was the first time.

Mr. REDDAN. Did he comment on it in any way?

Colonel HOLLADAY. Yes, sir. He was very much concerned with the possibility of Americans firing into Americans, or at Americans, the so-called confrontation. He was very, very concerned about that.

Mr. REDDAN. Was he at all concerned about the killings of the civilians?

Colonel HOLLADAY. Yes, he was.

Mr. REDDAN. Did he say anything about that? Did he characterize it in any way?

Colonel HOLLADAY. The one way I remember him characterizing this is saying, "That's murder." And again he was certainly concerned about it, but he was much more concerned, which surprised me a little bit, because mine was just the other way around, about the confrontation, the possibility of one American shooting another.

Mr. STRATTON. May I just interrupt a moment and make sure I understand.

You were more concerned about the civilian killings; he was more concerned about the confrontation?

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. Colonel, your impression, at this date and at that time, was it your impression that Major Watke in repeating the story that Thompson told him, did he indicate that Thompson said he saw a sergeant shooting a machinegun or a rifle into this crowd?

Colonel HOLLADAY. Yes, sir, firing into it, I believe.

Mr. HÉBERT. He saw him firing?

Colonel HOLLADAY. Yes, sir, as I remember the story.

Mr. HÉBERT. And you don't remember him saying that he put two and two together, these are my words, that he heard a burst of fire—

Colonel HOLLADAY. No, sir, not at all.

Mr. HÉBERT. He saw fire?

Colonel HOLLADAY. He saw the sergeant shooting into this group of people in the ditch.

Mr. HÉBERT. You are positive on that now?

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. All right.

Mr. REDDAN. Now, was any decision made or was there any discussion there with General Young that morning as to how this matter should be handled?

Colonel HOLLADAY. I don't recall the discussion. However, I was confident that it would be taken care of. I don't remember any instructions being issued at that time.

Mr. REDDAN. Did he ask you for a written report of this?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. Did he ask to see Mr. Thompson?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. Did you ever interview Mr. Thompson yourself?

Colonel HOLLADAY. No, sir, I did not.

Mr. REDDAN. Did you ever request a written report from him?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. Do you know whether Mr. Thompson ever made a written report of this incident?

Colonel HOLLADAY. No, sir, I don't.

Mr. REDDAN. Did Major Watke stay with you throughout this whole interview?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. At the conclusion of this discussion, you and Major Watke left General Young's office?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. And at that time, it was your impression that General Young was going to cause an investigation to be made of this? Did I understand your testimony correctly?

Colonel HOLLADAY. I am not sure that I can say that I was left with the impression that General Young was going to cause an investigation.

I was satisfied that we had told him this story, and satisfied that something would be done. I have sort of felt that it is out of my hands now.

Mr. REDDAN. Did he ask you to do anything further?

Colonel HOLLADAY. If he did, sir, I don't remember what it was, in conjunction with that meeting.

Mr. REDDAN. Did he ask or suggest to you not to do anything further?

Colonel HOLLADAY. Oh, no, sir.

Mr. REDDAN. In other words, he didn't say something to you to the effect, all right, now, you have told me this, I will take care of this, you don't have to concern yourself with it any further?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. He said nothing of that sort?

Colonel HOLLADAY. No, sir.

Mr. STRATTON. Did you feel a little surprised that there wasn't some decision, some indicated course of action, that would come from your immediate superior in connection with a matter of that magnitude and one that apparently also concerned him?

Colonel HOLLADAY. I wasn't particularly surprised at that moment, that he wouldn't have done something like that. I would have been surprised if he had never done anything.

Mr. STRATTON. Well, wouldn't it be your expectation that at least he would indicate something that was going to be done, when a subject of that magnitude was brought to his attention?

Colonel HOLLADAY. Well, here again, I was satisfied that he was going to do something about it. Now I don't remember how I got this satisfaction. I don't remember him giving me any words, such as you have quoted here, Mr. Reddan. I don't remember those words.

Mr. REDDAN. I wasn't quoting anyone. I was trying to see if I could refresh your recollection on any such an incident having happened.

Colonel HOLLADAY. I don't remember how we concluded it. I don't even remember leaving there. But I know I was mentally satisfied that we had done the right thing.

Mr. STRATTON. You don't recall him saying, well, now, this is a pretty serious charge. We'd better proceed a little bit cautiously to make sure we really know what we are doing, or something of that kind?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. Did he indicate that he was going to report the matter to General Koster?

Colonel HOLLADAY. If he did at that time, I don't remember it. He did tell me later that he had reported it to General Koster.

Mr. REDDAN. He told you later he had reported what Major Watke had told him that day?

Colonel HOLLADAY. The phrase, as I remember him saying it to me was, I told General Koster about that thing down there. About that business down there—words to that effect.

Mr. REDDAN. By "that business" you understand him to mean My Lai?

Colonel HOLLADAY. Oh, yes, sir.

Mr. REDDAN. How long after your discussion with him did he say this to you?

Colonel HOLLADAY. This was either on the evening of the 17th, or the 18th.

Mr. REDDAN. Either the same day or the next day?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Did he indicate to you in any way what General Koster's reaction was?

Colonel HOLLADAY. No, sir.

Mr. REDDAN. Did you ever have an occasion to discuss this matter with anyone else there at the division level?

Colonel HOLLADAY. Yes, sir, I told the Chief of Staff the story that same afternoon.

Mr. REDDAN. The same afternoon that you talked with General Young?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. The 17th?

Colonel HOLLADAY. The 17th.

Mr. REDDAN. And where did this conversation take place, and if you will tell us who, if anyone else, was present?

Colonel HOLLADAY. The conversation took place in Colonel Parson's office. There was nobody else present.

Mr. REDDAN. Did Major Watke accompany you?

Colonel HOLLADAY. No, sir, he did not.

Mr. REDDAN. Did you call for an appointment with Colonel Parsons? Did he know you were coming?

Colonel HOLLADAY. I went to see Colonel Parsons rather frequently in the course of my job. I was also, in addition to being the battalion commander, I had a staff hat as a division aviation officer. And he had impressed upon me on more than one occasion that part of my duties were to keep him informed as to what I was doing.

And on that basis I went in and told him of my meeting with General Young that morning and what the substance of the conversation was about.

Mr. REDDAN. This was your reason for going there that morning, then, that afternoon, or whenever it was, to discuss this with him?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. And did Colonel Parsons indicate that he had already heard of this?

Colonel HOLLADAY. No, sir, he didn't, I didn't get the impression he had ever heard of it before.

Mr. REDDAN. And did you relate, to the fullest extent that you recalled, what Major Watke had told you?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. And you told him about the confrontation, and about the civilian deaths?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. And could you tell us what Colonel Parsons said, if anything?

Colonel HOLLADAY. Colonel Parsons was very much shaken by this news. He had one of those general officers' chairs, and I remember his grabbing the sides of it like that and saying, "That is murder."

Mr. REDDAN. He used the same phrase that General Young had used, then.

Colonel HOLLADAY. Yes, sir. And another thing I remember him saying there was, "We are trying to win these people over, and we do things like this." If there were other remarks, they were similar to that.

Mr. REDDAN. Did he indicate to you what he was going to do with this information?

Colonel HOLLADAY. No, sir. Or if he did—if he did, I don't remember. It hasn't clung to me.

Mr. REDDAN. You told him you had already reported this to General Young?

Colonel HOLLADAY. Yes, sir. And he wanted to know why I had taken it to General Young, and I explained to him that General Young was my immediate superior, my boss, my commander, if you will.

Mr. REDDAN. Would it have been possible, without violating the chain of command, for you to have gone directly to General Koster with this information?

Colonel HOLLADAY. Would it have been possible?

Mr. REDDAN. Yes. In other words, would it have been improper for any reason for you to have gone directly to General Koster?

Colonel HOLLADAY. Yes, sir. In my judgment, it would have been.

Mr. REDDAN. In other words, the chain of command, you felt, was the route to be taken, and you went to your immediate superior with this information?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Your conversation with Colonel Parsons lasted about how long, would you estimate?

Colonel HOLLADAY. Oh, it was very brief. I don't think it could have been more than 10 or 15 minutes.

Mr. REDDAN. Did you ever raise a question with General Young or Colonel Parsons, or anyone else, as to why these civilian casualties were not reflected in the evening briefing on My Lai?

Colonel HOLLADAY. No, I never raised that question.

Mr. REDDAN. Do you know whether anyone did? Did anyone raise that in the briefing that evening, or the next evening?

Colonel HOLLADAY. Would you ask the question again, Mr. Reddan?

Mr. REDDAN. Yes, I am just wondering whether anyone, after word got back to the division, with respect to civilian casualties—and we know that it got to you and to General Young and to Colonel Parsons, at least, and we can assume that they went to others with it—I was

wondering if anyone had raised the question as to why these civilian casualties had not been recorded and discussed in the evening briefing.

Colonel HOLLADAY. Well, those casualties were reported, and I don't recall the briefing, but it is in the record that they were reported as enemy dead, not as civilians.

Mr. REDDAN. Well, now, did you ever have any discussions with anyone else at the division headquarters, or at the brigade, with respect to either the confrontation or the civilian casualties, or both, at My Lai 4?

Colonel HOLLADAY. The following day, I am talking about the 18th now—

Mr. REDDAN. The 18th.

Colonel HOLLADAY. General Young had directed me and Major Watke to meet him down at LZ Dottie.

Mr. REDDAN. And you flew down there? Was this in the morning or the afternoon?

Colonel HOLLADAY. It was in the morning. This would be the morning of the 18th.

Mr. REDDAN. Just you and Major Watke flew down?

Colonel HOLLADAY. No, I flew down by myself and met Major Watke down there, as I remember it.

Mr. REDDAN. I see. And you met with General Young at that time?

Colonel HOLLADAY. We met with General Young, Lieutenant Colonel Barker, Colonel Henderson, Major Watke and myself.

Mr. REDDAN. Do you recall where the meeting took place?

Colonel HOLLADAY. Yes, it was in Colonel Barker's quarters. Well, I think in Korea and in the Second World War they called them regimental vans. It was sort of like a trailer. The thing that would go on a two-and-a-half-ton truck.

Mr. REDDAN. And could you describe this meeting, what took place?

Colonel HOLLADAY. We gathered in Colonel Barker's quarters. Now, this is where he lived, slept at night. And General Young opened the meeting by saying, "Nobody knows about this except the five people in this room." And I thought at the time, presumed at the time, still do for that matter, that he was talking about the meeting.

And whereupon at the conclusion of that phrase, or thereabouts, he turned to me and said, "Go ahead, Colonel Holladay," or "John," which he sometimes called me, and I said, "Major Watke, please tell the same story that you told General Young yesterday morning and myself the night before that," which he did.

Mr. REDDAN. And how long did this meeting take?

Colonel HOLLADAY. Well, I have said before that I thought it took about 45 minutes. But I was told or read in a statement somewhere that the log down there showed General Young only being there for 20 minutes. Now, the log notwithstanding—

Mr. DICKINSON. Your recollection is 45 minutes?

Colonel HOLLADAY. Yes, sir. The log notwithstanding, I would say that it was considerably longer than 20 minutes, but I would concede something short of 45.

Mr. REDDAN. Maybe a half hour or 35 minutes?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Now, was Major Watke permitted to continue with his story uninterrupted, or did they break in with questions?

Colonel HOLLADAY. No, sir, he told the complete story. I remember at the time being somewhat surprised that there were no interruptions from Colonel Barker or Colonel Henderson. And there were none, to my recollection.

Mr. REDDAN. Did Colonel Barker or Colonel Henderson indicate in any way that they had some information of this prior to Major Watke's recitation?

Colonel HOLLADAY. I had the feeling, sir, that they knew what was coming when we came down there, and I had the feeling that throughout Major Watke's discussion that they already knew about it, yes.

Mr. REDDAN. Did Colonel Henderson or Colonel Barker make any observations as to their knowledge of this matter from their having overflowed the area the day before?

Colonel HOLLADAY. I don't remember either one of them saying a word during that entire discussion. If they said anything, I don't remember it.

Mr. REDDAN. What did General Young say?

Colonel HOLLADAY. At the end—Major Watke went through his whole story there, this now being the third time that I had heard it. General Young turned to Colonel Henderson and there may have been some transition conversation here, but I don't recall it. General Young turned to Colonel Henderson and said, "I want you to investigate this," obviously talking about what Major Watke had just finished revealing.

"I want you to investigate this and have it to me." And then he gave a time, and as I remember it it was a very short period of time, a remarkably short period of time, it sticks in my brain even today. But the time I can't tell you. I want to say that it was 72 hours, but I can't. It seems to me that the thing that I have on my brain was even less than that, because I thought at the time, an investigation of something of this magnitude, in this period of time, which is very short, would have been extremely difficult, if not impossible.

Mr. REDDAN. Did Colonel Henderson indicate in any way that he had already started an investigation of this matter?

Colonel HOLLADAY. Not that I can remember, sir.

Mr. REDDAN. Was he given any specific instructions as to how to conduct the investigation?

Colonel HOLLADAY. I don't remember that either.

Mr. REDDAN. At any time during this meeting or subsequent thereto, while you were still in the area, did you observe Mr. Thompson?

Colonel HOLLADAY. If I saw him, I don't remember that either. It may well have been. The Aero-scout company was down there.

Mr. REDDAN. Did you know Mr. Thompson at that time, to see?

Colonel HOLLADAY. I am sure I did, because we got three or four of these officers from division artillery, when we first organized this, and he was really from the division artillery. But I can't remember seeing him prior to this, no, sir.

Mr. REDDAN. Now, if in connection with any investigation which Colonel Henderson might make, if he wishes to interview anyone under your command, should he have come to you first, for permission to do so? Or would he have been authorized to go directly to anybody he wanted to talk to?

Colonel HOLLADAY. Well, it is normal in the military that you come to the commander.

Mr. REDDAN. If he didn't come to you initially for permission, would it have been normal for anyone interviewed to have reported that fact to you?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Now, at any time were you ever informed, either officially or unofficially, directly or indirectly, that Colonel Henderson had interviewed anyone under your command?

Colonel HOLLADAY. I don't remember receiving such information. If I was, I don't remember it.

Mr. REDDAN. Now, you have told us of your conversation with General Young, then Colonel Parsons, and then this group meeting at Colonel Barker's hootch or van.

Mr. STRATTON. Could I ask a question here before we leave that meeting in the van. Do you recall General Young making any particular comment at the conclusion of Major Watke's story?

Colonel HOLLADAY. No, I don't remember it. As I said earlier, there may have been some remarks to transition the thought of the group from what Major Watke had said—

Mr. STRATTON. Did you have any impression as to the kind of aspect of this story that Colonel Henderson was supposed to be investigating it? Was it one part of the incident or the whole incident?

Colonel HOLLADAY. As I understand it, when General Young said to Colonel Henderson, "I want you to investigate this," it was the substance of the story that Major Watke had just related.

Mr. STRATTON. You indicated earlier that in your discussion with General Young, you got the impression that he was most concerned about the confrontation. Did he make any reference to that confrontation, that you recall, during the discussion in the trailer?

Colonel HOLLADAY. He repeated that at some time in there. We don't want Americans shooting Americans. Now, that may well have come at the conclusion of Fred's remarks, and I believe, yes, he did say that again, in the van, and I am sure, and I would think probably at the end of that, of Fred Watke's story.

Mr. STRATTON. Thank you. That is all.

Mr. REDDAN. Now, did you have occasion thereafter to discuss this matter with anyone else either at the division or brigade level or elsewhere?

Colonel HOLLADAY. Do you mean in a formal sense?

Mr. REDDAN. Either formal or informal. Formal, first, in a formal sense.

Colonel HOLLADAY. Let's see where we are. We are past the meeting in the van. And then it may have been subsequent to that time that General Young told me he had told General Koster. This was the 18th. Now, the next time that I ever discussed it in any formal sense was when I saw the investigation.

Mr. REDDAN. You saw the investigation. You mean a copy?

Colonel HOLLADAY. A copy of the investigation that Colonel Henderson conducted.

Mr. REDDAN. Just for the record, Colonel, I will show you a copy of what has been given to us as being the report which was made by Colonel Henderson. This is a report dated April 24, 1968. Subject: Report of inquiry. Is that the report to which you just made reference?

Colonel HOLLADAY. It didn't have any enclosures when I saw it.

Mr. REDDAN. It just had the—

Colonel HOLLADAY. This is all I saw.

Mr. REDDAN. Just a two-page report?

Colonel HOLLADAY. Page and a half.

Mr. REDDAN. A page and a half report, signed by Colonel Henderson.

Mr. DICKINSON. Do I understand that the first two pages are a copy of the report which you did see from Colonel Henderson, without the attachments?

Colonel HOLLADAY. Yes. I didn't see the attachments.

Mr. DICKINSON. Yes.

Colonel HOLLADAY. I just saw that page and a half.

Mr. DICKINSON. But this is the page and a half that you referred to, and this is a copy of it?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. Thank you.

Mr. REDDAN. Could you tell the committee, Colonel, under what circumstances you saw that report?

Colonel HOLLADAY. Well, I wouldn't normally see this. I wasn't in the chain of people that would comment on it. And as I recall, the time when I did see it was in the afternoon, late afternoon, and Colonel Parsons, the chief of staff, showed it to me, and it was revealed to me in the context, "Have you seen this?" or "Here, you want to see something?" Or "Come here, John, I want to show you something." Something like that. And I read it.

Mr. REDDAN. Could you tell us approximately when this was?

Colonel HOLLADAY. I would have placed it, Mr. Reddan, before the 24th of April, but with that date on there, I can't very well say that, so I will just have to say it was sometime subsequent to that. In my brain it was before then.

Mr. REDDAN. Probably very close to that date, then, if it was after that date?

Colonel HOLLADAY. I would say so, yes, sir.

Mr. STRATTON. When would you put it yourself, Colonel? The last date we have is the 17th or 18th, when you met in Colonel Barker's trailer. How soon thereafter would you have thought, yourself, that you saw this?

Colonel HOLLADAY. I would have thought perhaps in the middle of April that I had seen this thing.

Mr. STRATTON. So it is a week one way or the other?

Colonel HOLLADAY. But it would have to be the end of April.

Mr. REDDAN. Did you have any comments when you read the report?

Colonel HOLLADAY. Yes, sir. I said, "——."

Mr. REDDAN. What were you seeking to convey by that statement, sir?

Colonel HOLLADAY. Well, the fact, or my opinion, anyway, was that investigation did not address the allegations that had been brought back by Mr. Thompson. And I presumed at the time that that investigation was in response to General Young's directive, but it was not responsive to the content of things that prompted him to issue that directive.

Mr. REDDAN. Did Colonel Parsons have anything to say in response to your statement?

Colonel HOLLADAY. If he said anything, I don't remember the words, Mr. Reddan, but I do remember that he sort of smiled at me, and I gathered the impression that he agreed with my comment at that time.

Mr. STRATTON. You said, Colonel, that you felt it wasn't responsive. By that you mean you didn't feel that what it said and what it concluded were really the true story, is that correct?

Colonel HOLLADAY. Yes, sir. That is true. That is what I thought.

Mr. REDDAN. Did it occur to you at that time that this might be characterized as a cover-up?

Colonel HOLLADAY. Yes, sir, I think that that is the term I have used before, and testified to.

Mr. STRATTON. And just so that there is no mistake, the conclusion of this document, which perhaps, Mr. Chairman, we ought to include in the record at this point, the conclusion of this document, as I understand it, is that there were 20 noncombatants who were inadvertently killed in either the preparatory fires or crossfires on the 16th of March. Is that correct?

[The following information was received for the record:]

REPORT OF INVESTIGATION BY COL. ORAN K. HENDERSON

1. (U) An investigation has been conducted of the allegations cited in Enclosure 1. The following are the results of this investigation.

2. (C) On the day in question, 16 March 1968, Co C 1st Bn 20th Inf and Co B 4th Bn 3rd Inf as part of Task Force Barker, 11th Inf Bde, conducted a combat air assault in the vicinity of My Lai Hamlet (Son My Village) in eastern Son Tinh District. This area has long been an enemy strong hold, and Task Force Barker had meet heavy enemy opposition in this area on 12 and 23 February 1968. All persons living in this area are considered to be VC or VC sympathizers by the District Chief. Artillery and gunship preparatory fires were placed on the landing zones used by the two companies. Upon landing and during their advance on the enemy positions, the attacking forces were supported by gunships from the 174th Avn Co Co B, 23rd Avn Bn. By 1500 hours all enemy resistance had ceased and the remaining enemy forces had withdrawn. The results of this operation were 128 VC soldiers KIA. During preparatory fires and the ground action by the attacking companies 20 noncombatants caught in the battle area were killed. US Forces suffered 2 KHA and 10 WHA by booby traps and 1 man slightly wounded in the foot by small arms fire. No US soldier was killed by sniper fire as was the alleged reason for killing the civilians. Interviews with LTC Frank A. Barker, TF Commander; Maj. Charles C. Calhoun, TF S3; CPT Ernest L. Medina, Co Co C, 1-20; and CPT Earl Michles, Co Co B, 4-3 revealed that at no time were any civilians gathered together and killed by US soldiers. The civilian habitants in the area began withdrawing to the southwest as soon as the operation began and within the first hour and a half all visible civilians had cleared the area of operations.

3. (C) The Son Tinh District Chief does not give the allegations any importance and he pointed out that the two hamlets where the incidents is alleged to have happened are in an area controlled by the VC since 1964. COL Toen, Cmdr 2d Arvn Div reported that the making of such allegations against US Forces is a common technique of the VC propaganda machine. Enclosure 2 is a translation of an actual VC propaganda message targeted at the ARVN soldier and urging him to shoot Americans. This message was given to this headquarters by the CO, 2d ARVN Division o/a 17 April 1968 as matter of information. It makes the same allegations as made by the Son My Village Chief in addition to other claims of atrocities by American soldiers.

4. (C) It is concluded that 20 non-combatants were inadvertently killed when caught in the area of preparatory fires and in the cross fires of the US and VC forces on 16 March 1968. It is further concluded that no civilians were gathered together and shot by US soldiers. The allegation that US forces shot and killed 450-500 civilians is obviously a Viet Cong propaganda move to discredit the

United States in the eyes of the Vietnamese people in general and the ARVN soldier in particular.

5. (C) It is recommended that a counter-propaganda campaign be waged against the VC in eastern Son Tinh District.

(S) Oran K. Henderson, Col., Infantry, Commanding.

THE AMERICAN DEVILS DIVULGE THEIR TRUE FORM

The empire building Americans invade South Vietnam with war. They say that they came to Vietnam to help the Vietnamese people and that they are our friends.

When the US Soldiers first arrived in Vietnam they tried to conceal their cruel invasion. They gave orders to the US soldiers to be good to the Vietnamese people thus employing psychological warfare. They also employed strict discipline which required US soldiers to respect the Vietnamese women and the customs of the Vietnamese people.

When the first US soldiers arrived in Vietnam they were good soldiers and they paid when they made purchases from the people. They would even pay a price in excess of the cost. When they did wrong they gave money to indemnify their deeds. They gave the people around their basecamps and in nearby hamlets medical aid. US newspapers often printed pictures of US troops embracing the Vietnamese people and giving candy to children. The American Red Cross also gave medical attention to the Vietnamese. This led a small group of ARVN's to believe that the American man was a good friend and had continued pity for the people. The Army Republic of Vietnam was happy to have allies which are such good friends and who are rich.

But, it is a play and every play must come to an end and the curtain come down. The espionage was very professional and clever. If the plan is completed it will one day become saucy, because all the people will know what they are trying to hide and what they are really doing to the Vietnamese people.

They continue to produce this play but each year they receive fewer victorious responses. Each year they are attacked by the enemy in the south and they are being defeated more every day. This play lies to the people and will soon be disclosed to them. Today the Americans cannot cover anything. Now they only kill and rape day after day. Their animalistic character has been uncovered even by the American civilians. In Saigon there are some Americans that put their penis outside of their pants and put a dollar on it to pay the girls who sell themselves. The Americans get laid in every public place. This beast in the street is not afraid of the presence of the people.

In the American basecamps when they check the people they take their money, rings, watches, and the women's ear rings. The Americans know the difference between good gold and cheap bronze. If the jewelry is of bronze they do not take it.

Since the Americans heavy loss in the spring they have become like wounded animals that are crazy and cruel. They bomb places where many people live, places which are not good choices for bombings, such as the cities within the provinces, especially in Hue, Saigon, and Ben Tro. In Hue the US newspapers reported that 70% of the homes were destroyed and 10,000 people killed or left homeless. The newspapers and radios of Europe also tell of the killing of the South Vietnamese people by the Americans. The English tell of the action where the Americans are bombing the cities of South Vietnam. The Americans will be sentenced first by the Public in Saigon. It is there where the people will lose sentiment for them because they bomb the people and all people will soon be against them. The world public objects to this bombing including the American public and that of its Allies. The American often shuts his eye and closes his ear and continues his crime.

In the operation of 15 March 1968 in Son Tinh District the American enemies went crazy. They used machine guns and every other kind of weapons to kill 500 people who had empty hands, in Tinh Khe (Son My) Village (Son Tinh District, Quang Ngai Province). There were many pregnant women some of which were only a few days from childbirth. The Americans would shoot everybody they saw. They killed people and cows, burned homes. There were some families in which all members were killed.

When the red evil Americans remove their prayer shirts they appear as barbaric men.

When the American wolves remove their sheepskin their sharp meat-eating teeth show. They drink our peoples blood with animal sentimentality.

Our people must choose one way to beat them until they are dead, and stop wriggling.

For the ARVN officer and soldier, by now you have seen the face of the real American. How many times have they left you alone to defend against the National Liberation Front? They do not fire artillery or mortars to help you even when you are near them. They often bomb the bodies of ARVN soldiers. They also fire artillery on the tactical elements of the ARVN soldiers.

The location of the ARVN soldier is the American target. If someone does not believe this he may examine the 39th Ranger Battalion when it was sent to Khe Sanh where its basecamp was placed between the Americans and the Liberation soldiers. They were willing to allow this battalion to die for them. This activity was not armed toward helping South Vietnam as is the National Liberation Front but was to protect the 6,000 Americans that live in Khe Sanh.

Can you accept these criminal friends who slaughter our people and turn Vietnam into red blood like that which runs in our veins?

What are you waiting for and why do not you use your US Rifles to shoot the Americans in the head—for our people, to help our country and save your life too?

There is no time better than now

The American Rifle is in your hands

You must take aim at the Americans head and

Pull the trigger

STATEMENT

This statement is in reference to letter from the Son Tinh District Chief to the Quang Ngai Province Chief Subject: Allied forces Gathered People of Son-My Village for Killing, dated 11 April 1968.

The Son Tinh District Chief received a letter from the Village Chief of Son-My Village containing the complaint of the killing of 450 civilians including children and women by American troops. The Village Chief alleged that an American unit operating in the area on 16 March 1968 gathered and killed these civilians with their own personal weapons. The incident took place in the Hamlets of Tu-Cong and Co-Luy located in the eastern portion of Son Tinh District. According to the Village Chief the American unit gathered 400 civilians in Tu-Cong hamlet and killed them. Then moved to So-Luy hamlet. At this location the unit gathered 90 more civilians and killed them.

The Son-My Village Chief feels that this action was taken in revenge for an American soldier killed by sniper fire in the village.

The letter was not given much importance by the District Chief but it was sent to the Quang Ngai Province Chief. Later the Son Tinh District Chief was called and directed by the 2d Division Commander, Col. Toan, to investigate the incident and prepare a report. The District Chief proceeded to interview the Son-My Village Chief and got the same information that I have discussed above. The District Chief is not certain of the information received and he had to depend on the word of the Village Chief and other people living in the area.

The two hamlets where the incident is alleged to happen are in a VC controlled area since 1964.

Colonel HOLLADAY. Are you asking me if that is what that—

Mr. STRATTON. Yes.

Colonel HOLLADAY. Yes.

Mr. STRATTON. And it is that conclusion that you would characterize as not true, or a coverup?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. Thank you.

Mr. REDDAN. Did you thereafter have any discussions with General Young or anyone else with respect to your thoughts concerning this investigation of Colonel Henderson's?

Colonel HOLLADAY. No, sir. I did not. I presumed at the time that Colonel Parsons revealed this to me that it was in the state of going up to the command section. And I never heard nor saw it again until this thing blew up.

Mr. REDDAN. Now, did you thereafter have any occasion to discuss this matter, formally or informally, with anyone else while you were incountry, in Vietnam?

Colonel HOLLADAY. I am sure I discussed this with a variety of people, but who and where and under what circumstances I just can't pin it down for you.

Mr. REDDAN. Did your command subsequently receive a commendation from MACV for its participation in the My Lai operation on March 16?

Colonel HOLLADAY. Yes, sir.

Mr. REDDAN. Upon receipt of that, what did you do, if anything?

Colonel HOLLADAY. Well, I called Major Watke into my office. I am not sure about that. I don't know whether I called him in there or he just happened to come in there at that time. And showed him this thing, this congratulatory message. And told him at the time that I felt that we were included as an addressee on it, not because of what we had done, because we hadn't done anything, that was so out of the ordinary, but that this was something to keep us quiet. That is what I thought at the time.

Mr. STRATTON. This was a message or commendation from General Westmoreland?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. To your unit, the Aeroscouts?

Colonel HOLLADAY. No, sir, it was a commendation from General Westmoreland to C of the 20th and Task Force Barker. It was retransmitted as a Koster-type message, and we were included as an addressee.

Mr. STRATTON. So what you received was from General Koster?

Colonel HOLLADAY. Yes.

Mr. STRATTON. Then the question of who was trying to keep you quiet comes up. I would take it that you are suggesting that this came from General Koster in an effort to keep you quiet, rather than from General Westmoreland. Or are you suggesting both of them?

Colonel HOLLADAY. Certainly not General Westmoreland, because—well, when I use the term "they" it did not include General Westmoreland, and it did not, oddly enough, include General Koster.

Mr. STRATTON. Well, I think I may know what you mean, Colonel, but could you explain that just a little bit?

Colonel HOLLADAY. I mean that when I received that message, that I was prompted to think that they had sent it to us as a little bone here, and as something to keep up quiet.

Mr. STRATTON. Right.

Colonel HOLLADAY. All right. I am coming to that. When I think of "they" then and now I do not include General Koster in the term "they." Now, that would be everybody else except him.

Mr. STRATTON. All right. Well, now, you mean in other words everybody else in the Americal Division headquarters except General Koster?

Colonel HOLLADAY. Everybody else associated with or in the command group, I would have to have said that, yes.

Mr. STRATTON. Now without going into the question of why you think General Koster should not be included, let me ask you this, because this seems to me to be somewhat significant, too. How can these individuals maneuver a commendation out of General Westmoreland?

Colonel HOLLADAY. Wait a minute, Mr. Stratton. You haven't got that thing down yet. That emanated from General Westmoreland based upon a report that he received. Then he sent it to C of the 20th and Task Force Barker.

Mr. STRATTON. Well, you are suggesting—I want to make sure that I understand this—I got the impression that the whole idea of commending this operation was something that “they” had cooked up, meaning presumably General Young and the others in the command hierarchy, in an effort to keep the story of the killings quiet. And therefore, somebody in the Americal Division hierarchy would have had to have gotten to somebody in Saigon to come up with an appropriate commendation.

Colonel HOLLADAY. No, sir.

Mr. STRATTON. If I understand what you are saying, you are not suggesting that. You are simply suggesting that the action report filed on the My Lai 4 operation was glowing enough to stimulate this kind of response from Saigon, and that by sending you a copy, they were indicating their desire to sort of commend you and thereby hopefully keep you quiet. Is that what you have in mind?

Colonel HOLLADAY. No, sir.

Mr. STRATTON. Well, Mr. Chairman—

Mr. HÉBERT. Wait a minute.

Mr. STRATTON. I am just trying to understand what it is.

Mr. HÉBERT. Go ahead, Mr. Reddan.

Mr. REDDAN. Colonel, I will show you a copy of the message. It is unclassified, and it is from Westmoreland to General Koster, subject, congratulatory, I guess it is, message, and ask you if this is the message that you are referring to.

Colonel HOLLADAY. This is the original message, Mr. Stratton. Then this was retransmitted, with an additional paragraph, in which I was included as an addressee. The additional paragraph added to this original message was the only one that originated in the Americal Division headquarters.

Mr. REDDAN. Are you an addressee on that message, Colonel?

Colonel HOLLADAY. This message?

Mr. REDDAN. Yes.

Colonel HOLLADAY. No, sir.

Mr. HÉBERT. Read that message, Colonel.

Colonel HOLLADAY. It is from MACV to CG, Americal Division. Info CG-3, who was our immediate headquarters. Unclassified. There is a number there. From General Westmoreland for Major General Koster. “Info, Lieutenant General Cushman. Subject, Congratulatory Message. Operation Muscatine contact northeast of Quang Ngai City on or about 16 March dealt enemy heavy blow. Congratulations to officers and men of C First of the 20th Infantry and E Fourth of the Third Infantry for outstanding action.”

And there was another paragraph added here at the Americal headquarters. I don't have a copy of this thing with me at the moment.

Mr. GUBSER. Would you paraphrase what it said?

Colonel HOLLADAY. It said, "I would like to add my congratulations to Task Force Barker," I think it said, "and all others participating in this operation," something like that.

Mr. GUBSER. And that is what made you an addressee, is that right, that addition?

Colonel HOLLADAY. I am not sure I know what made me an addressee.

Mr. GUBSER. Your unit participated.

Colonel HOLLADAY. Yes, my unit did participate.

Mr. STRATTON. You were listed as an addressee on the message with the added endorsement signed by General Koster?

Colonel HOLLADAY. Added paragraph.

Mr. STRATTON. You were not an addressee on the initial message?

Colonel HOLLADAY. That is right.

Mr. STRATTON. And I repeat again, and I am simply trying to understand what you are saying. As far as you know, the congratulatory message from General Westmoreland simply came in the normal course, based on the action reports that he had gotten from the Americal Division on that operation?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. Is that right?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. And the attempt to try to pressure you in some subtle way was simply in connection with putting you on the distribution list for the endorsed message which was sent out from the division headquarters?

Colonel HOLLADAY. Yes. I believe it was sent out to the CO of the 11th Brigade and the CO of the 123d Aviation Battalion.

Mr. HÉBERT. These were headed by General Koster.

Colonel HOLLADAY. Well, they were added on.

Mr. HÉBERT. Signed by General Koster. I am confused.

Colonel HOLLADAY. No, it wasn't signed by General Koster. It was, you know these things they have got releasing officers and drafting officers and that sort of thing. The front of it did say, "Koster sends."

Mr. GUBSER. It was addressed in his name?

Mr. HÉBERT. That is what I mean.

Colonel HOLLADAY. Yes.

Mr. HÉBERT. Released in his name.

Colonel HOLLADAY. Yes.

Mr. HÉBERT. He would have to assume responsibility. That is what I am trying to find out. Not General Westmoreland. It was added to what General Westmoreland had sent, and if you followed the chain, it would have to go through Koster then down.

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. All right.

Mr. STRATTON. But in practice, Colonel, a lot of messages are sent out in combat over the signature of a commander, a commanding general, which the commander himself never actually sees, somebody else is authorized to send it in his name, isn't that correct?

Colonel HOLLADAY. I would hesitate to give that universal acceptance. I am not sure that that is entirely true.

Mr. STRATTON. Well, I know I have sent messages signed "MacArthur," so it does occur. I assume that that is what you meant when you said you didn't think that General Koster himself was involved in the effort to try to keep you quiet?

Colonel HOLLADAY. That is exactly what I meant about that particular message.

Mr. STRATTON. So you were under the impression that somebody else had sent it and had been authorized to sign his name to it.

Colonel HOLLADAY. I don't want to get hung up on the authorization to sign his name. His name isn't signed to this thing anyplace. His name is on it.

Mr. STRATTON. Well, you don't sign a telegram or a message anyway.

Colonel HOLLADAY. Well, there are several signatures on this piece of paper, showing who drafted it, who approved it, who dispatched it. That sort of thing.

Mr. STRATTON. I see. All right. I will let it go there.

Mr. REDDAN. Colonel, do you have any other information that we have not asked you about here today, or which you haven't told us about, about this My Lai 4 matter, which would help us to understand either what took place there that day, or how the matter was subsequently handled by the Army?

Colonel HOLLADAY. You mean subsequently handled—you don't mean clear up to the Peers inquiry?

Mr. REDDAN. No, I mean within 6 months after March 16, 1968?

Colonel HOLLADAY. No, sir. I saw that investigation, and shortly thereafter, well, not shortly, a couple of months, on the 18th of July, I left the division. I never heard anything more about it.

Mr. REDDAN. And you next heard about it when?

Colonel HOLLADAY. November of last year.

Mr. REDDAN. You were interviewed by the CID?

Colonel HOLLADAY. Well, subsequent to that time I was. I read it in a newspaper out in Salt Lake.

Mr. REDDAN. That is all I have.

Mr. HÉBERT. Colonel, you have had quite a bit of experience in three wars. You have been in combat, I presume, on numerous occasions, have you not?

Colonel HOLLADAY. Yes.

Mr. HÉBERT. Infantry?

Colonel HOLLADAY. Yes sir.

Mr. HÉBERT. What theaters did you operate in in combat?

Colonel HOLLADAY. I have had four tours in the Far East. I wasn't one of those European fortunates. I was in New Guinea during World War II, and in Korea, and in Vietnam.

Mr. HÉBERT. Now, in these combats, in your close association with the troops in the field, and I am trying to get the mental attitude of soldiers now, of infantrymen, fellows who are fighting the fight in there day in and day out, did anything ever occur similar to this that came to your attention?

Colonel HOLLADAY. No, sir. And may I elaborate on that?

Mr. HÉBERT. Certainly.

Colonel HOLLADAY. I went into the Army as a draftee in 1942. I was an automatic rifleman in a rifle company, in New Guinea. I rose all the way to second lieutenant by the time the war ended, as an in-

fantry officer. I was in Korea in the 17th Infantry Regiment as a platoon leader in a rifle platoon, as a company commander of a heavy weapons company, and later on as the operations officer at the regiment.

And subsequent to that I spent another year and a half as a company commander of a rifle company in Europe. Not in a war. Another year and a half as operations officer in an infantry, line infantry unit. It is just unbelievable to me, with that background, that this thing could occur.

I have seen private soldiers who have been in combat, dirty business, upon capturing a prisoner, give him a cigarette as the first order of business, or attempt a good interrogation. I have never heard of or seen anything that remotely compared to this, as I understand it to be. The worst thing I ever saw in World War II was a guy in the Coast Guard ran off of his ship and cut the ear off of a dead Japanese soldier, and people in my regiment, which was the 41st Infantry Division, the 168rd Infantry Regiment, were aghast at anybody behaving this way.

And we certainly never did. I have associated with infantrymen most of my life. They don't behave this way.

Mr. STRATTON. Were you with the 41st in New Guinea too?

Colonel HOLLADAY. Yes, sir.

Mr. HÉBERT. You then have not seen soldiers react to what happened in prior days to their outfits and their comrades?

Colonel HOLLADAY. Yes, sir, I have seen the whole gamut. I have seen young soldiers commit suicide because they couldn't stand the pressure. I have seen them killed both by the enemy and inadvertently. It is just not the infantry soldier that I have known in a long, long association, spanning three wars.

Mr. HÉBERT. But you wouldn't say it could not have happened. You never heard of officers giving commands not to take prisoners?

Colonel HOLLADAY. I think those were the orders we had in New Guinea, because it was way late in that campaign before we ever took any. But I think they had the same orders, too.

Mr. HÉBERT. What would you take those orders to mean?

Colonel HOLLADAY. Well, I would take it to mean that you kill the enemy and you don't take any prisoners.

Mr. HÉBERT. That is what I mean.

Colonel HOLLADAY. Yes.

Mr. HÉBERT. But in a civilian area, you have never been confronted or exposed to anything of this nature, if it did take place like it is alleged to have taken place?

Colonel HOLLADAY. No, sir.

Mr. DICKINSON. Colonel, since we are getting somewhat into an area of philosophy, I think it might be appropriate at this time to ask you, based on your conversations and background and experience, if you would in any way describe the present soldier, inductee, trainee, private, as he is brought into action, as any different from the soldier in the Korean War or World War II that was similarly situated? Do they react differently? Are they better or worse soldiers? Is there anything about them that would make them react differently from what you are accustomed to in your whole professional career as a soldier? I guess I can summarize by saying is there any difference in the kids today than in the past. And, if so, what?

Colonel HOLLADAY. I don't think they are a great deal different. I think they are pretty much the same bunch of kids.

Mr. DICKINSON. Would your experience in Vietnam lead you to believe that the use of pot, marihuana, was substantial, and, if so, could it affect the attitude and the conduct of our young men in battle?

Colonel HOLLADAY. I commanded a battalion of some 700 soldiers. Of course, these are airplane mechanics and crew chiefs and that sort of thing, for a little over 6 months. And during that period of time, we had two cases, and to the very best of my knowledge, those were the only two cases we had in the battalion.

Now, I will just say this, if they were smoking pot in my battalion, I never knew it, and we had a guy come down there, provost marshal type military policeman, and showed us this cigarette, and lighted it so that we could smell it, and it does have a peculiar odor. And I never smelled it again, until I had been reassigned at Long Binh. I was going to my quarters one night, the trailer, and on the way down there, I smelled this smell again. But where it was coming from, I haven't the foggiest idea. And that's the only time I had anything to do with it or even heard about it.

I was reading in the Stars and Stripes all of the time that everybody was going around smoking pot. And I never saw it.

Mr. DICKINSON. Well, of course, the purpose of my question is to help the committee, if help can be obtained, in trying to get a handle and a grasp on how something like this could occur, if in fact it did. Of course, something did occur. Something very unusual occurred. But there is nothing in your experience that would give any clue as to why this could come about here and now, where it had not in your whole experience in the Army.

Colonel HOLLADAY. Personal observation?

Mr. DICKINSON. Yes. That is all I know that you can speak from.

Colonel HOLLADAY. The criteria for success in this war used to be body count. And many people have put forth the theory that this was the underlying cause of something like this to happen. And I am really not so sure that they are not right. The criteria for success was body count and conversely the criteria for failure was the lack of it.

People want to succeed. I am not enough of a psychologist to plumb that sort of thing to its depth, but I do believe it is worthy of consideration.

Mr. DICKINSON. Mr. Chairman, I believe I probably got us somewhat far afield.

Mr. HÉBERT. No; you didn't.

Mr. DICKINSON. But I do think in order for us to be able to get a grasp as to how it happened and how could it have happened, a man who has devoted his entire life in the ranks and as a commissioned officer with the men, I think, Colonel Holladay is certainly in a position to aid us. And I thank you for your candor.

Mr. GUBSER. Following through on Mr. Dickinson's line of questioning, Colonel, would you say that the type of enemy encountered in this war was different than in any other war that you have been involved in?

Colonel HOLLADAY. Oh, yes, sir.

Mr. GUBSER. I know what you are going to say, but just for the record would you, in your own words, say how it differed?

Colonel HOLLADAY. Well, I would have to preface that with my experience in this war has been quite different from the other two. While I commanded an aviation battalion, I came back to my quarters every night and got in a nice, clean bed, with sheets in it, and which is a great part of any war, as I am sure you are aware, and tends to, I believe, alter your thinking somewhat. But this guy is very cunning, well-trained, well-equipped in many cases, highly motivated, resourceful, and probably another string of adjectives along that same line of thinking. And I can't help but say that he comes from a group somewhere that are resolved—they are going to hang in there; they are just that tenacious.

Mr. GUBSER. Would you address yourself to any differences, if any, between the GI's to discern between combatants and noncombatants in this war, as opposed to others?

Colonel HOLLADAY. Well, of course in other wars, soldiers were very easily identified. They were on that side and you were on this side, and it was all very convenient. And he had a specific uniform and you had a specific uniform. And it was very easy to determine who the enemy was.

Mr. GUBSER. There weren't any women and children mixed in with the combatants in the other wars, were there?

Colonel HOLLADAY. Not insofar as the ground forces were concerned, in my experience.

Mr. GUBSER. Well, Colonel, is it true that a great many women and children are combatants in the sense—I mean in this war—that they can boobytrap you and they can toss grenades and they sometimes have weapons?

Colonel HOLLADAY. Oh, I'm sure that that's been documented many, many times, yes, sir.

Mr. GUBSER. Well, would it be fair to say that—I am not trying to excuse this thing at all, but would it be fair to say that the GI in this war, in that respect, is up against a little, quite a different circumstance than the GI in any other war? And he has, in this war, less ability to be sure that a woman or a child or an elderly person is in truth a noncombatant?

Colonel HOLLADAY. I would know the difference.

Mr. GUBSER. You would?

Colonel HOLLADAY. Yes, sir. If you're going to ask me how, I am not sure I can answer.

Mr. GUBSER. No; I'm not going to. To get off on a little different line of questioning, did you ever, Colonel, talk personally with Mr. Thompson about this situation?

Colonel HOLLADAY. No, sir, I did not.

Mr. GUBSER. Did the citations in which Mr. Thompson and his crew chief were written up go through your office?

Colonel HOLLADAY. Yes, sir.

Mr. GUBSER. Now, you had to OK it?

Colonel HOLLADAY. I approved.

Mr. GUBSER. And then sent it to higher—

Colonel HOLLADAY. Sent it up to division.

Mr. GUBSER. As I recall that citation, it stated that Warrant Officer Thompson set his helicopter down between hostile forces in the midst of a fierce firefight. You read it, Jack, would you please?

Mr. REDDAN. I believe this is the document you referred to, Colonel, as the one that you approved or signed. I will ask you to take a look at this.

Colonel HOLLADAY. Well, I didn't. Gary Langstone signed it for me, my executive officer. But I will be happy to answer questions about it.

Mr. REDDAN. All right. But that is the document to which you referred, is that right?

Colonel HOLLADAY. Yes.

Mr. REDDAN. The record should show that the Colonel has identified the document to which he just referred, and it was signed in his name by his executive officer.

Colonel HOLLADAY. Gary Langstone.

Mr. REDDAN. What was his rank?

Colonel HOLLADAY. He was a Lieutenant Colonel.

Mr. REDDAN. And the recommendation reads as follows: The narrative description:

Warrant Officer Hugh C. Thompson, Jr., Serial Number W3156451, distinguished himself by exceptionally valorous actions while engaged in military operations against a hostile force in the Republic of Vietnam. W. O. Thompson was piloting an OH-23 observation helicopter as part of an Aero-Scout reconnaissance team screening for elements of Task Force Barker, approximately ten miles northeast of Quang Ngai, Republic of Vietnam. Viet Cong snipers had been spotted to the front of advancing friendly elements. Approximately 15 children were spotted by him, hiding in a partially destroyed bunker between friendly and hostile forces. Unhesitatingly he landed his helicopter and supervised moving of the children to an area where one of his armed helicopter escort aircraft could fly them to a secure area. Only moments later he spotted a wounded Vietnamese child, landed and evacuated the child to a nearby hospital. His courage and selfless devotion to duty saved a number of innocent lives and greatly enhanced the Vietnamese-American relations. His valorous actions are in keeping with the highest traditions of military service and reflect great credit upon himself, his unit, the Americal Division, and the United States Army.

Mr. GUBSER. In other words, the citation states that Thompson landed his helicopter between hostile forces and that the friendly forces were receiving fire from Viet Cong snipers, as I hear the citation read.

Now, your command signed that, and the evidence that you had as to the truth of that statement was way beyond Warrant Officer Thompson's account and the crew chief's account of the incident?

Colonel HOLLADAY. Well, I have never seen this, and I can't really comment upon that particular citation. But I used to hound my people to get them to get their people recognized, and as far as I am concerned, sir, they earned a Distinguished Flying Cross every day. If I had had my way I would have issued one of them every day. But I really can't discuss this thing with you, because I thought that I had approved it.

Mr. GUBSER. What I am trying to establish, and let me state it in a clear-cut fashion, and you can either affirm or say it is wrong. That you did not talk with Warrant Officer Thompson, and I presume further that you did not talk with his crew chief, and apparently the information upon which this citation was based came from the statement by the crew chief about Thompson, and from the statement by Thompson about the crew chief.

Now, to your knowledge, there was no investigation that went beyond that point to determine the truth of this?

Colonel HOLLADAY. No, sir.

Mr. GUBSER. Just for your own edification, and I won't ask you to comment upon it, but I think it only fair to tell you that the crew chief testified under oath that he saw no firing that day, except a shot fired by Captain Medina, which killed a woman. And that Thompson also testified, under oath, that he saw no firing that day, except the shot fired by Medina. And that's an inconsistency that simply does not square up. Is it proper for me to tell the witness about Thompson's testimony on this?

Mr. HÉBERT. Of course it is. I think the Colonel is entitled to know, because he is here now appearing as having approved something, which is very important. First of all, you have to be under enemy fire to receive the Distinguished Flying Cross, as I understand it. That is one of the requirements, isn't it, Colonel, that you have to be under enemy fire?

Colonel HOLLADAY. It can be awarded meritoriously. That particular one is for valor, which would indicate that there had been some enemy fire.

Mr. HÉBERT. There was no fire. There was no sniper fire, according to Thompson.

Mr. GUBSER. And I think, in fairness to you further, that you should know that when asked about the truth of this portion of this citation, Mr. Thompson took the fifth amendment. And he answered all other questions put to him that day, but would not answer any questions having to do with that citation and invoked the fifth amendment. I don't ask you to comment on it.

Mr. HÉBERT. Further, I think the Colonel should also know, which would seem to be quite an issue, about turning the guns on American troops. Mr. Thompson denied that, or that he threatened to shoot any American.

Colonel HOLLADAY. He denied that?

Mr. HÉBERT. Yes, sir, emphatically denied that.

Mr. GUBSER. We put it to him half a dozen different ways, and the only thing that he would admit to was that he asked his crew to cover him, because he said, "We are in Vietnam and the Viet Cong are everywhere."

Mr. HÉBERT. It was a routine cover, not against the American troops. He was specific on that and denied that he ordered any of them to shoot an American. Denied he transmitted a radio conversation, "If he shoots me. I'll shoot him."

This is the general language. Denied every bit of that. And the reason we are asking you, because it is only fair to you, Colonel, and I think the record should show why we ask these questions, and that is why I asked you if the story Thompson told Major Watke was that he saw these killings. He denied that. He heard a burst or concluded or deducted, having seen the individuals in the ditch, concluded that he had fired. But he didn't see any firing. He denied it.

Mr. GUBSER. Will the chairman yield? I don't recall he said he heard a burst. He said he saw a rifle raised to a firing position.

Mr. HÉBERT. Immediately after the clack, clack, or whatever it was.

Mr. GUBSER. Didn't he also say that could have been the whip of the helicopter rotor? Because that does sound like rifle fire.

Mr. STRATTON. Mr. Chairman, could I just comment on one thing? I think we have got to be clear that what we are talking about now is

Lieutenant Thompson's testimony in the last couple of days. Frankly, I read the transcript, and I am not sure just how I would evaluate the testimony. I don't think we have to take what he said as necessarily the gospel truth about what actually happened.

Mr. HÉBERT. No; but we are talking about, Mr. Stratton, the previous testimony that Warrant Officer Thompson gave.

Mr. STRATTON. He gave different testimony in December from what he gave the other day?

Mr. HÉBERT. That is correct. But concerning the testimony about turning the guns on American troops, I, personally, was the one that cross examined him at that time, and he denied it then.

Mr. STRATTON. I remember that.

Mr. HÉBERT. He denied it then. Yet the press carried a big story about how he had turned them on. He equivocated and on Friday denied it emphatically.

Mr. STRATTON. If the Colonel doesn't have any response to that, could I pick up from that point?

Mr. HÉBERT. We don't ask for any response.

Mr. GUBSER. I am finished. I just wanted the Colonel to know that.

Mr. HÉBERT. We don't ask the Colonel to comment. We want him to know what the situation is.

Colonel HOLLADAY. Well—I must say that that comes as something of a surprise to me. And the story that Fred Watke brought back about Lieutenant Thompson was that he would fire or shoot the advancing Americans if they didn't leave those 12 people alone. That was the story I had 2 years ago.

Mr. HÉBERT. We know that.

Mr. GUBSER. Before we leave this, just one question. It is true, is it not, that the entire basis upon which you took this first to General Young, and then on the 18th a conference was held at LZ Dottie, the entire basis which started that chain of events was your listening to Major Watke's account of Warrant Officer Thompson's account? And that was the entire basis of the action you took?

Colonel HOLLADAY. Principally Warrant Officer Thompson's account. There were others, the names of whom I can't recall specifically with that conversation. He mentioned other names during this.

Mr. GUBSER. Major Watke did?

Colonel HOLLADAY. Yes, sir. But I can't remember them.

Mr. GUBSER. But Major Watke's report to you was the entire basis of the action which you took?

Colonel HOLLADAY. Yes, sir.

Mr. GUBSER. And that was almost entirely based, but not entirely based, upon Warrant Officer Thompson's account?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. Well now, Colonel, there is no question in your mind as to what Major Watke told you, is that correct?

Colonel HOLLADAY. No, absolutely none.

Mr. STRATTON. And I take it that you would certainly believe that what Major Watke told you was what Lieutenant Thompson, or WO Thompson at that time, had told him?

Colonel HOLLADAY. Yes, sir.

Mr. STRATTON. Now, let me come at this from a slightly different point of view. You said that you made no investigation, no further

investigation of this matter, and no particular discussion was had with Mr. Thompson himself?

Colonel HOLLADAY. That's true.

Mr. STRATTON. We have heard testimony of people who discussed this so-called confrontation, in which they have suggested that there was some question as to whether this kid should have gotten a medal or whether he should have been court-martialed. Did that discussion ever come to your attention? The idea of having a confrontation between American troops?

Colonel HOLLADAY. No, but I thought about it. I thought it might. And I was mildly surprised that it never did.

Mr. STRATTON. Well now, could you tell me, as best you know, where this citation came from? And who it was that really initiated it?

Colonel HOLLADAY. This DFC?

Mr. STRATTON. Yes, sir.

Colonel HOLLADAY. I would have to say that I believe Major Watke initiated it, but it could very easily have been somebody else.

Mr. STRATTON. I have always been a little bit disturbed about this whole citation, for two reasons. One, because there seemed to be so few witnesses to the actual incident. And, secondly, because as the chairman has just indicated, until you came along, the testimony that we had indicated that there wasn't any real shooting going on, no enemy, and this perplexes me a great deal with regard to the citation.

And you have mentioned now, in connection with this message that you got from American headquarters, sending on the congratulatory telegram from General Westmoreland, that you thought maybe it was done to keep you quiet on this particular subject.

Recognizing that Mr. Thompson was the primary source of the information about these very serious charges, could it conceivably be that there was some kind of an effort made to give him a decoration, in the hope that maybe he would stay quiet, and that that might possibly account for the difference between the story as it was told to Major Watke, and to you and the story as it was testified to before this committee and the full committee earlier this year?

Colonel HOLLADAY. Let me see if I can rephrase your question so that I understand it?

Mr. HÉBERT. Certainly. You do the testifying. Mr. Stratton is merely trying to help you.

Colonel HOLLADAY. Are you asking me if Thompson was given this DFC to keep him quiet?

Mr. STRATTON. That is right. Yes.

Colonel HOLLADAY. No, sir.

Mr. STRATTON. Well, you are quite sure of that?

Colonel HOLLADAY. Yes, sir, I certainly am.

Mr. STRATTON. And you don't feel that it is out of line with the action that he took, especially if it could have bordered on a kind of military insubordination that might even be subject to court-martial?

Colonel HOLLADAY. You're going to have to ask me again.

Mr. STRATTON. Well, what I tried to say before was that many people have taken the view before this committee, in testimony, that perhaps Mr. Thompson should have been court-martialed for aiming his guns at American forces. The fact that he ended up by getting a citation instead of a court-martial looks as though it might have been

a kind of special bit of goodies presented to him. Could this have been undertaken in an effort to get him to stay quiet about this particular subject?

Colonel HOLLADAY. No, sir. It just couldn't be.

Mr. STRATTON. Were you aware of any discussion, rumors, in the time from this occasion until you finally left Vietnam, of the enormity of these killings and so on, that were alleged in My Lai?

Colonel HOLLADAY. Was I what?

Mr. STRATTON. Were you aware what went on in My Lai was a subject of some general discussion in the military, among the troops and so on?

Colonel HOLLADAY. Yes. I was to a certain extent. But you will have to consider, Mr. Stratton, at that time, at least as far as I was concerned, I sort of lived from crisis to crisis. And this thing fell into the events of history very rapidly in my mind, in the light of the rapidity with which things were happening on a day by day basis.

Now, I had a life and death crisis on my hands every day, and today's life and death crises belong to today, not yesterday.

Mr. STRATTON. Oh, I understand that, Colonel. I am just trying to determine whether, when you indicated that you felt that something had been done in an effort to kind of keep you quiet on this subject?

Colonel HOLLADAY. That is true.

Mr. STRATTON. Since obviously you weren't satisfied with the action taken by the Americal Division, whether in spite of those efforts to keep various people who knew about this quiet, the word had somehow leaked out?

Colonel HOLLADAY. Well, I couldn't associate that with this DFC and Mr. Thompson in any way.

Mr. STRATTON. I am not. This is an entirely different subject. I am trying to find out whether, before you left Vietnam, in July, you were aware that something of this particular incident might have gotten out.

Colonel HOLLADAY. Well, I was aware that people knew about it before I left the division. And I got down into the delta, I don't remember hearing about it again, from anybody.

Mr. STRATTON. One other question. How long were you with the division before the My Lai incident?

Colonel HOLLADAY. I took command of the battalion, at this time it wasn't a battalion, but that's neither here nor there, on the 12th of January 1968. So a couple of months.

Mr. STRATTON. There have been reports, mainly in the press, and I don't entirely rely on them, but I just wanted to check them against somebody who was actually there, that prior to the events of the 16th of March, there was a good deal of what might be called the sloppy operations, where American soldiers were less than let's say scrupulous in dealing with civilians. Was this your experience at all?

Colonel HOLLADAY. Now, you are narrowing this to the Americal Division? Or are you talking about the whole war?

Mr. STRATTON. Well, I am talking primarily of your area, yes. I think there was an allegation specifically with regard to Captain Medina's company and maybe even the platoon involved. But within your area of operations.

Colonel HOLLADAY. I used to wonder sometimes how you could have a relatively high body count and extremely low number of weapons

captured. These events are in the record, I presume, in the log of the Americal Division.

Mr. STRATTON. You are referring to other operations now?

Colonel HOLLADAY. Other operations.

Mr. STRATTON. All right.

Colonel HOLLADAY. Trying to respond to your question.

Mr. STRATTON. As far as you were aware, was there any systematic attempt made by division headquarters to indicate what the policy was with respect to dealing with civilians?

Colonel HOLLADAY. Yes, General Koster held commander's conference in which he addressed this problem specifically. And later I am sure a copy of it—or maybe it was about that time, a thing was published, as I remember it, it was sort of a commander's note type thing.

Mr. DICKINSON. One question, Colonel. Just to clear up a point: You made the statement earlier that not only was what you did prompted by Major Watke's report, but that other names were mentioned also. And would you clear up for me and for the record, in what connotation the others were mentioned? Did others also make reports of shootings or killings besides Thompson?

Colonel HOLLADAY. Others had seen this killing of civilians on the ground.

Mr. DICKINSON. Go ahead and answer as fully as you can.

Colonel HOLLADAY. Well, there were other people who had seen it in the aero-scout company but——

Mr. DICKINSON. And these people were known to Major Watke?

Colonel HOLLADAY. Yes.

Mr. DICKINSON. And they, too, contributed to his report as to what had transpired there?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. As to the civilians killed?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. But their names were not mentioned in the report, but only Mr. Thompson's?

Colonel HOLLADAY. I am sure they were mentioned in the report, but I can't specifically pin them down. Never have been able to.

Mr. DICKINSON. Was this just an oral report now?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. So there had been no written record of this?

Colonel HOLLADAY. No, sir.

Mr. DICKINSON. And it might be redundant, but to reiterate, Major Watke reported a number of people in his command, and aboard the gunships, the supporting aircraft, had reported in substance what Mr. Thompson had said, that there were indiscriminate killings of civilians on the ground by ground troops that day, and this prompted him to bring the report to you?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. Is this correct?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. Now, to make another point clear, if I may. You said that prior to leaving that area, and I think you went south, you said it was—you said, "I was aware that people knew about it." But when you went down into the Delta area, you didn't hear any more about it.

Could you tell what you meant by "knew about it?" What did you refer to by the "it"?

Colonel HOLLADAY. Well, I think that there were a great many people, a number of people in the division headquarters and around that knew about the affair at My Lai that occurred on the 16th of March, that has come to be known as a massacre. And I think they knew it in the context that there were a lot of civilians killed down there that day, indiscriminately, or excessively, or whatever term was applicable. That they were not enemy. I think a lot of people in the division knew that.

Mr. DICKINSON. Is this just an impression.

Colonel HOLLADAY. It is an impression.

Mr. DICKINSON. Or is there any peculiarity you can hang a hat on?

Colonel HOLLADAY. No; it would have to be an impression, if I can call it that.

Mr. DICKINSON. All right. Well now, could you be a little more definitive in telling us what you understood to have been the situation there? What are we talking about in magnitude, in terms of numbers? Are you talking about 20 people, or are you talking about 100? What was in your mind as to how many had been killed there that day and what had happened?

Colonel HOLLADAY. A 120 was in my mind. For the life of me, I don't know where that figure came from.

Mr. DICKINSON. I will tell you where the figure came from, because this was in the battle report as the total killed, and it went in as Viet Cong. And of this, my recollection is that 26 were supposed to be civilians. But I think this was in the report.

Colonel HOLLADAY. I think that number is 128, isn't it?

Mr. DICKINSON. All right, 128. Plus 120 civilians?

Colonel HOLLADAY. No; at the time of the occurrence, and even until today, insofar as Major Watke's story is concerned, the number of people—people killed down there that day that sticks in my mind is 120. The battle report of 128 Viet Cong being killed notwithstanding.

Mr. DICKINSON. Would 120 people killed be exclusive of and in addition to the battle report of the Viet Cong killed?

Colonel HOLLADAY. No, sir.

Mr. DICKINSON. That would be a part of the same?

Colonel HOLLADAY. That would be a total number of people killed down there that day.

Mr. DICKINSON. All right. Now, I came in a few minutes late, and you had already started testifying. And let me ask counsel or the chairman, do we have in the record the statements that have previously been made by this witness as to what Major Watke reported to him, and Major Watke's words?

Mr. REDDAN. Yes.

Mr. DICKINSON. They are in the record today also?

Mr. REDDAN. Yes.

Mr. DICKINSON. All right. If that is all in the record, then I won't go over that again. Thank you, Mr. Chairman.

Mr. HÉBERT. I have one final question, Colonel. You have testified as to your experience, that you never heard of anything of this nature or this type. You also testified that you did know of orders being given to not take prisoners in other wars. Did you find, not as large perhaps a destruction of the civilian population in Vietnam, but of multiple

incidents of individuals killing civilians? Did this come to your attention?

Colonel HOLLADAY. I have that impression, sir, based on my tour over there. If you ask me for a specific incident, I can't give it to you.

Mr. HÉBERT. Well, do you believe, and I am just drawing on your experience now, that since this matter has surfaced, there seems to be a rash of courts-martial involving civilians all of a sudden. Would the impression be that prior to this surfacing of this alleged massacre, no attention was made to these incidents?

Colonel HOLLADAY. No, sir.

Mr. HÉBERT. That all of a sudden it is almost getting to be there are going to be more people court-martialed over there than on the line?

Colonel HOLLADAY. That's the paradox, Mr. Hébert. On more than one occasion, one of my helicopters, inadvertently killed a civilian. And we have had this happen, all hell would break loose, if I may. And an investigation would be conducted. And I was called on the carpet. It didn't make any difference whether it was my helicopter or somebody else's. It was a helicopter. The point being, even in battle, when the gunships would be given smoke by the ground troops, where they want the fire, and the gunships would go in there and shoot and civilians would be killed, instantly we would initiate an investigation as to why. Does that make sense?

Mr. HÉBERT. It makes sense to this extent, but no courts-martial came up until this incident. If there were courts-martial, they were certainly kept very quiet.

Colonel HOLLADAY. I don't know of anyone being court-martialed for killing a civilian during my year there.

Mr. HÉBERT. That is what I am asking. What your reaction would be. Because you say that the soldier has not changed from your experience with him. Yet after this incident surfaced, and keep in mind that it only surfaced after a year's lapse, and then as soon as it surfaced, almost every day, we see that people are being charged with the murder of a civilian. And why did all of a sudden this happen, this year? I can't put 2 and 2 together. It has confused me. None of us are condoning murder, but we asked you into a philosophical discussion to try to find out what temper or mood those boys are in. What causes this. And I think as you said, this is a new enemy. You can't tell them apart. The North and South Vietnamese, as I read it. That sort of thing. That is all I have. I just wanted to find out if you had any comment.

Mr. DICKINSON. I have one question that you just reminded me of. And if this has been covered, tell me, and we won't add to the record. But could you tell us what the practice was and what the orders were the day of March 16 in relationship to the helicopters under your command popping smoke? And as to color and what smoke meant, and what were your orders that day, and what was your custom and practice and the standing order, if any?

Colonel HOLLADAY. Well, in the first place, I can't associate any order about smoke for that particular day.

Mr. DICKINSON. All right. Well, just a moment. Have we covered this?

Mr. LALLY. No, we haven't.

Mr. DICKINSON. I think this is very important, so if you would, Colonel.

Colonel HOLLADAY. Maybe I should tell you that the Aero-Scout Company was sort of given to Task Force Barker every day, as a tool that they could use, and then it belonged to him for that particular time, and he gave them what operational orders he chose. The use of smoke in Vietnam is used for just about everything, in terms of eyeball identification. You pop smoke when you are going into a landing zone to tell you where it is. Different people have different ways of using it. They will pop all red smoke on a cardinal point of the compass for example, in an LZ. I am trying to get to your question by giving you that little preface there.

Mr. DICKINSON. I wish you would just answer it as fully as possible.

Colonel HOLLADAY. What I am going to have to tell you is what operational use they had of smoke by use and color, that day, I don't know. But it was used habitually for absolutely everything.

Mr. DICKINSON. Well, would it be true to say that you would pop smoke to mark identified Viet Cong for instance? Or a person with a weapon? Would a chopper pilot pop smoke in his vicinity? Would this be normal?

Colonel HOLLADAY. Oh, yes. And this would have been an agreed-upon part of the operation, wherever you see red smoke, you are free to fire, or something like that.

Mr. DICKINSON. Right. And would it also be a normal custom and usage and practice to pop smoke if it was a dead Viet Cong with a weapon near him? Would this be a normal operational procedure?

Colonel HOLLADAY. I would be pushed to understand the purpose of that.

Mr. DICKINSON. Well, I am just asking you about the practice.

Colonel HOLLADAY. I wouldn't think so. I don't remember it.

Mr. DICKINSON. You don't know. All right. Would it be usual custom and practice to pop smoke to identify civilians on the ground? Whether wounded or not?

Colonel HOLLADAY. If it were done, it would have to have been a part of the prearrangement on what we are going to do with smoke today, by color and use.

Mr. DICKINSON. All right.

Colonel HOLLADAY. And maybe I am evading your question, but I can't answer it directly because I don't know.

Mr. DICKINSON. No, you're right on point. Which leads me to the \$64 question. How could it be, or could it be, that your pilots would go into an operation, in a backup and assist and cover role that they played, and not know what the signals were? How could it be that one would interpret smoke popped as being a Viet Cong on the ground with a weapon, another could interpret it as a wounded civilian, and a pilot would get the signals mixed and come in and start firing, or one smoke meaning one thing and one another? When is this information given out and who is responsible for disseminating the order and the information, as to the meaning of smoke when it is popped?

Colonel HOLLADAY. Well, in that case, in that operation, on that day, it would have been Frank Barker. He was the—essentially the battalion, and he would have had normally a preoperation briefing in which all of these details would have been worked out.

Mr. DICKINSON. All right. Well, someone from your organization would go to, say, LZ Dottie, and sit in on the briefing?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. And these matters would be covered?

Colonel HOLLADAY. Yes, sir, routinely.

Mr. DICKINSON. In this case, who would that have been?

Colonel HOLLADAY. Well, in that case it would have either been—it would have been either the operations officer or——

Mr. DICKINSON. Who was? You don't recall?

Colonel HOLLADAY. I believe it was Captain Moe or Major Watke. And just who it was, I don't know.

Mr. DICKINSON. Let me give you the reason for my pursuing this line of questioning, and it might be something else that occurs to you that you can help us understand. From some of the testimony we have been given, we are led to the conclusion that due to a mixup on the meaning of smoke popped, one pilot was popping smoke to identify wounded civilians, and the ground troops understood that to be Viet Cong and were killing everyone where the smoke was popped. One of the witnesses has testified, if what they have testified is correct, this is what we are led to believe. So I want to know where is the responsibility, if in fact this occurred. Who makes the decision and how does the word get to your pilot as to what he is supposed to do and how does the word get to the ground troops? It all has to come from the preoperational briefing given by Colonel Barker, at which your man would attend?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. And the meaning of it could change from operation to operation? There was no standard operating procedure or meaning by any color of smoke or the simple popping of smoke?

Colonel HOLLADAY. The meanings changed quite frequently, because sometimes the Viet Cong got hold of the smoke, you know. And they would pop colored smoke, that would mean one thing, and be confusing to the troops.

Mr. DICKINSON. So really we would have to get back to Moe or Watke to find out what the orders were in relation to this?

Colonel HOLLADAY. Yes, sir.

Mr. DICKINSON. And what the understanding, what the orders were, that were given at the meeting.

Mr. HÉBERT. Thank you very much.

Mr. LALLY. I have a couple of questions here. Colonel, directing your attention to the March 18 meeting, do you recall how long General Young stayed at that meeting?

Colonel HOLLADAY. The one at LZ Dottie?

Mr. LALLY. Yes, sir.

Colonel HOLLADAY. I think I said earlier that I thought it to be about 45 minutes.

Mr. LALLY. I see.

Colonel HOLLADAY. But I understand the log shows 20 minutes. So I would add some to that and take some off of my own.

Mr. LALLY. Now, Colonel, at both the March 17 and March 18 meeting, when Major Watke related the story of the pilot, did he on both occasions talk about the civilian casualties?

Colonel HOLLADAY. Major Watke?

Mr. LALLY. Yes.

Colonel HOLLADAY. Yes.

Mr. LALLY. There is no doubt in your mind?

Colonel HOLLADAY. No question in my mind.

Mr. LALLY. That civilian casualties were discussed at both meetings?

Colonel HOLLADAY. Yes, sir.

Mr. LALLY. One final question, Colonel. Did you see any indication among the Americal Command Group, that you referred to previously, of a conspiracy or a plot to cover up this whole incident?

Colonel HOLLADAY. No, sir.

Mr. LALLY. Nothing further. Thank you very much, Colonel.

[Whereupon, at 4:15 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 4:20 p.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, Counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. General, will you identify yourself to the reporter?

TESTIMONY OF BRIG. GEN. GEORGE H. YOUNG, JR.

General YOUNG. My name is Brig. Gen. George H. Young, Jr. I am currently assigned to Headquarters, First U.S. Army, Fort George G. Meade, Md.

Mr. HÉBERT. What was your assignment on March 16, 1968?

General YOUNG. On March 16, 1968, I was the assistant division commander for maneuver of the Americal Division.

Mr. HÉBERT. In Vietnam?

General YOUNG. In Vietnam, yes, sir.

Mr. HÉBERT. Now, General, the committee wants you to know that this committee will protect you and your privacy the entire time that you are under the jurisdiction of this committee. By that I mean this, that you are not compelled to give interviews or make statements or have your picture taken without your consent. The committee gives you full protection.

When you leave the room, you will leave by the door there. There will be an officer there to meet you. If the news media have decided to have a representative—they may have—there will be only one representative, not a flock of reporters and photographers. That one representative of the news media is allowed to ask you one question: "Do you care to make any statement?"

General YOUNG. No, sir.

Mr. HÉBERT. I am not asking you. He may ask you.

If you say "No," that's the end of it. They will not pop flashlight guns in your face and take pictures and put microphones under you. That is what I mean by the committee protecting you completely.

Now, you have been furnished a copy of the rules of the committee, with which you are familiar, and you are able to avail yourself of counsel, which I know you have.

Counsel, will you identify yourself?

Colonel POYDASHEFF. I am Lt. Col. Robert S. Poydasheff. My assistant is—

Captain THOMAS. I am Capt. Michael T. Thomas, currently assigned to Headquarters, First U.S. Army, at Fort Meade.

Mr. HÉBERT. Now, these are counsel of your own choice?

General YOUNG. Yes, sir.

Mr. HÉBERT. Now counsel understands that you are here to protect the rights of your client, and you will be given full permission and an opportunity to do that. You are not here to prompt the witness or suggest to him how he should testify. You are here to warn him of his rights, and to prevent him from answering a question which you do not desire him to answer, and you are not here to make statements of your own accord. Only the witness.

Now, with the instruction, will you stand to be sworn?

General YOUNG. Yes, sir.

[Witness sworn.]

Mr. HÉBERT. All right. Mr. Reddan.

Mr. REDDAN. General, at the present time are you under any charge by the Department of the Army?

Colonel POYDASHEFF. At this time, Mr. Reddan, may I ask you whether it would be permissible for General Young to read his prepared statement to your committee? I think that will explain our position in this matter.

Mr. HÉBERT. Well, if the statement carries an answer to the question that Mr. Reddan asked, yes.

Colonel POYDASHEFF. Yes; it will.

Mr. HÉBERT. All right. You may read your statement.

General YOUNG. Mr. Chairman, gentlemen, as I have indicated I am Brig. Gen. George H. Young, Jr. and I respectfully submit that it is now a matter of public record that in March of 1970, I was charged with various offenses in violation of the Uniform Code of Military Justice. These charges apparently grew out of the testimony given at the hearings conducted by Lt. Gen. William R. Peers during an Army investigation into the alleged incident at My Lai, Republic of South Vietnam, and other prior Army investigations.

It is also a matter of public record, that the charges which have been preferred against me consist of dereliction of duty and failure to obey a lawful general regulation in violation of Article 92, Uniform Code of Military Justice.

My counsel, Lt. Col. Robert S. Poydasheff, and Capt. Michael Thomas, have advised me that these charges are presently pending review and consideration as to disposition by the Commanding General, First U.S. Army, Fort George G. Meade, Md. They have also advised me that the maximum sentence possible for the above-described offenses for which I am accused is dismissal, total forfeiture of all military pay and allowances and confinement at hard labor for not to exceed 4½ years.

I have been advised by counsel that the transcript of the Peers investigation is approximately 20,000 pages in length, plus hundreds of pages of exhibits; that the Army Inspector General investigation is hundreds of pages in length; and that the Criminal Division investigation is likewise hundreds of pages in length.

Further, my chief counsel, Colonel Poydasheff, has only undertaken my representation within the past 2 weeks, and he has advised me that not only has he not had an opportunity to examine and to read

all the testimony, statements and exhibits, but that the bulk of the Peers transcript will not be available until approximately May 15, 1970. As a consequence, he is unable to give me informed advice as to my testimony which this committee might call upon me to give. Accordingly, my counsel had advised me to exercise my rights under the fifth and sixth amendments of the U.S. Constitution and to respectfully decline to answer any questions which may be posed to me at this time concerning the subject being investigated by you gentlemen.

I would also like to point out at this time that I have served my country for almost 28 years. This service includes active participation in three wars, totaling almost 7 years. I am indeed proud of the service I have rendered my country. I am grateful for having had the opportunity to serve since early manhood.

I sincerely appreciate the efforts your committee is making in this matter, Mr. Chairman, and I honestly regret that I cannot at this time be more responsive.

Thank you.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Well, General, as your counsel knows, to avail yourself of your constitutional rights under the fifth and sixth amendments, you cannot do so with a general blanket statement. These have to be made to each question as presented to you. However, because of the time that we have at our disposal here, and because you have already appeared and testified before the staff of the subcommittee, I recommend, Mr. Chairman, that we waive that requirement.

Mr. HÉBERT. In accordance with the recommendation of counsel, the Chair will waive the requirement and excuse you.

Thank you, gentlemen, very much.

General YOUNG. Thank you.

[Witness excused.]

[See further testimony of Gen. Young on page 787.]

[Whereupon, at 4:30 p.m. the subcommittee proceeded to a further witness.]

Mr. HÉBERT. Will you please identify yourself to the reporter?

TESTIMONY OF REV. CARL E. CRESWELL

Mr. CRESWELL. Carl E. Creswell, 1225 Rural Street, in Emporia, Kans.

Mr. HÉBERT. What is your denomination?

Mr. CRESWELL. I am an Episcopalian.

Mr. HÉBERT. Episcopalian.

Now we say this to you, that you are under the full protection of this committee when you are here with us in our jurisdiction. We will give you full protection of your privacy. You are not compelled to give any interviews, answer any questions of newspaper reporters, have your picture taken, without your consent. This is the protection we give you. When you leave, you leave by the door in the back of the room. An officer will be there to meet you, and take you from the room. If the news media so desire, they are permitted one representative for all the media. That representative will be allowed to ask one question and that question is: "Do you care to make a statement or have your photograph taken?"

Answering in the negative, they must retire. They can't ask you anything. They can't pop pictures or put microphones in front of you.

Now, you also have been given a copy of the rules of the committee which I presume you have read.

Mr. CRESWELL. I have.

Mr. HÉBERT. To explain your rights. You have the right of counsel, which obviously you do not avail yourself of. You will be placed under oath. The subject of the inquiry in this room is private. You are not to discuss anything in this room with any unauthorized personnel. With authorized personnel, or another committee, of course it is privy to them.

With that I will ask you to rise to be sworn.

[Witness sworn.]

Mr. HÉBERT. Sit down, please.

Mr. REDDAN. During what period of time were you in the Army, sir?

Mr. CRESWELL. July 1966, to September 1968.

Mr. REDDAN. And during what period were you incountry in Vietnam?

Mr. CRESWELL. October 1967—September 1968.

Mr. REDDAN. In what capacity?

Mr. CRESWELL. Six months chaplain, 1st Battalion, 46th Infantry; 6 months division artillery chaplain, Americal Division.

Mr. REDDAN. As of March 16, 1968, you were with the Americal Division?

Mr. CRESWELL. Yes, sir.

Mr. REDDAN. As you know, we are particularly concerned with what took place at My Lai on March 16, 1968, and also what took place thereafter, in the way of investigations of that alleged incident. Could you tell the subcommittee when it first came to your attention that something untoward had happened at My Lai 4, in that operation task force Barker that day?

Mr. CRESWELL. It came to my attention the day that it happened, which is the 16th or 17th.

Mr. REDDAN. March 16 is the day it happened.

Mr. CRESWELL. Right.

Mr. REDDAN. And could you tell us how that came to your attention?

Mr. CRESWELL. Yes, sir. Mr. Thompson—chief warrant officer now—came to my office to speak to me. He had flown the missions that morning.

Mr. REDDAN. About what time of the day was that?

Mr. CRESWELL. I would estimate about 3 in the afternoon.

Mr. REDDAN. Did he indicate that he had just returned from the operation?

Mr. CRESWELL. I am not sure he had just returned from it.

Mr. REDDAN. Was anyone with him? Did anyone accompany him?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Was anyone in your office at the time?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Could you tell the committee, please, what he told you, and what responses, if any, you may have made at that time, to the best of your recollection?

MR. CRESWELL. Well, sir, he came in. He was upset. He had a matter that he wanted to talk to me about. And what he related to me is substantially what the newspapers have carried.

MR. HÉBERT. Well, you tell us what he told you.

MR. CRESWELL. All right, sir. Well, the only thing I will say, sir, there is a problem because I have read the newspapers and a lot of this might be interpretation from there, too. It has been 2 years.

MR. HÉBERT. We want to know what he told you. We are not interested in what the newspapers have printed. We are only interested in what Mr. Thompson told you.

MR. CRESWELL. He told me that he had flown the mission, combat assault, on what he referred to as Pinkville. He told me that there had been a heck of a lot of civilian casualties, that in his opinion were caused by small arms fire, and that American troops had conducted themselves in a manner that he thought was pretty darn detrimental.

He told me of having evacuated several civilians from the fire zone himself. He told me of a confrontation with an infantry officer on the ground.

MR. DICKINSON. Could you go into detail on that, as fully as you can?

MR. CRESWELL. I am a little bit hampered because I don't remember how many flights he made. Several, I know. The first pass I imagine probably was inserting troops. And then, on a flyback, he discovered a large amount of civilian casualties, which he informed me were in clusters. He said that he saw one group of women and children in a bunker that were being fired on, that he landed between the American troops and the bunker and he evacuated children.

At that point he was approached by a lieutenant whom he did not identify.

MR. HÉBERT. We don't want you to identify him either.

MR. CRESWELL. I won't sir, because I don't know him.

MR. HÉBERT. All right.

MR. CRESWELL. He didn't identify him to me. I didn't know. I don't know who it was. But there were words exchanged at that point.

MR. DICKINSON. Did he tell you what was said or the nature of the conversation?

MR. CRESWELL. Just in substance, sir.

MR. DICKINSON. Tell us what the substance was.

MR. CRESWELL. The substance was that the infantry lieutenant wished he would get out of there and let him run his own operation.

MR. DICKINSON. There had to be a reply. You don't know what was said?

MR. CRESWELL. No, sir, I don't.

MR. DICKINSON. The substance of the exchange.

MR. CRESWELL. No, sir, we didn't get into the verbatim on it.

MR. DICKINSON. There was really no confrontation, from what you say.

MR. CRESWELL. Well, I am trying to remember, I really am. You would think that as often as I have been over this ground, it would be easier, but it is not. I am sure that he told me at one point that he had ordered his own gunner to tell the officer to stand back while he was evacuating these people. He was very angry still at this point, when he was talking to me. As I say, I don't know how many times he went back. I don't know how many civilians he evacuated.

Mr. DICKINSON. I am going to have to leave now to make this roll call.

Mr. HÉBERT. Father, we will have to suspend now until another member arrives. There is a rollcall we have to go on.

[A short recess was taken.]

Mr. HÉBERT. The committee will be in order.

Father, at one point you were positive that Thompson told you that he had ordered his gunners to cover him against the American people?

Mr. CRESWELL. Yes, sir, I am.

Mr. HÉBERT. All right. Continue your story, then. What else happened? He did use the word, "American soldiers?"

Mr. CRESWELL. Yes.

Mr. HÉBERT. All right. Now continue. What else happened?

Mr. CRESWELL. Another thing, by which he was very agitated, he claimed there was no return fire coming from that village. Because of this he thought the measures were being taken—

Mr. HÉBERT. He said there was no return fire coming?

Mr. CRESWELL. That is right, sir.

Mr. REDDAN. Did he tell you how he knew this?

Mr. CRESWELL. Well, it is a matter of experience, sir. When he says there is no return fire that really means he is not being shot at.

Mr. REDDAN. I know. But did he tell you, for instance, at what altitude he was flying, what position he was to observe this, things of that sort, so that we can evaluate what he said?

Mr. CRESWELL. I am not sure he told me specifically, sir. There is a standard method for entering and leaving villages under these conditions. You go in generally at a very low level, at about 100 knots, and you land and then you get out, or you come in about 500 feet and then you pull the cork and drop down as fast as you can.

Mr. REDDAN. Well, did he tell you these things? Or are you just giving us standard procedures?

Mr. CRESWELL. This is the standard procedure and this is what I assume would be done.

Mr. REDDAN. Yes.

Mr. CRESWELL. I am sure that he made a couple of orbits of the village.

Mr. REDDAN. Did he tell you why he was coming to you with this? Did he ask you to do anything?

Mr. CRESWELL. He was looking for advice on what to do himself, sir.

Mr. REDDAN. I see. And did you advise him?

Mr. CRESWELL. I did, sir.

Mr. REDDAN. What did you tell him to do?

Mr. CRESWELL. I advised him to take his allegations to the next highest commander, and request an investigation of the activities. I also told him that I would do the same thing through technical channels.

Mr. HÉBERT. Through what channels?

Mr. CRESWELL. Technical, sir, as opposed to command.

Mr. REDDAN. Had you known Mr. Thompson prior to this time?

Mr. CRESWELL. Yes, sir. We were in division artillery together. He was one of our aviation officers before he transferred to division air.

Mr. REDDAN. Had he ever come to you, with any of his problems before, problems of this nature, I mean?

Mr. CRESWELL. Not this nature, sir, no.

Mr. REDDAN. Had you ever seen him upset or disturbed as he was on this day?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Tell the subcommittee, if you will, please, what you did following your talk with—how long did this talk take.

Mr. CRESWELL. About 30 minutes, I would estimate, sir.

Mr. REDDAN. And what did you do?

Mr. CRESWELL. Well, he went to see the next commander, which would have been Major Watke, the commander of division aviation, and I went and saw Chaplain Lewis, who was Americal Division chaplain. And I passed on the allegations as I had received them, and I asked him to initiate, through technical channels once again, an investigation to find out whether or not they were true or false.

Mr. REDDAN. And did he tell you that he would?

Mr. CRESWELL. He did, sir.

Mr. REDDAN. Now, did he thereafter at any time report back to you on the results of his efforts?

Mr. CRESWELL. Yes, sir.

Mr. REDDAN. What did he tell you?

Mr. CRESWELL. He went to the division briefing that evening and spoke to the chief of staff.

Mr. HÉBERT. That would be whom?

Mr. CRESWELL. That would be Colonel Parsons, sir.

Mr. REDDAN. Did he relate this incident to you?

Mr. CRESWELL. Only the substance, sir, that he had taken the allegations to the Chief of Staff and the Chief of Staff had told him that there would be an investigation of the allegations.

Mr. REDDAN. And this was the night of the 16th?

Mr. CRESWELL. Yes, sir.

Mr. REDDAN. Do you know what time in the evening this briefing took place?

Mr. CRESWELL. Division briefing normally took place at 1630.

Mr. REDDAN. Now, did Chaplain Lewis tell you subsequently any events which took place at that briefing that night that could have related to the My Lai 4 incident?

Mr. CRESWELL. Yes, sir, he did go to the briefing, and apparently when the casualties for the day were given, and as I recall the number was 128 at that point, were killed in the operation in Pinkville, and he said somebody in the back row laughed and said, "Yeah, but most of them were women and children."

Mr. REDDAN. Did he know who made that observation?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Was there any response to that observation, did he say?

Mr. CRESWELL. I wouldn't be able to say, sir.

Mr. REDDAN. I mean, he didn't tell you that there was any response?

Mr. CRESWELL. No.

Mr. REDDAN. Did you ever go back to Chaplain Lewis thereafter to discuss the matter further?

Mr. CRESWELL. Fairly often, sir. We saw each other almost daily.

Mr. REDDAN. And did you ask him how the investigation was proceeding or something to that effect?

Mr. CRESWELL. Yes.

Mr. REDDAN. And what would he tell you when you made these inquiries?

Mr. CRESWELL. He would also assure me that he had been assured that the investigation was in course at that point.

Mr. REDDAN. Did he ever tell you whether or not he went back to Colonel PARSONS again on this matter?

Mr. CRESWELL. Yes, sir, he did.

Mr. REDDAN. What did he tell you in that respect?

Mr. CRESWELL. Only that he had seen the Chief of Staff again, and it was the Chief of Staff who assured him that the incident was being investigated.

Mr. REDDAN. Did he indicate whether he had gone back to the Chief of Staff on more than one occasion?

Mr. CRESWELL. I don't believe he indicated that, sir.

Mr. REDDAN. Did he ever indicate to you that as a result of his visits to the Chief of Staff, he finally got the impression this was not something to be talked about?

Mr. CRESWELL. He never conveyed that impression to me.

Mr. REDDAN. Did you receive any information or did you hear about this My Lai matter from anyone else other than Warrant Officer Thompson?

Mr. CRESWELL. Not in terms of first-person experience, sir.

Mr. REDDAN. Was it a matter of common discussion at Chu Lai?

Mr. CRESWELL. I can only say, not in my particular area of division artillery.

Mr. REDDAN. How did it come to your attention other than through Mr. Thompson?

Mr. CRESWELL. Stars and Stripes.

Mr. REDDAN. Did they have anything in there with respect to civilian casualties?

Mr. CRESWELL. No, sir.

Mr. REDDAN. That is what I am talking about, I am talking about civilian casualties.

Mr. CRESWELL. Right.

Mr. STRATTON. Which Stars and Stripes is this, Chaplain?

Mr. CRESWELL. You mean the date, sir?

Mr. STRATTON. I mean, was this in the area at the time, or are you referring to what developed after the story broke?

Mr. CRESWELL. Right; this is what developed after the story broke. At that point Mr. Thompson was the only one that told me about civilian casualties.

Mr. REDDAN. No other enlisted men or officers came to you with any complaint concerning the My Lai 4 incident?

Mr. CRESWELL. None, sir.

Mr. REDDAN. Did Mr. Thompson indicate to you why he was coming to you for advice as to whether he should report this, or to whom he should report it?

Mr. CRESWELL. I think really he came, sir, because we were rather close personal friends. And I was preparing him for confirmation.

Mr. REDDAN. Had he indicated to you that he had already reported this to anyone prior to coming to you?

Mr. CRESWELL. I don't believe he had, sir.

Mr. REDDAN. Did he say anything from which you could gather that he had reported it by radio that day to anyone?

Mr. CRESWELL. There was some talk about transmission, sir, but I couldn't say to whom.

Mr. REDDAN. Did you ever find out whether any investigation was made of this matter?

Mr. CRESWELL. Yes, sir, I found out that an investigation of some sort had been made by Colonel Henderson, the brigade commander, 11th Brigade.

Mr. REDDAN. Do you recall how that came to your attention?

Mr. CRESWELL. No, sir, I don't.

Mr. REDDAN. Did you ever discuss this with anyone in the PIO office?

Mr. CRESWELL. Yes, sir, the day after the incident I was in the division PIO office, I dropped in for coffee pretty frequently, and I asked them which one of them had covered the Pinkville operation, and apparently nobody from division PIO had. This had been an 11th Brigade operation and their own office had covered it.

Mr. REDDAN. Was anyone from the brigade up there at that time?

Mr. CRESWELL. I don't believe so, sir. I think they were all division.

Mr. REDDAN. Did you ask them how they were going to handle the matter?

Mr. CRESWELL. Yes, sir, I did. And they said that they were going to let the 11th Brigade handle it in their own publication, rather than in the division.

Mr. REDDAN. Did you discuss with anyone there the allegations that Thompson had made to you?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Did you ever discuss those allegations with anyone other than Chaplain Lewis?

Mr. CRESWELL. Only with Chaplain Forrester, who is the assistant division artillery chaplain.

Mr. REDDAN. And when was that?

Mr. CRESWELL. The same week. I can't say exactly when.

Mr. REDDAN. Did you advise him of the allegations which Thompson had made to you?

Mr. CRESWELL. Yes, sir.

Mr. REDDAN. What was your purpose in talking with him?

Mr. CRESWELL. To get his impressions. He was at least as mobile as I was, and quite frankly I wanted to find out if he had found out anything.

Mr. REDDAN. Had he?

Mr. CRESWELL. He denied it, sir. He said he didn't.

Mr. REDDAN. Did you seek any assistance from him in having the matter investigated?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Did you ever talk to the G-5 of the division, Colonel Anistranski?

Mr. CRESWELL. Not regarding this, sir, no.

Mr. REDDAN. Or anyone in his office?

Mr. CRESWELL. No, sir.

Mr. REDDAN. Concerning this My Lai matter?

Mr. CRESWELL. No, sir.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. I think I will defer for a moment.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Chaplain, I missed the early part of your presentation. Perhaps you have already gone into it. You were in on the briefing before the My Lai operation got under way, as I understand it.

Mr. CRESWELL. I was in the Task Force Barker TOC the day before, yes, sir.

Mr. STRATTON. The TOC. And I understand that somebody discussed with you what they planned to do. Was this part of a formal briefing or just a conversation?

Mr. CRESWELL. Just a coffee cup conversation, sir.

Mr. STRATTON. I see. But the indication was that they intended to clean the place out if they got one round of fire, is that right?

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. And you protested that to some extent, and the reply was that it is that kind of a war?

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. Was this a different approach from what Task Force Barker had been taking with respect to other operations in which it had embarked?

Mr. CRESWELL. It is hard for me to say, sir, because I wasn't that close to Task Force Barker. I would just read the official field reports that would come in. I was there because we had an ART assigned.

Mr. STRATTON. I see. Well, what about other operations to which the division ART was assigned? How would this square with those operations?

Mr. CRESWELL. I would say, sir, as normal rhetoric. It really is, you know. This is combat rhetoric. You get one round, you are going to clean them out. Well, nobody really means it, I hope.

Mr. STRATTON. What about in terms of not so much rhetoric, but in terms of what was actually done. Would you say it was fairly normal practice to be a little bit sloppy, as one witness has testified, when it came to taking care of noncombatants, civilians, women and children, et cetera?

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. So that this report of a situation that occurred at My Lai that was brought to you by Warrant Officer Thompson would not have been too much out of line with some of the things that had been going on elsewhere?

Mr. CRESWELL. Except in terms of the numbers involved, sir.

Mr. STRATTON. And did you get the impression that he was quite disturbed and agitated when he came to see you?

Mr. CRESWELL. I did, sir. He was.

Mr. STRATTON. And he was concerned because of the numbers?

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. And he was somebody who had also had some experience, had he not, in other operations in this area?

Mr. CRESWELL. Very much experience, sir.

Mr. STRATTON. And I take it that he discussed it with his chaplain because it was something that was preying on his conscience a little bit?

Mr. CRESWELL. It could be that, sir. It could be the fact that I was his friend, and chaplain was kind of beside the point.

Mr. STRATTON. You said you knew him, so I gather that you had no question about the fact that what he was telling you was the truth as he understood it.

Mr. CRESWELL. As he understood it, yes, sir.

Mr. STRATTON. Were you at all familiar with the effort made later on to award him a Distinguished Flying Cross?

Mr. CRESWELL. Yes, sir. Well, not with the effort. I am familiar with the fruit of the effort. He got it.

Mr. STRATTON. Are you at all familiar with any procedures that were gone through to have it awarded to him?

Mr. CRESWELL. No, sir.

Mr. STRATTON. Were you ever aware of the fact that some people regarded what he did as being less a matter of heroism than a matter of interfering with normal combat operations and that perhaps instead of getting a Distinguished Flying Cross he should have gotten a court martial?

Mr. CRESWELL. I couldn't say I was aware of it, sir, but I know people that have that recollection.

Mr. STRATTON. If we were to tell you, again I hope I am not going over something that has occurred, but if we were to tell you that we have had testimony that suggests a somewhat different story, that Mr. Thompson has been telling, than the one that he related to you, would you have any explanation as to why he should be telling a somewhat different story?

Mr. CRESWELL. No, sir, I wouldn't.

Mr. STRATTON. Would you think that perhaps the award of a medal in a situation of this kind might have been undertaken in an effort to try to keep him from complaining too loudly and to too many people?

Mr. CRESWELL. That would be speculation, sir, but it is not an unheard-of procedure.

Mr. HÉBERT. Come again?

Mr. CRESWELL. I say, that would be speculation, but it is not an unheard-of procedure.

Mr. HÉBERT. To give medals out to keep people quiet?

Mr. CRESWELL. Not particularly to keep them quiet, sir.

Mr. HÉBERT. For what?

Mr. CRESWELL. I think it was really given because he did perform some rather heroic acts.

Mr. HÉBERT. But Mr. Stratton asked you a question and you said that would be speculation, but it was not unusual. Not an unusual procedure.

Mr. CRESWELL. I am working on hearsay again.

Mr. HÉBERT. Well, the scuttlebutt was they give medals to keep people quiet.

Mr. CRESWELL. Yes, sir. There and everywhere, sir.

Mr. HÉBERT. We just want you to tell what you know regarding Vietnam. The scuttlebutt was that they dished out medals?

Mr. CRESWELL. Yes, sir.

Mr. HÉBERT. Go on.

Mr. STRATTON. Mr. Thompson did not tell you when he saw you that he had been questioned on this matter by other officers, Colonel Henderson, Major Watke, or other people?

Mr. CRESWELL. No, sir.

Mr. STRATTON. One final question. When you had a discussion in the PIO office, was Mr. Haerberle one of those who was there at the time?

Mr. CRESWELL. It is impossible, sir, but I can't guarantee it. I don't know him that well.

Mr. STRATTON. I see. And I believe you testified on another occasion that when they told you that "We think we will let the 11th Brigade make that one up," the story of the Pinkville operation, that this was done with a kind of a snicker or a smile, is that a correct representation?

Mr. CRESWELL. Maybe with more of a measure of relief, sir. I don't think they wanted to touch it.

Mr. STRATTON. They didn't want to touch it? Why?

Mr. CRESWELL. Well, sir, even just given the figures from the action, it looked like a rather strange operation.

Mr. STRATTON. There was a feeling that there had been an unusual loss of civilian life, in other words?

Mr. CRESWELL. With a very small recovery of weapons.

Mr. STRATTON. Thank you. That is all I have.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. I presume that you counseled with a great many GI's who came to you with things that were bothering them, is that correct?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. Did you ever, in all your experience, have other matters of conscience brought to you by GI's?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. Did those matters of conscience ever involve the treatment and/or the killing of civilians?

Mr. CRESWELL. Not specifically, no, sir.

Mr. GUBSER. You were in a position to make, I would think, a rather knowledgeable psychological assessment of the GI in that particular area. Do you consider that they were moral people who would be aberrant of the idea of the indiscriminate killing of civilians?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. You would say by and large?

Mr. CRESWELL. By and large.

Mr. GUBSER. Do you remember any exceptions to that?

Mr. CRESWELL. You mean in terms of individuals and instances?

Mr. GUBSER. Yes, I am not going to ask you to name them, but—

Mr. CRESWELL. No, sir. None that really have not been exposed and handled through the apparatus available.

Mr. GUBSER. Is it your opinion that the GI with whom you were confronted had been adequately briefed as to the proper manner in which he should conduct himself so as to protect against indiscriminate killing of civilians?

Mr. CRESWELL. Yes, sir, I think they were well briefed on this.

Mr. GUBSER. Did you serve in any other area of Vietnam besides this one?

Mr. CRESWELL. No, sir.

Mr. GUBSER. Did you sense a feeling among the GI's that even women and children could be dangerous?

Mr. CRESWELL. Oh, absolutely, sir.

Mr. GUBSER. To what extent—maybe this isn't a question that can be answered, but to what extent do you think this permeated the average GI's mind in this area?

Mr. CRESWELL. I don't know, you know, if you can talk about permeation. I think everybody in the theater acknowledges the fact that a woman and a child with a hand grenade are just as lethal a combatant as anybody else. I think the general attitude is, you know, nobody likes to kill women and children, but if they make it a matter of self-defense, then this changes the whole moral situation.

Mr. GUBSER. Well, what I am really trying to get at, and I don't expect you to be able to give me other than your own opinion, is whether there was something in the area that amounted to a psychosis, insofar as women and children, that if there was a massacre, could this have motivated it, could this have been responsible for it?

Mr. CRESWELL. I think not, sir. I think the troops were perfectly willing to accept responsibility for civilian casualties in terms of legitimate operation, but not as a primary focus of an operation.

Mr. GUBSER. For a moment, let me return to your conversation with Warrant Officer Thompson. Now this was the only meeting that you had with him about this incident, at 3 p.m., or between 1500 and 1600 in the afternoon of March 16?

Mr. CRESWELL. No, sir, we talked from time to time afterward, in terms of where the investigation was going.

Mr. GUBSER. Did he ever express any opinion about the progress of that investigation, in your subsequent meetings?

Mr. CRESWELL. Not opinion, sir. The fact that he had been assured through command channels that it was being investigated.

Mr. GUBSER. He never commented upon the results of the investigation made by Colonel Henderson?

Mr. CRESWELL. No, sir.

Mr. GUBSER. Insofar as you can recall, in your conversation with Warrant Officer Thompson in the afternoon of March 16, how much mention of actual firing that he witnessed did he make?

Mr. CRESWELL. The only mention that he made of it was that the Americans were firing and they were not, to his knowledge, receiving any return fire.

Mr. GUBSER. Do you have the impression that he saw Americans firing in numerous instances? Would that be a fair order?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. In other words, your impression of his testimony is that he saw a lot of firing? Or would you rather stick with "numerous?"

Mr. CRESWELL. I would really rather stick with "numerous."

Mr. GUBSER. Certainly more than one shot?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. In relating the experience where he put his helicopter down between hostile forces and friendlies, in order to protect the women and children who were in this bunker, did he mention this firing was going on at that time?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. And that he was between hostile fire and friendly fire?

Mr. CRESWELL. No, sir. There was no hostile fire.

Mr. GUBSER. There was no hostile fire?

Mr. CRESWELL. Not at that point.

Mr. GUBSER. There were no Viet Cong snipers involved?

Mr. CRESWELL. He never received any hostile fire during the course of the operation.

Mr. GUBSER. Did he receive fire from friendlies?

Mr. CRESWELL. No, sir.

Mr. GUBSER. Well, I am a little bit confused here. You have the impression that he saw firing in more than one instance, and perhaps in enough instances where you could call it numerous. I see what you mean. He did not receive fire?

Mr. CRESWELL. Right.

Mr. GUBSER. But you also believe that he did witness a great amount of firing that could be classified as "numerous on occasions"?

Mr. CRESWELL. Yes, sir.

Mr. GUBSER. Going back to this time when he landed his helicopter, it is your impression that he was not caught in a crossfire?

Mr. CRESWELL. That is my impression, sir.

Mr. GUBSER. And there was no firing at that time, when he landed the helicopter, there was no firing at all. That is your impression?

Mr. CRESWELL. Right. When he landed.

Mr. GUBSER. Very well. Thank you very much.

Mr. STRATTON. But were you clear that there was a confrontation between Lieutenant Thompson and some lieutenant, an American lieutenant, in which he in effect said, "if you shoot them, I will shoot you?"

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. Could you tell us a little bit in your own words exactly how Mr. Thompson described that incident, and how he described the American lieutenant involved?

Mr. CRESWELL. Yes, sir. He said that he saw the bunker—from this I am forced to conclude, by the way, at a rather low level—he saw women and children, and he saw American troops advancing on it. At this point he landed between the bunker and the troops, started to evacuate civilians, and he said some sawed-off lieutenant came up and told him to get his aircraft out of there.

And he apparently informed him that these were women and children, and he was taking them out of the zone. And the lieutenant's response was, "Why don't you get out and let us run our own operation?" He also related to me that at one point he had his door gunner threaten the lieutenant in order to make the evacuation of civilians.

Mr. STRATTON. At that time he didn't know who the lieutenant was?

Mr. CRESWELL. No, sir.

Mr. STRATTON. Thank you.

Let me ask another question. Did you have any discussion with Chaplain Lewis about his attempts to try and find out what was being done in connection with this investigation?

Mr. CRESWELL. Yes, sir.

Mr. STRATTON. Did he ever tell you that he had been told that this was something you didn't ask questions about?

Mr. CRESWELL. No, sir. He had been assured that there would be an investigation and that there was one in progress.

Mr. STRATTON. I see.

Mr. HÉBERT. This is a description of what took place, now I want you to listen and tell me, in the face of what Mr. Thompson told you,

would this be an accurate description of what took place? This is another description.

Mr. GUBSER. "Warrant Officer Hugh C. Thompson distinguished himself by heroism while flying an OH-23-G helicopter on March 16, 1968. His mission was to fly low-level and recon ahead of advancing elements of friendly ground forces. Sniper fire had been received forward of friendly units, and while flying toward it, Warrant Officer Thompson noticed a number of children trying to hide in an old bunker between the friendly and enemy forces.

"Unhesitatingly he landed his helicopter," and so on and so forth.

Mr. HÉBERT. Does that jibe with what he told you?

Mr. CRESWELL. Pretty generally, sir, except the one on sniper fire. But then the citation does not say that he received it.

Mr. HÉBERT. But he told you they weren't firing at all at him, and this says they were firing at him, and he went into this sniper fire. That would be an inaccurate description, from what he told you. He told you that there was no firing.

Mr. CRESWELL. To his knowledge.

Mr. HÉBERT. To his knowledge. But the citation says there was firing.

Mr. CRESWELL. Yes, sir, it does.

Mr. HÉBERT. So then if there was firing, he didn't know anything about it. You think a man getting sniped at wouldn't know he was being shot at?

Mr. CRESWELL. Yes, sir. Especially in a helicopter.

Mr. HÉBERT. He is out of the helicopter now. He is out there going to rescue all these people. He is out there telling this young lieutenant where to get off. He is not near the chopper. And then he told you that he told his gunner to train on the lieutenant, to threaten him, if he stood in his way, didn't he?

Mr. CRESWELL. Yes, sir.

Mr. HÉBERT. Well, what would you say if I told you that he testified under oath he didn't do any such thing?

Mr. CRESWELL. I would say, sir, that he has told two different stories to two different people.

Mr. HÉBERT. Would that surprise you?

Mr. CRESWELL. Somewhat, yes.

Mr. HÉBERT. Well, you can believe it.

Mr. GUBSER. May I, Mr. Chairman, read another statement made?

This is a statement by Lawrence Colburn, the crew chief, who was sitting in the seat to the right of Warrant Officer Thompson in this same helicopter.

And I quote: While flying over the village of My Lai, Specialist-4 Andriatta, the aircraft crew chief, spotted 15 children hiding in a bunker located between friendly forces and hostile forces engaged in a heavy fire fight. Specialist-4 Colburn's aircraft landed, and he got the children out of the bunker.

Now, that is signed by Hugh C. Thompson. Does that jibe with the story he told you at 3 p.m. on the afternoon of March 16?

Mr. CRESWELL. No, sir.

Mr. GUBSER. Is that again a situation of where if we say, as Mr. Hébert said, that Warrant Officer Thompson said he saw no firing that afternoon, is that another situation where he could have, to quote you, given two different stories to two different people?

Mr. CRESWELL. Yes, sir. It obviously is.

Mr. HÉBERT. He told you also he saw no firing.

Mr. CRESWELL. Yes, sir.

Mr. HÉBERT. That he received no firing?

Mr. CRESWELL. Received no firing.

Mr. HÉBERT. Then he said that the Americans were shooting, numerous, I think you described it.

Mr. CRESWELL. Yes, sir.

Mr. HÉBERT. Then I will say, what would be your recollection—I anticipate your reply—but what would be your recollection if I told you he said under oath he saw no firing except one shot, one firing?

Mr. CRESWELL. He testified under oath that he saw no firing?

Mr. HÉBERT. Except one.

Mr. GUBSER. One shot.

Mr. HÉBERT. One shot fired by a captain. That is all he saw.

Mr. CRESWELL. I would say he has definitely told two different stories to two different people.

Mr. HÉBERT. Well, obviously.

Mr. LALLY. Father, I take it from your testimony that the men of Task Force Barker were not among your responsibilities as a chaplain?

Mr. CRESWELL. No, sir.

Mr. LALLY. Do you know who the chaplain was who was responsible for these people?

Mr. CRESWELL. I believe at that point it was Chaplain Hoffman.

Mr. LALLY. Did you ever talk to Chaplain Hoffman to see whether he had heard any allegation similar to the ones that Mr. Thompson made to you?

Mr. CRESWELL. Yes, sir, I did, and he didn't.

Mr. LALLY. He did not.

Mr. CRESWELL. Right.

Mr. LALLY. Thank you, sir.

Mr. HÉBERT. Well, thank you very much, Father. [witness excused.]

[Whereupon, at 5:35 p.m., the subcommittee was adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Friday, April 24, 1970.

The subcommittee met, pursuant to adjournment, at 10:05 a.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, and Mr. Gubser, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. Colonel, will you identify yourself to the reporter?

TESTIMONY OF COL. ORAN K. HENDERSON

Colonel HENDERSON. I am Col. Oran K. Henderson, Armed Forces Staff College, staff and faculty, Norfolk, Va.

Mr. HÉBERT. What is your present assignment?

Colonel HENDERSON. I am on the staff and faculty of the Armed Forces Staff College, sir.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel HENDERSON. Sir, I would like to make a prepared statement, if I may.

Mr. HÉBERT. We will allow you to do that. Cooperate with us now. We understand what you are going to do, and we will give you a full opportunity. This does not open the door to anything. We just want to identify the Colonel and his position as of that time.

Colonel DOUGHERTY. If you assure me that his assignment—

Mr. HÉBERT. We assure you he is going to have full protection. If you will cooperate with us, we will cooperate with you.

Colonel HENDERSON. Sir, I was the Commanding Officer of the 11th Light Infantry Brigade.

Mr. HÉBERT. Now, Colonel, I want to say this to you and to your counsel who is present here. This subcommittee will afford you every protection against invasion of your privacy while you are under the jurisdiction of this committee. You undoubtedly noticed a lot of klieg lights and photographers down the hall. You also will observe that they are no closer than down the hall. The committee has taken precautions to bar any reporters, any photographers, anybody from this area.

You do not have to speak to anybody. You do not have to allow yourself to be photographed. You do not have to answer any questions. When you leave the room, you will leave by that door. An officer will be there—not a military officer, a Capitol Police officer. And if the news media has one man, since they have been granted the privilege to have one man, he will ask you but one question, and the one question is “Do you care to speak or do you care to say anything?” That’s all he can ask you. If you tell him “No,” that’s the end of it. He must

retire, and you will be escorted properly from the building. You will not be interfered with. Nobody will run up with a microphone.

We are doing everything in the world we can to protect our witnesses.

Now, in addition to that, we recognize the fact that you have been charged, and in no way will the committee ask any question that will prejudice your case before the court-martial, if and when you do have to appear for trial. At the same time, the committee will ask no question which would prejudice the Government's case. We are not here to determine the guilt or innocence of any individual as related to any incident allegedly occurring in the My Lai 4 area on March 16, 17 or 18.

We are here in another area, to determine if something did occur, what did happen, and what was done about discovering the facts in the case.

Now, you have been given a copy of the rules of the subcommittee, haven't you?

Colonel HENDERSON. Previously, yes, sir.

Mr. HÉBERT. And you have appeared before. We have your testimony already, as you well know, not on this committee level, but on the staff study level, which was not taken under oath.

You will be placed under oath today. You have right of counsel, to which, obviously, you have availed yourself, and counsel, now, will you please identify yourself for the record?

Colonel DOUGHERTY. Lt. Col. Frank J. Dougherty, Office of the Judge Advocate General, Department of the Army, Washington, D.C. I am a member of the bar of the State of Washington.

Mr. HÉBERT. Now, Colonel, Colonel Dougherty is your counsel by choice?

Colonel HENDERSON. He is my appointed counsel, sir.

Mr. HÉBERT. Did you ask for him?

Colonel HENDERSON. I asked for counsel, and was provided.

Mr. HÉBERT. You asked for counsel and Colonel Dougherty was assigned to you?

Colonel HENDERSON. Yes, sir.

Mr. HÉBERT. But he is acceptable as your counsel?

Colonel HENDERSON. Yes.

Mr. HÉBERT. So he is the counsel of your choice?

Colonel HENDERSON. Yes, sir.

Mr. HÉBERT. All right, now I will swear you in.

[Witness sworn.]

Mr. HÉBERT. All right, be seated.

Mr. Reddan.

Mr. REDDAN. You have a statement that you wanted to make?

Colonel HENDERSON. Yes, sir.

Mr. REDDAN. It does not go to any of the facts involved in this matter presently under inquiry, does it?

Colonel HENDERSON. No, sir, it does not.

Mr. REDDAN. All right. How long is that statement?

Colonel HENDERSON. A page and a half, sir.

Mr. REDDAN. All right.

Mr. HÉBERT. You may read it.

Colonel HENDERSON. Sir, it is a matter of public record that on the 17th of March, 1970, I was advised that I was charged with various

offenses in violation of the Uniform Code of Military Justice. These charges apparently grew out of testimony given at the hearings conducted by Gen. William R. Peers during an Army investigation into the alleged incident at My Lai and other prior Army investigations.

It is also a matter of public record that the charges which have been preferred against me and which were served upon me on 17 March 1970, consist of dereliction of duty and failure to obey a lawful general regulation in violation of article 92, Uniform Code of Military Justice, and the making of false official statements and false swearing during my testimony before the Peers Committee in violation of articles 107 and 134, Uniform Code of Military Justice.

Counsel has advised me that these charges are presently pending review and consideration as to disposition by the Commanding General, First U.S. Army, Fort George G. Meade, Md. He has also advised me that the maximum sentence imposable for the above-described offenses of which I am accused is dismissal, total forfeiture of all pay and all allowances and confinement at hard labor for not to exceed 7 years.

I have been advised by counsel that the transcript of the Peers investigation is approximately 20,000 pages in length, plus hundreds of pages of exhibits; that the Army Inspector General investigation is hundreds of pages in length; and that the CID investigation is likewise hundreds of pages in length. He has also advised me that not only has he not had an opportunity to examine and to read all the testimony, statements and exhibits, but that the bulk of the Peers transcript will not be available until approximately 15 May 1970. My counsel has further advised me that as a consequence, he is unable to give me any informed advice as to any testimony which this panel might call upon me to give.

Accordingly, my counsel has advised me to exercise my rights under the fifth and sixth amendments to the U.S. Constitution, and to respectfully decline to answer any questions which may be posed to me at this time concerning the subject being investigated by you, sir.

Mr. HÉBERT. Is that the end of your statement, Colonel?

Colonel HENDERSON. Yes, sir.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Mr. Chairman, although the rule is that a blanket refusal to answer on the basis of the fifth and sixth amendment is not the normal way to proceed, I would suggest in view of the fact that we already have a statement from the colonel from his appearance before the staff, and because of the tight schedule which we are facing, that we forego asking individual questions, and having the witness raise his constitutional objection to each question.

In the interest of saving time I recommend we accept this blanket refusal to testify.

Mr. HÉBERT. The Chair will accept the recommendation of counsel. Thank you, gentlemen, very much.

[Witness excused.]

[Whereupon, at 10:15 a.m. the subcommittee proceeded with a further witness.]

Mr. HÉBERT. Captain, will you identify yourself for the record, please?

TESTIMONY OF CAPT. EUGENE M. KOTOUĆ

Captain Koroúć, Capt. Eugene M. Kotouć, 507308338, my permanent duty station is Troop Command, Fort Carson, Colo., presently temporarily assigned to Troop Command, Fort McPherson, Ga.

Mr. HÉBERT. Captain, what was your assignment on March 16, 1968?

Captain Koroúć. My assignment on March 16, 1968, was, sir, S-2, Task Force Barker, 11th Infantry Brigade, Republic of Vietnam.

Mr. HÉBERT. Now, Captain, the committee wants you to understand thoroughly that you are under its full and complete protection while you are under the jurisdiction of this committee. This committee will provide full protection for your privacy. You do not have to speak to anybody in the news media. You do not have to allow yourself to be photographed. You do not have to say anything, and the committee will protect you in the fullest. When you leave here, you will leave by the door in the rear of the room. An officer will meet you there. The news media is privileged to have one representative, known as a pool representative of all the media, and he can ask you but one question, and that question is, do you care to make a statement, or do you want to say anything. If you want to, that's your privilege, your decision to make. If you do not, if your reply is in the negative, that ends the matter immediately. The news media representative in the pool will have to retire, and you will be escorted properly away from any of these cameras down at that end of the hall. You will notice that this area has been secured against interference of news media, cameras, reporters, and microphones and sound boxes.

Now, the subcommittee has supplied you with the rules of the subcommittee, which you have?

Captain Koroúć. At my last session here.

Mr. HÉBERT. Yes, you have read them?

Captain Koroúć. Yes.

Mr. HÉBERT. Under the rules of the committee, you are allowed to have counsel appear with you here.

Captain Koroúć. Yes.

Mr. HÉBERT. Of which, obviously, you have availed yourself.

Captain Koroúć. Yes, sir.

Mr. HÉBERT. Now, counsel, will you identify yourself?

Mr. CROSBY. My name is Robert B. Crosby, C-r-o-s-b-y. Lawyer from Lincoln, Nebr., representing Captain Kotouć.

Captain COOPER. My name is Capt. Norman G. Cooper. I am Captain Kotouć's detailed military counsel, Fort McPherson, Ga.

Mr. HÉBERT. Now, Captain, these two counsel are counsel of your choice?

Captain Koroúć. They are, sir.

Mr. HÉBERT. All right. Now, counsel are here, as they understand and well know, under the rules, they are here not to prompt your testimony, not to advise you on how to testify, and not to supplement your testimony, but they are here to protect your legal rights while you are testifying before the committee. Counsel understand that.

Captain COOPER. Yes, sir.

Mr. CROSBY. Yes, sir.

Mr. HÉBERT. Now, I will swear you in, Captain.

[Witness sworn.]

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Captain, did you have a preliminary statement that you wanted to make.

Mr. CROSBY. No, the Captain does not have any preliminary statement.

Mr. REDDAN. I see. Captain, have you had more than one tour in Vietnam?

Captain KOTOUÇ. Yes, sir. I have had two.

Mr. REDDAN. When was your first one?

Captain KOTOUÇ. My first tour was approximately August of 1962, until approximately August of 1963.

Mr. REDDAN. And your second tour?

Captain KOTOUÇ. My second tour was the early part of February 1968, to the very late part of January 1969.

Mr. REDDAN. Captain, directing your attention to the operation of Task Force Barker in the Son My area of Vietnam on March 16, 1968, I would like to ask you whether you participated in the preparation for that operation on that day.

Captain KOTOUÇ. As a staff officer, yes, sir.

Mr. REDDAN. Did you participate in the briefings which preceded the operation?

Captain KOTOUÇ. I did, sir.

Mr. REDDAN. In what capacity?

Captain KOTOUÇ. As intelligence officer to advise the commander on intelligence situations in the area of operation.

Mr. REDDAN. In connection with this operation when was the first briefing in which you participated?

Captain KOTOUÇ. I wouldn't exactly say we had a formal briefing, the first one. It was just passing of ideas from commander to staff and back.

Mr. REDDAN. Where did this briefing or this meeting take place, and who was present?

Captain KOTOUÇ. As my memory serves me, Colonel Barker, Major Calhoun, myself, at the initial briefing.

Mr. REDDAN. Now, do you recall what time of day this was?

Captain KOTOUÇ. No, sir. I would like to clarify the briefing, per se, we were passing ideas back and forth throughout the day, and even before that, sir. Perhaps briefing is not a good word. Discussion would be better.

Mr. REDDAN. Was this on the 15th, you say?

Captain KOTOUÇ. Yes, sir. There was discussion on the 15th.

Mr. REDDAN. Was a discussion had as to the object of the mission the following day?

Captain KOTOUÇ. Yes, sir.

Mr. REDDAN. Was any discussion had with respect to the objective of the operation, with respect to the destruction of any of the hamlets in the village of My Lai?

Captain KOTOUÇ. Yes, sir, there was.

Mr. REDDAN. Could you tell us about that, please?

Captain KOTOUÇ. The objective of the mission was to engage the 48th VC Battalion, and what other VC elements might be in the area, do battle with them and destroy them. Also, to destroy whatever physical facilities, buildings, hootches, tunnel complexes, bunkers, rice pad-

dies, that may give aid or comfort to the enemy, including their livestock.

Mr. REDDAN. Who initiated this portion of the discussion?

Captain KOTOUĆ. Who initiated it? I am not sure. This was Colonel Barker's order, sir.

Mr. REDDAN. Colonel Henderson was there at the time?

Captain KOTOUĆ. No, sir. Not that I recall him being there.

Mr. REDDAN. It was Colonel Barker, yourself, and——

Captain KOTOUĆ. And I believe Major Calhoun, as I recall.

Mr. REDDAN. Just the three of you. And what you are telling us now is what Colonel Barker envisioned as the objective of this operation, is that right?

Captain KOTOUĆ. Yes, sir.

Mr. REDDAN. Now, was anything said at that point with respect to the number of hamlets that might be encountered in this operation that next day?

Captain KOTOUĆ. I don't recall, no, sir.

Mr. REDDAN. Was anything specifically said about My Lai 4?

Captain KOTOUĆ. My Lai 4 was adjacent to the landing zone for our combat assault, which was going to take place on the 16th. It was the consensus of opinion, after careful study, that the 48th Battalion, their headquarters and at least two of their companies, were located at that time in My Lai 4.

Mr. REDDAN. So this would be your initial contact with the enemy, in that operation?

Captain KOTOUĆ. We anticipated that would be the initial contact, yes, sir.

Mr. REDDAN. Was any discussion had with respect to the possibility of civilians being in My Lai 4 on that day?

Captain KOTOUĆ. Yes, sir. Throughout the operations that were conducted in Vietnam, to my personal knowledge, we found civilian personnel in our area of operation. And they were always a consideration. It was discussed and decided upon that from past experience, and reliable information, that the civilian populace in this area of operation would undoubtedly be gone to markets in Son Tinh districts or Quang Ngai city by the time the CA came in.

Mr. REDDAN. Was any consideration given to the possibility that maybe not all of them would be gone?

Captain KOTOUĆ. Yes, sir, it crossed our minds, it is a logical assumption that 100 percent of everything never goes on.

Mr. REDDAN. Yes.

Captain KOTOUĆ. The instructions that I received were that the civilian populace were to be moved through the lines, and on to Highway One, and sent on their way to Quang Ngai city and Son Tinh district.

Mr. REDDAN. Who gave you those instructions?

Captain KOTOUĆ. This was, well, I suppose Colonel Barker. This is something, sir, I might add, that was SOP with us, and sometimes we didn't discuss everything to its complete length. We all were exposed to the competent individuals and understood what was going on.

Mr. REDDAN. How long did this meeting take place, this initial meeting?

Captain KOTOUĆ. Well, the meeting—again I have to say it took place all day long. Right up to the afternoon hours, late afternoon hours.

Mr. REDDAN. Now, did there subsequently come a time when you had a briefing of the company commanders?

Captain KOTOUĆ. Yes, sir.

Mr. REDDAN. When did that take place?

Captain KOTOUĆ. As I recall, it took place immediately before the supper meal was served. Around 1730 hours.

Mr. REDDAN. This was the evening of the 15th?

Captain KOTOUĆ. Of the 15th.

Mr. REDDAN. And where did it take place, sir?

Captain KOTOUĆ. I was in the TOC, our tactical operations center, with Colonel Barker and Major Calhoun, some others, I am sure, were there. Captain Medina. And I believe Captain Michles. I am not sure. It seems like there were so many people around. I am a little hazy.

Mr. REDDAN. Who was the moderator of this briefing?

Captain KOTOUĆ. It was an exchange of ideas. Colonel Barker, of course, Major Calhoun, normally gave the operation order itself, for Colonel Barker, by using the map. I may have—I most likely did say something.

Mr. REDDAN. Could you tell us what was said and who said it with respect to the destruction of hootches, filling in of wells—

Captain KOTOUĆ. No, sir, I didn't say anything about filling in wells.

Mr. REDDAN. You didn't say anything about that?

Captain KOTOUĆ. No, sir.

Mr. REDDAN. Well, did anybody there say anything about filling in the wells, killing of livestock, destroying food caches?

Captain KOTOUĆ. Yes, sir. The instructions were that the structures, the physical structures, to include bunker and tunnel networks were to be destroyed.

Mr. REDDAN. This included hootches as well?

Captain KOTOUĆ. Yes, sir.

Mr. REDDAN. All right.

Captain KOTOUĆ. Livestock was to be destroyed.

Mr. REDDAN. All right.

Captain KOTOUĆ. And the rice, if we were to come upon large quantities of rice that—well, let's say it was economical to evacuate those to a DP camp, so to speak, then we would try to sack this up at a later time. If not, then we would destroy it as we went along.

Mr. REDDAN. Now, was anything said about the filling in of wells?

Captain KOTOUĆ. I am sorry, I can't recall. We didn't—if it was, it was to fill in the well and destroy the well, not to pollute the well.

Mr. REDDAN. Not to pollute it. But as I gather from your testimony, and if I am missing the point in any way, please correct me, as I gather, you intended to go out there and destroy anything that the VC could use?

Captain KOTOUĆ. Yes, sir. That would give them aid or comfort.

Mr. REDDAN. Now, do you recall whether Colonel Henderson approved of this plan of operation?

Captain KOTOUĆ. I have no knowledge of whether he approved of it or not. I would assume that he did.

Mr. REDDAN. Well, he was present?

Captain KOTOUĆ. I'd say no. I don't recall him being present, sir.

Mr. REDDAN. I thought at this briefing—

Captain KOTOUĆ. The commanders?

Mr. REDDAN. Yes; who did you say was there? I thought you said Colonel Henderson was there?

Captain KOTOUĆ. No, sir. I said Major Calhoun, Colonel Barker, myself, Captain Medina and Captain Michles, and there may have been someone else around. I'm sure there probably was.

Mr. REDDAN. Did Colonel Henderson come in during any part of this briefing?

Captain KOTOUĆ. To my memory, no.

Mr. REDDAN. At any time prior to the takeoff of the troops on the morning of the 16th, did Colonel Henderson address either the troops or the officers?

Captain KOTOUĆ. No, sir.

Mr. REDDAN. Now, did you attend any briefings or were you present when any of the company commanders briefed their companies?

Captain KOTOUĆ. I was present at the time that Captain Medina briefed his company.

Mr. REDDAN. Could you tell us what Captain Medina said?

Captain KOTOUĆ. Yes, sir. This was after the supper hour. It took place near Captain Medina's tent that he used while he was at LZ Dottie. I just had my evening meal with Captain Medina, and he called the company in to give them the operations order for the next day. Captain Medina gave the normal field order, signal supply, administrative type part, and he explained to them what the mission was, explained to them that the 48th Battalion was in the My Lai area, and that it was going to be—we anticipated a pretty hard fight that day.

Mr. DICKINSON. Let me ask what this was. Was this the principal preoperational briefing?

Captain KOTOUĆ. Yes, sir.

Mr. DICKINSON. When all elements would come together, with air and everything?

Mr. REDDAN. This is the company briefing?

Captain KOTOUĆ. Just Captain Medina giving Charlie Company the briefing that evening.

Mr. DICKINSON. All right. Thank you.

Captain KOTOUĆ. And he told them to—well, it was actually the first that we considered to be a major engagement of his company against a well-armed and well-trained force, and he told them to be on their toes, take care of their buddies, and he would do the best he could to take care of them.

Mr. REDDAN. Did he get into the matters that you discussed?

Captain KOTOUĆ. Yes, he did. He told them what the mission was.

Mr. REDDAN. Did he tell them how they were to treat the buildings and the livestock and so forth?

Captain KOTOUĆ. As I recall, yes, sir.

Mr. REDDAN. In other words, your recollection is that he gave them the same briefing that he had had?

Captain KOTOUĆ. That's correct, sir.

Mr. REDDAN. Now, was anything said by Captain Medina as to how civilians should be treated?

Captain KOROUĆ. Well, he said that they were to be moved on Highway 1. This is the populace, if they were in the area. He also told them that he didn't expect the civilian populace to be in the area. He thought they would be off at market.

Mr. REDDAN. Did he say anything which, in your opinion, would lead to the conclusion that there'd be nobody in My Lai 4 that morning other than Viet Cong?

Captain KOROUĆ. I would say that—well, this is a variable here. To say nobody will be there is hard to say. He told them that the civilian populace was expected to have been evacuated from the area, or not evacuated, but would have gone on their own down the road. He did say that we were to move them on down the road, which was SOP with us.

Mr. REDDAN. But it is not your recollection that he said anything to the effect, "Shoot everybody that you see"?

Captain KOROUĆ. No, sir. I know I would have remembered if he said shoot everybody down there. That would be the first time I ever heard an order like that.

Mr. REDDAN. And you don't recall anything in the briefing which would have conveyed that impression to the men?

Captain KOROUĆ. It was not conveyed to me.

Mr. REDDAN. Yes. But all you can speak of is what impression you got from his briefing?

Captain KOROUĆ. Yes, sir, I didn't have the impression that they were going in to shoot anybody other than the people who ought to be shot.

Mr. STRATTON. Could I ask a question at this point?

Mr. HÉBERT. Yes.

Mr. STRATTON. Captain, was your impression, however, that the general purpose was to destroy the town, and wipe it out?

Captain KOROUĆ. Well—

Mr. STRATTON. Kill the livestock?

Captain KOROUĆ. Yes, the impression was that My Lai 4 wasn't—it wasn't an impression, it was an order, given by Colonel Barker. We were going to destroy the hootches and the physical facilities there.

Mr. STRATTON. This was going to be a pretty heavy blow against any VC that might be located there?

Captain KOROUĆ. Yes, that's what we anticipated.

Mr. STRATTON. And there were no specific instructions that you recall as to how to handle civilians who might be caught in this operation?

Captain KOROUĆ. Other than I mentioned, to move them through the lines, noncombatant and down the road.

Mr. STRATTON. Was this specifically mentioned?

Captain KOROUĆ. As I recall, it was. Of course, my memory is not too good. It has been over 2 years, sir.

Mr. STRATTON. All right.

Mr. REDDAN. Now, coming up to the 16th itself, did you participate in the operation in any way that day?

Captain KOROUĆ. No, I did not participate in the My Lai assault, nor the attack upon the area.

Mr. REDDAN. What was your assignment on that day?

Captain KOROUĆ. S-2. My assignment?

Mr. REDDAN. Yes.

Captain KOTOC. I did my normal duties around the LZ Dottie. I monitored certain radio broadcasts in the TOC. I took messages by hand to Captain Medina later on in the day, after the operation was over, in another area.

Mr. REDDAN. Where you airborne over the My Lai 4 area at any time that day?

Captain KOTOC. Well, sir, I assume I must have been at one time or another, although I don't recall. To pick it out, I would have had to have taken my map along and traced my trail, and I don't recall doing that at any time during that day.

Mr. REDDAN. Did you fly over the area any time previous to the 16th, in connection with this operation?

Captain KOTOC. With this operation. This question has been posed to me several times in the past, and I can only answer that it was a normal function for me, along with Colonel Barker, or whoever he put out, to go out and make an air reconnaissance. Now, to be specific, whether or not I actually went out the day that they made the air reconnaissance, I don't recall. I may well have. But I don't recall. I made somewhere around three hundred flights in the period of about a month, sir.

Mr. REDDAN. Now you were in and out of the TOC that morning?

Captain KOTOC. In and out, yes, sir.

Mr. REDDAN. Did you monitor or did you hear any broadcasts, any messages, come in or discussed in the TOC with respect to civilian casualties at My Lai 4?

Captain KOTOC. Yes, sir. There was one that was—here again, there is an awful lot of transmission over the radios. And considering we had three radios in a room one-third this size, it is a little hard to distinguish. But there was something about someone said, and I assumed it to be a helicopter pilot, as I recall, that someone got shot in the road. And someone said, "We will check it out." And something to that effect. To give you verbatim is impossible.

Mr. REDDAN. Was this your recollection—your recollection is that this had to do with a single individual being shot?

Captain KOTOC. This was my impression, yes, sir.

Mr. REDDAN. Did you monitor any calls or did you hear any discussions with respect to the possibility of civilian casualties caused by artillery fire or gunship fire?

Captain KOTOC. Well, I will have to again qualify this statement somewhat, that there was a transmission that someone said that—what was it? Something about there has been a lot of damage done by the artillery prep, and the gunship prep, on the village area. And it is hard to recall but—at any rate, Colonel Henderson, I recall, because I wasn't there when he said it, I heard it on the radio and identified him by his call sign, as well as his voice, mentioned to Medina to go back. Now this is after they had gone clear through the village area, and moved on toward the objective area, to go back and check out the casualties. And the way I understood it, my impression in my mind today is that he wanted to know who was a casualty by sex and age, try to segregate the casualties. Now it is real hazy, sir. I tell you. And I remember him saying that, and I also recall Medina "Roger" the transmission, and then I recall General Koster, who was up in the air,

countermanding the order, and what he said exactly is impossible to recall, but my impression was that he didn't want Medina going back in there because the place was full of booby-traps and mines. And there were still Charlies running around the area.

Mr. REDDAN. This was a conversation you monitored?

Captain KOTOUK. This I monitored. But again, I say, it is—I am sure I must have been in the TOC at that time, and to tell you what time of the day it was, is beyond me.

Mr. REDDAN. Now, how did you identify General Koster?

Captain KOTOUK. By his—what was he? Saber 6, I think.

Mr. REDDAN. That is right.

Captain KOTOUK. I can't recall. But we knew who General Koster was on the radio.

Mr. REDDAN. Now, did you monitor any other transmissions which related in any way to civilian casualties?

Captain KOTOUK. I don't believe so, sir. There was some traffic—Major Calhoun mentioned something. I am sure it was Calhoun. Maybe Johnson. I don't know. I am sure it was Calhoun, though, said something about let's make sure that nobody is getting killed. This was in reference to what I thought was a helicopter pilot, Skeeter, his name—we called him Skeeter.

Mr. REDDAN. Warrant Officer Thompson?

Captain KOTOUK. Well, I found out later that Skeeter is Thompson. I didn't know at that time. I never met Thompson. But it was related to this, that he didn't want to see—let's make sure we are not killing anybody, you know, that shouldn't be killed, or unnecessary, or civilians or something to that effect. And he put this out to the air, not only to Medina's company, as I recall, but also Michles' company. Because Michle's company was in the area of operation.

Mr. REDDAN. Was that Bravo Company?

Captain KOTOUK. Yes, sir.

Mr. REDDAN. Did you get any call from Major McKnight that day with respect to either—

Captain KOTOUK. I personally received no call from Major McKnight. Because Major McKnight never did call me the whole time I was over there.

Mr. REDDAN. Did you hear any transmissions or discussions that day with respect to an alleged confrontation between a helicopter pilot and a ground officer?

Captain KOTOUK. No, sir, I heard nothing of that. Absolutely nothing.

Mr. REDDAN. Subsequent to this, did any investigator ever talk to you about this matter? I am talking now about while you were in country, in Vietnam?

Captain KOTOUK. The entire time I spent in Vietnam, sir, I was never talked to by any investigator concerning this alleged massacre.

Mr. REDDAN. Now, do you have any knowledge, and when I say knowledge, I am not limiting you to firsthand knowledge, because, although we generally follow the rules of evidence, we are also permitted to go beyond and take hearsay testimony, and we make our own evaluations of that. So when I ask you if you have any knowledge, did you hear from any source, any discussions after that, with respect to

what took place at My Lai 4 that day, or any investigation of the matter that may have been conducted?

Captain KOTOUĆ. Nothing formal, nothing directed toward me for answers or opinion. I heard some scuttlebutt, rumor, whatever you want to call it, at brigade headquarters, from some friends of mine. I don't know if it was related directly to this operation, or if it was related to all the operations that we performed. Someone mentioned something about—something about our body count included a lot of IC's, innocent civilians.

This was passed on in such a manner and under such circumstances that, well, we were drinking a beer as I recall or having lunch or something. It was just conversation. And I dismissed it as idle rumor because I hadn't been contacted by anyone in authority concerning anything of this nature. Although there was at one time a question about someone getting shot, and they came down and asked me about that, sir. Somebody from division headquarters. But this had no relationship whatsoever with the operation on March 16.

Mr. HÉBERT. Captain, are your under charges now?

Captain KOTOUĆ. Yes, sir. I am.

Mr. HÉBERT. What are the charges?

Captain KOTOUĆ. I am charged for two murders, one case of maiming, and two assaults? And I believe it is two assaults.

Mr. HÉBERT. That's all.

Mr. GUBSER. I have no questions.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. No questions, Mr. Chairman.

Mr. DICKINSON. I have one. Were you at the briefing that Barker gave Medina?

Captain KOTOUĆ. Yes, sir, I was.

Mr. DICKINSON. And this was the general operation briefing for all elements that participated?

Captain KOTOUĆ. No; I can't say that, because I don't recall the air element being there at that time, nor representatives from the swift boats, which were supposed to be patrolling the waterside. It was conducted with only Task Force Barker personnel. I mean, ones that were actually assigned under Colonel Barker's direction. Colonel Barker had a way about briefing, sir. I might add this, because it may clarify something. You know, in the movies and in the magazines and in the books, everybody gets around and gets their papers and pencils out and sits down and has a briefing; they all write down. Colonel Barker didn't operate this way. Colonel Barker operated by talking to the people he wanted to talk to at the time he wanted to talk to them, and perhaps you would be there and the other fellow wouldn't be there. He never had a real formal—we never did anything in Task Force Barker that can be considered even close to being formal, that I recall.

Mr. DICKINSON. I think I can believe that.

Captain KOTOUĆ. We had a very small unit. We were given a hell of a lot of responsibility and we tried to do the best job we could.

Mr. DICKINSON. At any time during the briefing that you heard, that Colonel Barker gave, or later that Medina gave, was anything said about popping smoke and the significance of it, by helicopters?

Captain KOTOUĆ. Popping smoke? Well, he gave the signal portion, which would include the smoke, as well as the pushes we were to use that day.

Mr. DICKINSON. Wait a minute now. Explain that to me. That is what I wanted to find out about.

Captain KOROUC. Well, in a field order, five paragraph order, there is a paragraph for signal, and the signal is supposed to be, you relay to your subordinate commanders what frequencies you will use, what type of pyrotechnics you may use, any visual signs that you may use, so everyone, you know, knows what we are doing; when we throw red smoke that means something, and it doesn't mean something else.

Now, the helicopter pilots marked targets with smoke. Now, this was normal, and we have always marked targets with smoke over there.

Mr. DICKINSON. What does the word "target" mean?

Captain KOROUC. Target could include, well normally, red smoke was red danger. You could mark a man with it; you could mark a bunker complex with it, sir. You could mark a minefield with it. Red, if somebody popped red smoke, in my area there was something hot there. In other words, if I saw red smoke go off on the ground, I knew that it wasn't friendly. We did this to mark our LZ's. The command ship would go in initially, while the other birds were up behind, check the LZ, at a very, very low altitude, 30 feet, maybe, fly along the LZ, try to draw fire if there was any fire there, and if we did draw fire we would pop red smoke, indicating it was a hot LZ.

If we didn't draw fire, we'd pop green smoke. This is what it was. I am sure it was. Green smoke, saying that at this time it is a cold LZ. But sometimes the LZ changed from cold to hot, damned quick.

Mr. DICKINSON. All right. Well now, this was just part of the standard, as you say, five paragraph order?

Captain KOROUC. Yes, sir.

Mr. DICKINSON. And this was included in your orders this day?

Captain KOROUC. I can't say.

Mr. DICKINSON. You have no independent recollection of this?

Captain KOROUC. No, sir.

Mr. DICKINSON. You are just talking about what's normal?

Captain KOROUC. I think it would have been normal. I just think it would have been.

Mr. DICKINSON. Would it be possible that civilians, wounded civilians, for instance, would be marked by helicopter pilots with smoke?

Captain KOROUC. Yes, sir. It is very possible they could be.

Mr. DICKINSON. Would that be red smoke?

Captain KOROUC. No, sir. Not unless the helicopter pilot wanted that civilian shot. Or that person shot.

Mr. DICKINSON. It was standard procedure, then, for color, popped by a helicopter, to have some significance?

Captain KOROUC. Absolutely, sir.

Mr. DICKINSON. So you had to get your signals straight as to what it meant?

Captain KOROUC. Yes, sir.

Mr. DICKINSON. You don't recall this being particularly mentioned, you just assume that it was, because it is SOP?

Captain KOROUC. I assume it was, because, you see, not only within Task Force Barker but within the whole brigade and perhaps the whole division. I don't know, I never was on the division level, we have a standard color scheme, so no matter who you are working with, you know, we all know what we are talking about. You never know when

you might get called in just that quick to work with another unit, to relieve pressure on them or something, you can't go through a full briefing. There's just not time. So you have to know. And I think that for the most part, except for the 10 percent who never get the word, everyone knew what the color scheme was throughout our area of operation. And I am sure the helicopter pilots did, because I worked with them constantly.

Mr. DICKINSON. That would be particularly Skeeter?

Captain KOROUĆ. No; not particularly Skeeter. Just anyone.

Mr. DICKINSON. Well, I assume that you'd worked with him a number of times?

Captain KOROUĆ. I worked with him; yes, sir, not face to face, by radio and so forth. I mean, I watched him operate. I was in the command chopper when he was buzzing about on the ground.

Mr. DICKINSON. I think that pretty well exhausted that line of inquiry, but it is most important—

Captain KOROUĆ. Yes.

Mr. DICKINSON. [continuing]. Because of some conflicts in testimony that we have received in the past.

Mr. GUBSER. Can I ask one question? Have you heard, either by rumor, or do you know definitely what kind of smoke Thompson popped, what color smoke Thompson popped?

Captain KOROUĆ. No, sir, I don't have the faintest idea. I know they were popping smoke that day. I could hear them pop smoke. "I am popping smoke." "I am making this." Sometimes you said, "I will mark." Sometimes they said, "I will pop the smoke."

Mr. GUBSER. Is it your opinion though that if red smoke had been popped near civilians who were to be evacuated, you could be marking them for death?

Captain KOROUĆ. Not unless he identified and said, "I have nothing but red smoke. I am going to pop red smoke to mark this target. This target is a friendly target and needs aid," something to that effect.

Mr. DICKINSON. Unless he did that, he would probably be marking them for death, is that right?

Captain KOROUĆ. I would say yes.

Mr. DICKINSON. Thank you.

Mr. HÉBERT. Off the record.

[Discussion off the record.]

Mr. HÉBERT. All right, back on the record.

Mr. LALLY. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. LALLY. Captain, are you able to fix the time of the radio transmission from Major Calhoun or Sergeant Johnson, whichever it was, to the company, about who they are shooting?

Captain KOROUĆ. I can't fix the time other than I can say it was in the morning hours.

Mr. LALLY. In the morning hours?

Captain KOROUĆ. Yes, sir.

Mr. LALLY. How about the other transmission of Colonel Henderson to Captain Medina?

Captain KOROUĆ. I tried to tell Congressman Dickinson this last night, and I thought about his question since that time. And of course I read thousands of pages of testimony, and I still am unable to pin that

thing down. There was just so much traffic and so much of it was just garbage that came across the air that day, that it would seem to me, the logical assumption would be that it must have taken place sometime after Charlie Company left the village, because he was told to go back in it. And whatever time Charlie Company left the village, I don't know. I think they were out of the village area complex, probably around, well, I thought they were out around 10 o'clock or so, but I don't know any more, because I have read so many statements.

Mr. LALLY. But that is as closely as you are able to approximate the time?

Captain KOROUK. As close as I can come, sir, it was on the 16th of March, 1968, sometime during the daylight hours.

Mr. LALLY. Now, Captain, didn't you participate in an earlier assault in this same general area?

Captain KOROUK. In a general area, yes, sir.

Mr. LALLY. And that was about February 23d, was it, Captain?

Captain KOROUK. I can't give you the date of it. It was in the late part of February.

Mr. LALLY. Captain, do you know whether on that operation the same instructions were given to the assault troops, regarding the burning of buildings and destruction of food supplies, et cetera?

Captain KOROUK. I would like to clarify my position in that operation. I had arrived at Task Force Barker on the day before the operation took place, in the afternoon, in fact. I went up there and Colonel Barker welcomed me and told me what my assignment was to be and told me that there was going to be an operation the next day, and that he would like to have me accompany him in his command ship, to get my feet on the ground and get the feel of the situation. And I went over to my little hootch there where I was living and I unpacked my bags and I had supper, and I think I went to bed. I didn't go to any of the briefings. I had nothing to do with the planning of that operation, because of the time that I arrived in the task force. My job that day was to do whatever Colonel Barker thought necessary and to observe, well, the way he handled his operations.

Mr. LALLY. Well, did the troops on that operation burn buildings and destroy food supplies?

Captain KOROUK. When I was there there were all sorts of things burning, sir. In fact, a house blew up about 200 yards from me, so I am sure it was on fire.

Mr. LALLY. Now directing your attention back to the briefing for the March 16th operation, did this destruction order about buildings and food supplies apply to all of the villages which the troops might go through that day? Or was it just My Lai 4?

Captain KOROUK. I think it applied to anything that the commander on the ground determined that would give aid or comfort to the enemy.

Mr. LALLY. Thank you.

Mr. HÉBERT. You undoubtedly worked very closely with Colonel Barker, did you not, Captain?

Captain KOROUK. Yes, sir, I did.

Mr. HÉBERT. You knew him over a period of time?

Captain KOROUK. Yes, sir.

Mr. HÉBERT. You had an opportunity to observe him as commanding officer?

Captain KOROUĆ. Yes, sir.

Mr. HÉBERT. What was your opinion of Colonel Barker as commanding officer?

Captain KOROUĆ. I would say Colonel Barker was one of the finest commanders I have ever known. I have been in the Army 15 years as an enlisted man private to my present grade. He had the welfare of his men paramount in his mind at all times. And he had more guts than any three people I have ever been around.

Mr. HÉBERT. Thank you, gentlemen, very much.

Mr. CROSBY. May I make a very short statement? This is Robert Crosby. I want the record to show that occasionally the captain, during his interrogation this morning, had to ask a question to be repeated, and I don't think it is in the record that he is hard of hearing.

Mr. HÉBERT. You made that in the very beginning.

Mr. CROSBY. I didn't notice if he was taking it down. That was before we went on the record, I thought.

Mr. HÉBERT. It is in the record now.

Mr. CROSBY. The other statement I would like to make, and this is very short. I want to say that we did not come in with a prepared statement, as I think may have been anticipated. Within the limits of what is prudent in the captain's interests, we have wanted him to be cooperative with this committee. I want the record to show that as his counsel from Nebraska, I think, and I am simply going to make this statement, and burden you with it, the captain has been subjected to what I would regard as most unfair treatment.

He was stationed at Camp Carson. The criminal investigation reports were sent to Camp Carson, Colo., where his wife and children are. The authorities at Camp Carson, after examining the criminal investigation reports, declined to do anything. And thereupon the Army had him transferred to Fort McPherson. Carson is in Colorado. Fort McPherson, where apparently the authorities are more amenable to reading the criminal investigation reports in a different way, and doing something, and I think, well, I am just pretty burned up as a civilian from Lincoln, Nebr., and so I want that in the record.

Mr. HÉBERT. Thank you very much.

[Whereupon, at 11 a.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 11:05 a.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: Mr. Frank M. Slatinshek, Assistant Chief Counsel, Mr. John T. M. Reddan, Counsel, and Mr. John F. Lally, Assistant Counsel.

Mr. HÉBERT. General, will you identify yourself to the reporter, for the record?

TESTIMONY OF MAJ. GEN. SAMUEL W. KOSTER

General KOSTER. Gen. Samuel W. Koster. My assignment presently is deputy commanding general, First U.S. Army, Fort Meade, Md.

Mr. HÉBERT. What was your assignment on March 16, 1968?

General KOSTER. I was commanding general of the Americal Division.

Mr. WILLIAMS. Mr. Chairman, before the interrogation proceeds, may I make a request to the subcommittee?

Mr. HÉBERT. I will let you make your request at the proper time. I am anticipating you and I am sure what I am going to say now will have some impact upon what you do want to say. We will set the ground rules first, and then you can operate under them.

General, the subcommittee wants to impress upon you the fact that you are under the full protection of this subcommittee while you are under our jurisdiction. The subcommittee will not allow your privacy to be invaded, nor will it condone any personal harassment of you by the news media or others while you are under the jurisdiction of this subcommittee. We are further cognizant of the attitude you took as read in the news media, when you refused to have pictures taken or refused to be interviewed for the media.

Now this subcommittee takes this position, that your privacy is paramount. When you leave here, you will leave by that door. As you noticed as you entered, I have all the halls blocked off here. The closest the cameras are today are way down the hall here, and no cameras are in that direction or in this direction. So it is impossible for any of them to get close to you except by permission, or if you walk to them.

Now, the news media has been informed that they will be allowed one individual as a pool representative for all news media, and that one individual, who is designated by them, may ask a question, and that is the only question he can ask: "Do you care to make a statement?" But no cameras are involved, no walkie-talkie businesses or these sound recording machines, nothing. He can merely ask you a question of that nature, which is obvious what it is, and if you reply in the negative, if that is your desire, then that ends the matter. That ends it entirely, and you will be fully protected on your departure from the committee room. We want to assure you of that, in the fullest.

We also want to impress upon you that we are also cognizant, through various channels, of the charges that have been directed against you. This subcommittee is not involved in determining the guilt or innocence of who is involved in the so-called My Lai massacre, if a massacre took place. That is not our judgment, nor our province.

We are trying to find out the overall picture of what took place, if something untoward did take place, which would cause in somebody's mind to make a complaint, and what was done with that complaint or investigation, how it was pursued.

Now, you have read the rules of the committee, I am sure. You were furnished the rules. And you are entitled to counsel.

Now, obviously you have elected to have counsel and at this time I would ask counsel to identify themselves.

Mr. WILLIAMS. My name, Mr. Chairman, is Edward Bennett Williams, of Washington, D.C., and with me is Colonel Oldham of the U.S. Military Academy, who is General Koster's military counsel. And on the far right is Brendon V. Sullivan, Jr., who is associated with me in my office here in Washington.

Mr. HÉBERT. Now, Mr. Williams, you fully understand, and I am saying this for the record, so I recognize you do know the rules, that the General is here with you accompanying him for the protection of

his legal rights. The committee would not allow and I am sure you would not attempt to prompt the witness in his replies on any statement he has to make, nor indicate to him how he should answer a question.

If at any time that you want to resort to his constitutional rights, it is absolutely permissible and acceptable, obviously, by the committee.

Now we understand the ground rules, I think.

General KOSTER. Yes, sir.

Mr. HÉBERT. Now I will swear the General in.

Mr. WILLIAMS. Thank you, sir.

[Witness sworn.]

Mr. HÉBERT. All right, Mr. Reddan.

Mr. REDDAN. You have a statement?

Mr. WILLIAMS. Yes, Mr. Chairman and members of the committee, I am here representing General Koster, and as you gentlemen know, General Koster did appear before this committee on December 17, 1969, and at that time he made a statement, and he submitted himself to interrogation.

Mr. HÉBERT. May I interrupt there, Mr. Williams? It is a technical thing. He has not appeared before the committee until today. He appeared before the staff, which was making a staff study in preparation for submission to the committee. He was not under oath and today is his first appearance before the committee.

Mr. WILLIAMS. Yes. Since that time, Mr. Chairman, he has been charged with certain offenses. Whether those charges will ultimately be brought to formal trial is not yet resolved.

However, I am deeply concerned about something that I am sure the committee will appreciate. If General Koster answers questions here today on the subject matter of the charges that have been held against him, I fear that a very unfair procedural advantage will be given to the prosecutory arm of the Army, because he will, in effect, have given all of his defensive materials to the prosecutor before such time as he is called upon to come into court and respond to his charges.

Now, in a sense we are spiked on the horns of a dilemma here. We have to either invoke his constitutional rights, which I abhor in this instance, and which he abhors, or we have to give away the whole defense before trial. I cannot in good conscience, as a lawyer, advise General Koster to invoke the fifth amendment. I have carefully examined all of the facts that have been made available to me. I believe that there is nothing that he could say that would be incriminating to him, and I fear that if the Commanding General of the Americal Division invoked the protection of the fifth amendment, and that word went abroad—and I fear that it might—that this would be a tremendous propaganda weapon in the hands of the enemies of this country. And so as a lawyer, conscious of his obligations to his client but also conscious of his obligations to the Constitution and to his country, I cannot advise General Koster to invoke the fifth amendment, nor will he invoke the fifth amendment.

But I plead with you, in fairness, not to elicit from him matters here today that are going to prejudice him in the future. He has had, as you know, members of the committee—an unsullied career in the U.S. Army, and I want to keep it that way.

That's why I am in this case, and I hope that the committee will not do anything by its interrogation to prejudice his ultimate chances to get a fair trial, if a court-martial is convened.

Mr. HÉBERT. Well, Mr. Williams, I assure you that the committee is in full accord with your objective, and that is the reason we are taking the precautionary steps that we are taking in the protection of the witness and his privacy. And as I indicated in the opening statement which I made to you, we are not attempting to find, or to establish guilt or innocence in an area where the criminal court has that jurisdiction, in this case the criminal court of the military. And I feel certain that as we go along, that counsel and members of the committee will be most cooperative in all the questions that we will ask, and all the questions I will permit to be asked. I assure you we want just factual statements of what happened, which certainly could not prejudice any case. It is a statement of fact. And as we go along, I will certainly give you every consideration, even to the extent that if a question is asked, that we will make the decision at that time, and then decide what to do.

Now off the record.

[Discussion off the record.]

Mr. STRATTON. I think in view of the statement that Mr. Williams has made on the record, that I would like to say one thing. I can certainly understand his concern, and perhaps the discussion that has taken place here may have resolved that problem.

But as I understand it, the charges against General Koster are two. First of all, dereliction of duty, and secondly, a failure to carry out certain MACV directives, all of which relate to the reporting and investigation of alleged atrocities. It is difficult for me to see how we can really interrogate him on the subjects that we are interested in without touching on those particular points, Mr. Chairman.

Mr. HÉBERT. Well, Mr. Stratton, I will say this: We shall touch on all these points, and you mention allegations that have been made. The committee is perfectly at liberty to ask a question, to say, did you do this, or did you do that? But not make a judgment whether that whatever he did is a violation. It is not up to us to pass on the guilt or innocence of a man under charges.

As a matter of fact, he has not been indicted as of yet. I am using the word "indictment" in a loose term, but indicative of the position that we find ourselves in.

Now, you say he is charged with violation of MACV regulations. The question in that area, if I can set the pace on it, you can ask him, did you report this to MACV? Obviously he did or he didn't.

Mr. STRATTON. That's fine, Mr. Chairman.

Mr. HÉBERT. But then you can't go back and say "Now did you violate the regulations?" This is a different question.

Mr. STRATTON. I understand.

Mr. HÉBERT. You understand that too?

General KOSTER. Yes, I understand it, sir.

Mr. HÉBERT. All right.

Mr. REDDAN. General, during what period did you command the Americal Division in-country in Vietnam?

General KOSTER. I arrived the latter part of September 1967 and I departed on June 3, 1968.

Most of the time it was termed the Americal Division. Initially it was Task Force Oregon, as you realize.

Mr. REDDAN. We will try to keep this thing as narrow as we can, but it would be helpful if in the beginning you could tell us the nature

of your participation, degree of control which you normally exercised on operations at the brigade level?

General KOSTER. I had a series of briefings daily in my headquarters, at which time prior to an operation, I was usually informed of it. I certainly had the power to veto an operation. I got the concept—that this was usually mandatory—that extra resources had to be allocated, particularly if it was an operation of any magnitude.

There were many operations that originated as being ideas or objectives that we decided at the division headquarters should be carried out within an area of operations. But presumably, I allowed the brigade commanders to come up with their ideas as to the areas that they considered to be critical, where the enemy was.

If they came in with a reasonable plan, we would allocate the resource the night before and it would be made available to them the next day.

Mr. REDDAN. Now, did you participate in any way in the decision to form Task Force Barker?

General KOSTER. Yes, sir, very definitely.

Mr. REDDAN. Would you tell the committee briefly why Barker was formed? What their objective was?

General KOSTER. Yes. First it goes back to the time when the Korean Marines were in this particular area of the Batangan Peninsula. It included the zone from—

Mr. REDDAN. If you want to make reference to the map behind you, feel free to do so.

General KOSTER. The Korean Marines had this area from the 2d ARVN Division boundary north to a place off the map. They were removed in order to send them on up closed to Danang, where 3-MAF considered a larger threat to be. And so I was forced to cover this area without an extra allocation of troops.

Initially, I put remnants of a brigade from the 4th Division in that area. They, too, were removed from my control, and I found that I had to expand the area that was covered by the brigade which operated out of Duc Pho. They had three battalions. All of these battalions were covering rather critical areas. I believe I had to pull one of them into the northern areas, as a matter of fact, which left them very short-handed in that particular area.

Rather than try to split this area any further between those battalions, we felt that we could pull a company from several battalions, form a task force, and put them into this void at the time, and this is the way Task Force Barker happened.

Mr. REDDAN. Did the effects or results of the Tet offensive have anything to do with the establishment of Task Force Barker?

General KOSTER. Not to the best of my recollection. I believe that probably the preparation for the Tet offensive did, because that is why all these troops were being moved about. They saw the threat coming up, and this particular area, particularly the one around Duc Pho, had been rather quiet at that particular period of time, and that's why the number of troops were being thinned out.

In addition, there were two additional battalions due in to join my division—three battalions at one time. They later removed one of those. So it had that indirect influence. But no direct thought on my part of the Tet offensive on forming it, I don't believe.

Mr. REDDAN. Now, the committee has been informed that during the first part of 1968, particularly February of 1968, Task Force Barker conducted several operations in what is known as the AO Extension, which runs down through the Son My area. Did you have any discussions with Colonel Henderson, or his predecessor at the brigade level, as to the ultimate goal of Task Force Barker in that Son My area?

General KOSTER. No, sir. I think the reason that we did go into the area of operations, south of there, was that it was rather infrequent that the South Vietnamese 2d Division went out there. When they did, their movements were pretty well predicted in advance. We found that if you had a fixed boundary in which you didn't move that boundary occasionally, you found that the enemy clung pretty close to it, because they felt they had some immunity from both sides.

So we switched the boundary. Occasionally the 2d ARVN Division did come up into our area of operations. On several occasions we went down into their area of operations.

Mr. REDDAN. Would I be correct in interpreting what you just said to mean that the ARVN Division wasn't overly aggressive in that area?

General KOSTER. I wouldn't say that. I don't think they went out and stayed for prolonged operations. They weren't inclined to do that as much as we were. Most of their operations were of pretty short duration.

I would say they were known in advance, usually, because of the preparations and this type of thing. So they weren't particularly effective operations.

Mr. REDDAN. They weren't as effective as you would like the operations to be?

General KOSTER. That is right. They failed to close with the enemy and the enemy, about which we had continual intelligence reports, were basing themselves out of this area in general.

Mr. REDDAN. Coming up to the March 16 operation, did you have any preliminary notice that Task Force Barker had prepared a major assault in the My Lai area for the 16th?

General KOSTER. I am fairly certain that this was probably briefed to me at some time or another, yes, sir.

Mr. REDDAN. Do you have any present recollection of it?

General KOSTER. No, sir. But in order to get the allocation of aircraft and this type of thing, I had to be aware that they were conducting an operation of this type.

Mr. REDDAN. We have received testimony from witnesses with respect to the nature of the briefings which were given to the officers and to the troops immediately prior to the operation on the 16th, the evening, the afternoon and evening of the 15th.

Did you participate in any of those briefings, or were you privy to any of the material on which the troops and the officers were briefed?

General KOSTER. No, sir, not to the best of my knowledge. I, of course, have read it in the newspaper since then.

Mr. REDDAN. Specifically, witnesses have testified that at those briefings it was stated that the objective of Task Force Barker on the 16th was to destroy anything which the enemy might find useful in the Son My area. More specifically, they were to destroy any hootches, tunnels, wells, foodstuffs, bunkers, anything that the enemy could use.

Now, did this ever come to your attention, sir?

General KOSTER. No, sir. This is counter to our division policy that was, I thought, strictly enforced.

Mr. REDDAN. What was your policy with respect to the destruction of anything that might be used by the enemy?

General KOSTER. I had a policy that—well, when you say “used by the enemy,” as far as fortifications of tunnels that the enemy habitually utilized, these we attempted to destroy. But insofar as hootches, or livestock, or crops or this type of thing, there was to be no destruction of this type without my personal approval, or approval of one of the general officers within the brigade—within the division.

Mr. REDDAN. Absent your approval, who would have to give the approval in the division or brigade?

General KOSTER. I would assume one of the assistant division commanders, if I had been absent.

Mr. REDDAN. Would the policy of the division permit the destruction of foodstuffs or animals if it were known that these were being used for supply of enemy forces?

General KOSTER. No, sir. It would not permit the destruction. It would permit the confiscation, if there was more in a particular village than we thought the local villagers would utilize, we sometimes evacuated it and turned it over to Government agencies.

We did not destroy it, particularly in a populated area such as this.

Mr. REDDAN. If it were known, or if intelligence sources indicated substantial evidence that a certain area was being used by the Viet Cong as a R&R center or as a resupply center, a place where they fell back on for resupplying their military cadres, how should those particular areas be treated by our troops?

General KOSTER. Well, if it was a remote area, back in the mountain someplace where it was obviously just for military alone, then our policy permitted destruction of such an area as that. If it were down in a populated area, and we felt something like that might be called for, and I know of no instance where it was, the policy was that the U.S. forces did not do this type of thing. If we had such a requirement, we would have asked the Vietnamese to do it.

But as I say, I know of no instance where we did this.

Mr. STRATTON. Well, then, if this actually occurred in the operation Muscatine, I think was the code name, that hootches were burned, livestock killed, foodstuffs destroyed, this would be directly contrary to your orders and to division policies, is that correct?

General KOSTER. That is correct, sir.

Mr. REDDAN. Coming up to the March 16, 1968 date, did you participate in any way—and when I say “participate,” I include observation—of the ground operations of Task Force Barker in the Son My area?

General KOSTER. On my previous appearance here. I indicated that I wasn't sure whether I had participated in this particular operation or not, because I knew I have observed combat assaults and operations in the area on several occasions there.

Since then, hearing some of the testimony of others, and some of the information gathered by the Peers committee, there have been a few things which would indicate to me that I probably did fly over the area sometime prior to 9:30 on that particular morning.

Mr. REDDAN. Do you have any present recollection of that overflight?

General KOSTER. No; I do not. I have recollection of overflights in the area, but nothing took place that would have marked it on my memory.

Mr. REDDAN. Did you have any conversations by radio with any of the ground forces, or the airborne forces involved in that operation that day?

General KOSTER. I believe at the time, at some time around 9:30 that day, I probably refueled at LZ Dottie, had a brief conversation with Colonel Henderson.

Subsequent—and I don't know whether it was on this day, I am not even sure it was on this operation—I did have a conversation with an individual I thought was Barker at the time, regarding whether a company should return into an objective area. I don't remember the name of the objective area. I know this conversation took place late in the afternoon.

I had been either monitoring the radio or I had asked, and I think asked for a situation report from the unit as to what was going on, and they indicated to me that a company was about to move back into an objective area. It was the recommendation of whomever I was talking to—and I thought it was Barker—that the unit not go back. There was an indication that he had been unable to contact Colonel Henderson. Colonel Henderson had directed this movement. But because of the distance to be traveled, because of the danger of running into mines and boobytraps and because it was late in the afternoon and this is a poor time to be moving anybody into an area where you have to set up a night perimeter, they felt that the company shouldn't move at that particular time.

I granted them authority, and informed them that they should notify Colonel Henderson as soon as possible. Again, I don't know whether this is the operation or not.

Mr. REDDAN. When you say you granted them authority, what do you mean?

General KOSTER. Not to move the company that night.

Mr. REDDAN. Do you recall why the company or the unit was being asked to return to the area of operation?

General KOSTER. Yes. To the best of my recollection, there had been some civilian casualties—not more than 20, as I recall. And the mission of the company was to go back, look at these casualties, and to determine by what means they were killed. I felt, in addition, although I don't think it was indicated during my conversation with Barker or whomever I was speaking with, that this is an almost impossible mission for an infantryman to determine what caused a casualty.

Yes; he can see a small arms wound as it goes in, but as it leaves, it is completely different. If a man is hit by several small arms, it is hard to distinguish the wound from something he might receive from artillery. I felt that my canvassing the company, finding out how many people were actually shot by the individuals in the company, the other casualties were either weapon ships, gunships, or artillery. So I didn't, I felt there was some question about the mission of the company going back in the first place.

Mr. REDDAN. Had you heard previously on the 16th any reference to civilian casualties?

General KOSTER. Well, here again, I am not positive—I believe in my prior testimony to this committee, I indicated that I had talked to General Young, or someone who had brought me the story of the helicopter pilot on the 16th.

Subsequently, it appears that this was the 17th that I was informed of this. I do think, though, at the time, on the 16th, when I talked to Colonel Henderson, he had indicated to me, at least according to his statement, that there had been approximately nine civilian casualties during this early morning operation.

I had indicated to him I wanted to find out what had caused these, how had they been caused, and why. And it was perhaps in response to my comments such as that, that he had directed the company to return.

Mr. DICKINSON. Wait just a minute. Did I understand you to say that it is your present recollection that countermanding the order came on the 17th?

General KOSTER. I am not positive. I don't even know if it was this operation. I just remember I had a conversation like that sometime, on some operation, and I can't tell you for sure which day it was. There was also involved, to the best of my recollection, something about helicopters, whether it was resupply, that was laid on and was about to go into an area that they had prepared for it or whether it was something else, I am not positive.

Mr. STRATTON. General, on this subject of the countermanding of the order to go back into My Lai 4, and the radio transmissions that led up to that countermanding, do you recall, since this involved a question of civilian casualties, do you recall asking what the number of civilian casualties was, and getting a reply, something like 20 or 28, and you said that sounds about right?

General KOSTER. I don't remember ever hearing that statement, and I am fairly certain I wouldn't have said "That sounds about right," because that would have been far in excess of what would have been expected or tolerable.

Mr. REDDAN. Now, would it be fair to characterize your statement to whomever you were talking on the radio that day, as a countermanding of Colonel Henderson's order?

General KOSTER. Yes, sir, I gave them authority to remain in position.

Mr. REDDAN. Now, did you ever thereafter authorize a return to the area to determine any information with respect to possible civilian casualties?

General KOSTER. My only direction was that they didn't need to move in there that particular evening, and it had no bearing on future actions of the company.

Mr. REDDAN. At any time did you receive word of an alleged confrontation between a helicopter pilot and the ground forces of My Lai 4?

General KOSTER. Yes, sir, sometime in the course of this action, I did receive that information.

Mr. REDDAN. Would this have been on the 16th also?

General KOSTER. I indicated initially that it was on the 16th, but based upon other things that I have seen during the course of this investigation, I would say it was more likely about noon on the 17th.

Mr. REDDAN. In other words, you do not recall receiving this information while you were airborne, over the My Lai area?

General KOSTER. No, sir, I did not receive it at that time.

Mr. REDDAN. Do you recall how long you were in the air over the Son My area on the 16th?

General KOSTER. I think I went down to watch a combat assault of one of the two companies that went in. I watched this. There was nothing untoward about it. I heard no unusual transmissions. I believe I refueled at LZ Dottie about 9:30 and left the area.

Mr. REDDAN. Well, the reason I ask that, General, is that this conversation that you have related about the return to check on the civilian casualties, other witnesses have placed this in the afternoon of the 16th, and I would like to get your present recollection as to how you overheard this conversation, whether you were monitoring the conversation from your helicopter or from your office?

General KOSTER. Well, I was speaking before of my time in the air, in the morning. In the afternoon, I was flying in the vicinity of this operation, and when I normally flew in the vicinity of any unit, I would switch on to their frequency, and I was airborne at the time.

This entire conversation would have been monitored by the people in the helicopter.

Mr. REDDAN. Would you have been in the Son My area?

General KOSTER. I wasn't out over the operation area, no sir. As I recall, I was someplace between Quang Ngai and Chu Lai, along Highway 1.

Mr. REDDAN. At what altitude did you fly in the operational area that day?

General KOSTER. I was over, always above everyone else. Those who were participating in the exercise. And I would say I was about 2,000 feet.

Mr. REDDAN. That's the lowest you ever dropped?

General KOSTER. Unless there was some reason for me to go down, which during an operation the air being as congested as it was, I don't recall a single instance where I did go lower than that.

Mr. REDDAN. Did you have any ships flying cover for you when you were airborne?

General KOSTER. No, sir.

Mr. REDDAN. Now, coming up to the evening briefing on the 16th of March, did you attend that, sir?

General KOSTER. To the best of my recollection, I did, but I have no—

Mr. REDDAN. Do you recall any report being made as to the VC killed?

General KOSTER. Sometime I certainly received a report on the number of VC killed.

Mr. REDDAN. And the number of weapons captured?

General KOSTER. Yes, sir, that would have been included.

Mr. REDDAN. Do you recall whether at the evening briefing on the 16th, when these figures were reported, it caused any comment?

General KOSTER. Not that I recall, sir.

Mr. REDDAN. Do you have any present recollection of anyone suggesting that the figures might have been inflated?

General KOSTER. I don't recall of any suggestion of that.

Mr. REDDAN. Specifically, did anyone state if you remove the civilian casualties, you might have one VC?

General KOSTER. I don't ever remember any statement such as that being made at any time during the course of our briefings. If it was made, it must have been an aside, but certainly not addressed to the public, because I would have immediately queried the individual for the basis of such a statement.

Mr. REDDAN. Do you recall any statement being made during that briefing that the count was probably mostly women and children?

General KOSTER. No, sir, I do not.

Mr. REDDAN. Do you recall anyone questioning the high body count as compared with the low weapons count?

General KOSTER. I am sure that there was some speculation on this, not at the briefing, but I believe I discussed it with General Young.

Mr. STRATTON. What were the figures that were given at the briefing, do you recall, General?

General KOSTER. No, sir.

Mr. STRATTON. The body count?

General KOSTER. I can only surmise that they were probably the ones that have been reported, that I have read in subsequent reports.

Mr. STRATTON. 128, was it?

General KOSTER. Yes, sir. That's the one I saw.

Mr. REDDAN. Now, General, when is the first time—now, I am eliminating the conversation that you had with someone in the air about going back to My Lai 4 to check out civilian casualties—when is the first time thereafter that you received any information with respect to the possibility that there had been unnecessary killing or a number of civilian casualties at My Lai 4?

General KOSTER. I received word from the helicopter pilot, through General Young, as I recall, that the helicopter pilot reported indiscriminate firing. Nothing about unnecessary killings.

Mr. REDDAN. When did you receive this information, sir?

General KOSTER. Well, as I presently recollect it, this would have been about noon on the 17th, which is, I believe, a better—the factual time as opposed to the 16th, which I have stated previously.

Mr. REDDAN. Did General Young tell you where he got his information?

General KOSTER. He indicated that it had been brought to him by Colonel Holladay and/or Major Watke, I believe.

Mr. REDDAN. In what detail did General Young brief you on the information he had obtained from either Holladay or Watke?

General KOSTER. Well, he indicated that the helicopter pilot had landed on the ground. He had interceded in order to evacuate some civilians. That there had been a confrontation between the helicopter pilot and an individual on the ground, and that the reason that he had landed on there was to not only rescue the civilians, because he felt they were in the field of fire, but also to indicate to the ground commander that he felt there was some unnecessary firing going on, from what he could see of the action. This was enough to cause me to direct General Young to investigate the matter.

Mr. STRATTON. Could I interrupt at that point? I think it is important that you try to recall exactly what General Young told you. Did he say unnecessary firing? Or did he say indiscriminate killing?

General KOSTER. There was absolutely nothing to the best of my recollection about indiscriminate killing, sir.

Mr. GUBSER. While you are interrupted, is it your rather firm opinion that he said the helicopter pilot landed in a field of fire? If you can't recall exactly—I don't expect you to, but—

General KOSTER. I only knew he landed in the vicinity of one of the leading platoons of this rifle company, which means that it was up where the action was, if there was action going on at the time.

Mr. GUBSER. I am trying to find out if it was your impression that there was firing going on at the time he landed in the immediate area?

General KOSTER. I generally had the impression that there had been firing in the course of this operation, but if there had been very much firing, the helicopter pilot wouldn't have landed on the ground.

Mr. GUBSER. Thank you.

Mr. REDDAN. Did General Young tell you why the pilot said he felt that he had to rescue these people?

General KOSTER. He felt they were being endangered because of the firings of the unit on the ground.

Mr. REDDAN. Of the American troops?

General KOSTER. Yes, sir.

I don't know that it was American troops alone, but it was, I think, certainly—they were contributing to the risk.

Mr. REDDAN. But your testimony is that your present recollection is that General Young stated nothing to you at that meeting with respect to civilian casualties?

General KOSTER. That's correct, sir.

Mr. REDDAN. Should Colonel Holladay or Major Watke have come directly to you, rather than to General Young?

General KOSTER. I wouldn't think so.

Mr. REDDAN. With intelligence of this import?

General KOSTER. No. I think if they had reported it to him, that would have been adequate. He supervised the activities of the aviation battalion.

Mr. REDDAN. In other words, you wouldn't expect him to come to you with something of this nature, and you feel that they were carrying out the prescribed procedures by going to General Young?

General KOSTER. I think they were at the time, yes, sir.

Mr. REDDAN. All right.

Mr. STRATTON. On that same incident, General, what was General Young's mental condition when he came in to tell you about his conversation with Colonel Holladay? In other words, was he disturbed? Was he wrought up? Did he appear to be emotionally upset about the information he was passing on to you? Or was it transmitted just like any other bit of information that might—

General KOSTER. I don't think you would classify him as being wrought up. I think it was a case of, here is something that's alleged to have happened that's hard to believe.

Mr. STRATTON. He didn't appear to be too disturbed by this information, then, I take it, as far as you can recall?

General KOSTER. No; I'm sure that he evidenced concern that this was the impression that the helicopter pilot had.

Mr. STRATTON. What feature of this story was he concerned about?

General KOSTER. Well, I think there were two features, and I am not sure whether I received both of them at this time, but there were certainly two features of it. One was the confrontation; the other was the fact that these people were firing more than the pilot thought was necessary, and thereby endangering civilians.

Mr. STRATTON. You say you can't recollect which one he seemed to be more concerned about?

General KOSTER. Not at this stage, no, sir.

Mr. STRATTON. And did I understand you to say that it is entirely possible that one or the other of those two items might not have been reported to you at that time?

General KOSTER. I can't say definitely, sir. Certainly I learned, I think, I undoubtedly learned of both of them at that time.

Mr. STRATTON. Did General Young convey to you some of the concern and agitation that both Colonel Holladay and Major Watke felt in connection with this story, as they reported it to him? Did he say that these two officers came in, they were pretty upset, really wrought up about this item?

General KOSTER. I don't recall that he did, sir.

Mr. STRATTON. Did Colonel Holladay tell you in connection with this so-called confrontation that this involved a statement by a helicopter pilot that if the American ground troops shot the Vietnamese in the bunker, that he would shoot them, or words to that effect? A question of the possibility of American troops shooting at each other?

General KOSTER. There was some indication that there had been something of this during the course of the confrontation, but I can't say what it concerned, or what it was about.

Mr. STRATTON. In other words, it wasn't significant enough to have stuck in your mind?

General KOSTER. Not the exact words, no, sir.

Mr. STRATTON. Did General Young convey to you—

General KOSTER. I think this is probably what I think of when I say this was hard to believe.

Mr. STRATTON. Well, when you say it was hard to believe, I take it that the item that was discussed must have been so overwhelming that it was most unusual, is that correct?

General KOSTER. Well, it is unusual to have a helicopter pilot land up in a platoon area such as that.

Mr. STRATTON. That's very true. And therefore you say it was unbelievable. In other words, this was either a very unusual and serious situation that you were being confronted with, or else it was something in the realm of fantasy that wasn't really to be taken seriously, because it probably couldn't have happened.

Is that what you are saying?

General KOSTER. I don't think I am saying either one of those things. I think it was of sufficient concern that I directed General Young to have an investigation made.

Mr. STRATTON. Now, did General Young tell you that his recollection of Colonel Holladay's comments with regard to the killing going on was the statement that "This is murder"?

General KOSTER. There were no comments about any killing going on, sir.

Mr. STRATTON. All that you were told was that there was indiscriminate firing?

General KOSTER. That's correct, sir.

Mr. STRATTON. Why was that a matter of concern to General Young?

General KOSTER. I think it is of concern any time that you are in a populated area and you feel that the troops—there are certain restrictions placed on them, when they are engaged in a populated area. We desire to have them control their fire in order to preclude civilian casualties.

Mr. STRATTON. Then the thing that you were concerned about would be the killing, and not the, let's say, waste of excess ammunition?

General KOSTER. I am not concerned about ammunition, that's correct, sir.

Mr. STRATTON. Well, then, but General Young did not indicate that there had been any charge of people being killed by this indiscriminate firing?

General KOSTER. That's correct, sir.

Mr. STRATTON. But you took it that that was what was intended, since you weren't concerned about any waste of ammunition?

General KOSTER. Any time there is indiscriminate firing, particularly in a populated area, there is the danger of having casualties.

Mr. STRATTON. So that was the thing that concerned you?

General KOSTER. Yes, sir.

Mr. REDDAN. General, did you associate what General Young was telling you with the information you had received the previous day with respect to civilian casualties at My Lai 4?

General KOSTER. I undoubtedly did, figured that this could have caused some civilian casualties.

Mr. REDDAN. You have used the phrase "hard to believe." Was this General Young's attitude, or was this also your recollection to what he was telling you?

General KOSTER. I think we shared the recollection, sir.

Mr. REDDAN. Under the rules of engagement in Vietnam, was recon by fire an acceptable practice?

General KOSTER. In certain areas, I would say, but not in populated areas.

Mr. REDDAN. You say that in this area, it would not have been a proper procedure?

General KOSTER. No, sir, that is correct, sir, not in the village itself.

Mr. REDDAN. How long did your meeting with the general take place on this occasion?

General KOSTER. I don't recall that it was protracted. I'd say a few minutes.

Mr. REDDAN. And would you repeat for us, please, what your direction was to General Young?

General KOSTER. I asked him to have this matter investigated.

Mr. REDDAN. Did you indicate who should investigate the matter?

General KOSTER. No, sir, I don't recall that I did.

Mr. REDDAN. Now, did anyone else bring this matter to your attention, within the next day or two?

General KOSTER. No, sir. Sometime during the course of the next day or two, I ascertained that there had been approximately 20 civilian

casualties. I had asked for a breakout of the civilian casualties and a determination of what had caused them.

Mr. REDDAN. Who gave you that information, sir?

General KOSTER. The best I recall, this probably came from Colonel Henderson.

Mr. REDDAN. Do you recall the circumstances under which Colonel Henderson gave you that information?

General KOSTER. No, sir. I saw him several times during the course of the next several days, and I know that he had visited my office on one occasion and gave me some details. I know I gathered information regarding the investigation that was going on. I obtained that from General Young on several different occasions.

Mr. REDDAN. That was going to be my next question, General. Did you have subsequent conversations with General Young relative to this matter?

General KOSTER. Yes, sir, I did.

Mr. REDDAN. Would you recall them for me? Would you tell us about them in chronological order, if you can?

General KOSTER. Well, the one that I have—the recollection is informing me that he had had a report from Colonel Henderson who had in turn talked to the helicopter pilot, who made the initial statement and took the action on the ground. And Henderson had interviewed this pilot after we had directed an investigation, to the best of my knowledge, and he had reported to General Young that he felt that the helicopter pilot had been rather new, had been a little disturbed, hadn't been used to the type of actions that were taken on the ground, that he felt he had been a rather confused young man, and that he didn't—

Mr. REDDAN. Is this General Young telling you this?

General KOSTER. He was relaying this to me as something obtained from Henderson's interrogation of the helicopter pilot.

Mr. REDDAN. Did General Young ever tell you that he met at LZ Dottie with Major Watke, Colonel Holladay, Colonel Henderson, and Colonel Barker to discuss this matter?

General KOSTER. I don't recall whether he specifically informed me of that. I knew he got the investigation under way, and I have read in some of the testimony here that such a meeting did take place.

Mr. REDDAN. Did he come to you at any time and say, I have met with these individuals, and I have directed Colonel Henderson to make the investigation that you want, or words to that effect?

General KOSTER. I think he probably informed me that he had told Henderson to investigate the matter, yes, sir.

Mr. REDDAN. And thereafter, did Colonel Henderson report to you?

General KOSTER. He gave me a report, yes, sir.

Mr. REDDAN. In what form was this report?

General KOSTER. It was an oral report initially.

Mr. REDDAN. And did he come up to Chu Lai to give you this report?

General KOSTER. I think he had given me interim reports, telling me what he had done, on several occasions, but on one occasion at least he did come to Chu Lai and came to my office.

Mr. STRATTON. General, did you approve the designation of Henderson as the man to conduct the investigation?

General KOSTER. I guess by not objecting to it, I did, sir.

Mr. STRATTON. Did it occur to you that this was a case of having the man on the ground investigate himself?

General KOSTER. No, sir, not at all, because this is normal in the Army, that you would turn something over to the commander of the unit to investigate what was going on within his unit.

Mr. STRATTON. Well, if what had happen was perhaps an unfortunate reflection on the unit involved, wouldn't it be better to have somebody in a more impartial position conduct the investigation?

Mr. WILLIAMS. Just a minute. Mr. Chairman, I think this is the very kind of interrogation that I was assured wouldn't take place. It is designed to aid the prosecution of this case. I don't think it has a legislative purpose. It is being asked with hostility. I have tried to desist from objecting so that we could move along here, but I think this is really not appropriate for this hearing, and I object to it, and I am going to instruct General Koster not to answer.

Mr. HÉBERT. Well, Mr. Williams, you can instruct him not to answer, but on what grounds?

Mr. WILLIAMS. I think it is irrelevant to the purposes for which this committee has been convened, and for which it is authorized to conduct this inquiry. I think more than that, Mr. Chairman, it is basically unfair to do this to the witness who is here cooperating, not invoking his constitutional rights, but trying to help this committee, and I don't think he should be subjected to cross examination of the character which has been engaged in by Congressman Stratton.

And I haven't objected up to now so we could move long, but I just think it is basically unfair, and I ask the question be withdrawn or stricken.

Mr. HÉBERT. Well, I would suggest to Mr. Stratton, as I have suggested before, in the cross examination we find ourselves getting involved in what counsel has said, and Mr. Stratton, I again would suggest you ask him affirmative questions, without an effort to impeach his testimony, but to ask him did this take place or did that take place and not what was your opinion or why did you do this or that. I think in the opening statement, I indicated that we wanted just the statement of fact, and after he has once stated a fact, it stands on its own, which would be developed later or not, whether that fact actually took place.

Mr. GUBSER. Mr. Chairman.

Mr. STRATTON. I will withdraw the question, Mr. Chairman.

Mr. GUBSER. I ask that everything—you are going to ask the question be withdrawn?

Mr. STRATTON. Yes.

Mr. GUBSER. I ask that everything be stricken from the record, including Mr. Stratton's last question on the record, and down through the conclusion of my remarks.

Mr. STRATTON. Well, Mr. Chairman—

Mr. HÉBERT. No. Mr. Stratton withdraws the question and he continues in order.

Mr. GUBSER. Is this colloquy all going to be in the record?

Mr. HÉBERT. I think it should be. I think it shows the attitude of the committee, and it shows the attitude of the witness who is appearing.

We want to be fair in this matter and we can't just exclude these things.

Mr. GUBSER. But is it really pertinent to what we are trying to do?

Mr. HÉBERT. I have ruled on that already, that we are not going to proceed. And I will ask Mr. Stratton to proceed in the order we have laid down. I also hesitated to, and I want this in the record too, because I also wanted it to show that I had the same feeling that the counsel had, and I was trying to refrain from interposing objection to Mr. Stratton, because the record will show that I have been objecting to so many of these things, I don't want it to appear that I am badgering Mr. Stratton.

And it is pretty hard to refrain, after laying down the rules. So I will ask Mr. Stratton to try to cooperate. Let's continue.

Mr. STRATTON. I have one other question, Mr. Chairman. General, I take it that the investigation that Colonel Henderson made indicated that the confrontation between the helicopter pilot and the ground troops did occur, an event which you previously characterized as being hard to believe. Did you ever consider the possibility of disciplinary action against Mr. Thompson for that particular, very unusual event?

General KOSTER. No, sir; I never did. I did put out instructions in some manner that would indicate that when helicopter pilots observed something on the ground that they thought should be reported, that they report it back to the echelon of command conducting the operation, as opposed to landing right down within the area.

Mr. STRATTON. Could you tell the committee why you did not consider any disciplinary action?

Mr. WILLIAMS. I object.

Mr. HÉBERT. Again, this is pursuing something that is not in the realm of the committee now. This grows out of a remark made by a witness who said he wondered whether he should be decorated or court-martialed. It has nothing to do with General Koster. And again, I say that this can be conducted along the lines I have laid out. I don't want to be continually—

Mr. STRATTON. I thought this was factual, Mr. Chairman. I am not trying to cross-examine or anything else. I just wondered why there was no consideration of this breach of proper battlefield—

Mr. HÉBERT. Again you say there was a breach. We don't know whether there was a breach or not. Somebody has expressed an opinion, at a time that is unrelated to what we are doing right now. But to say that this is a fact, coming from this side of the table, I cannot allow those kinds of statements to stand.

We do not know it to be a fact that he violated these rules. We don't know that.

Mr. STRATTON. I am simply basing this on the general's testimony that this was hard to believe.

Mr. HÉBERT. There again, and I hate for the record to show this, Mr. Stratton, but you are compelling me to do it, and I have to do it. You tried to cross-examine the general and maybe I am a simpleton and can't understand these things, but the general, as I gather from what he said, said it was hard to believe that this incident occurred, or that it happened.

He made no reference at all, as I understand it—and don't you answer anything here, General—but I am trying to, in this dissertation now, I am trying to give you, Mr. Stratton, my thinking.

These things occur to other members minds. All the gentleman meant, as far as I was concerned, that it is hard to believe that this incident took place, as he related. Now, that is all it is. Hard to believe had nothing to do with the chopper's action of setting down in a combat area, it had no reference to that at all.

The only thing it had reference to was General Young came to him, reported what had been told him, and the general ordered an investigation. Now, that is what we want to find out. All right. He ordered the investigation, he has told you he ordered the investigation. And it is rather annoying to have to do this, and I hate to do it on the record, but I simply am not going to be unfair to the people appearing here, nor am I going to strap the committee in its pursuit of its responsibility.

But if you want it that way, then it is going to have to reflect it Mr. Reddan, you proceed.

Mr. REDDAN. If we can back up just a minute, General, you say that Colonel Henderson came to you and made a verbal report at some time after the 17th?

General KOSTER. That is correct, sir.

Mr. REDDAN. Do you recall what he reported to you?

General KOSTER. Well, he felt that the actions—there had been nothing untoward about the actions. He had talked to a number of individuals that had been on the ground. This included responsible commanders, some of the men. He had talked to some of the pilots. There had been about approximately 20 civilian casualties, but these had been caused by a variety of means during the heat of battle, so to speak.

And that he felt that all the actions that had been taken that day were warranted.

Mr. REDDAN. Did his report contain any reference to artillery fire or gunship fire, do you recall?

General KOSTER. I don't recall the specifics. I believe that he stated some of the civilian casualties had been caused by these means.

Mr. REDDAN. Did he make more than one verbal report to you?

General KOSTER. I am sure that before the time that he came into the office in Chu Lai, he had.

I had seen him in the field on previous occasions, and he had mentioned something about what he had done.

Mr. REDDAN. You would ask him the status of the report, and he would—but when he completed his report, he came to Chu Lai to discuss it with you; is that it?

General KOSTER. He did come there on one occasion, and this was undoubtedly after he had done all of his interrogations.

Mr. REDDAN. I don't know whether I asked you this or not, General. Did Colonel Parsons ever come to you to discuss this with you?

General KOSTER. I thought Colonel Parsons had been in on some of the discussions. I don't believe I ever obtained any new facts about the case from Colonel Parsons.

Mr. REDDAN. Do you recall whether Colonel Parsons ever told you that he was also visited by Colonel Holladay and Major Watke, who briefed him on this matter?

General KOSTER. I don't recall that, sir.

Mr. REDDAN. After Colonel Henderson brought you this verbal report, what did you do?

General KOSTER. I believe that for the time being, at least, I was satisfied that the actions that had been taken by the troops that day were what they should have been.

I did put out a notice cautioning people on civilian casualties, which has been made a part of the evidence of the Peers committee, at least.

Mr. REDDAN. Do you recall whether you initiated any, or directed any action to correct or modify the record with respect to the reporting of casualties at My Lai 4 on the 16th?

General KOSTER. No, sir, there was nothing indicated to me that would necessarily warrant that.

Mr. REDDAN. Well, you had a body count at My Lai 4 in connection with this operation. It was a total figure. Now, when Colonel Henderson reported to you that there were 20-odd civilians killed at My Lai 4 that day, did you initiate any action to either add those to the number that had already been reported, or to subtract the civilians from the Viet Cong that had been reported?

General KOSTER. The only ones that had been reported, at least under the procedures we used at the time, would have been the enemy Viet Cong. The reporting procedures were handled within the staff. If such a correction should have been made, I would have assumed that that would have been handled by the agency responsible for it, sir.

Mr. REDDAN. Were there any procedures for reporting civilian casualties?

General KOSTER. I am not familiar with them, if there were. Now, there certainly were in an area where you weren't engaged in a hostile action. But when they were unfortunate victims of an activity against an enemy force, I know of no directive that required reporting of those that were injured or killed in the heat of battle.

Mr. REDDAN. Were there any directives or any procedures in the Americal Division, or under MACV, prescribing what should be done with respect to investigating civilian casualties?

General KOSTER. Yes, sir; there were numerous directives, but I don't feel that the ones that are injured or killed during the heat of battle fall into those categories.

Mr. REDDAN. Now, as I understand, there afterward came a time when Colonel Henderson submitted a written report; is that correct, sir?

General KOSTER. That is correct.

Mr. REDDAN. Could you tell the committee the circumstances which led to his preparation of a written report?

General KOSTER. Well, as best I recollect, it came to our attention that there were some Viet Cong propaganda leaflets that alleged a large number of civilian casualties in this area, not necessarily in the same village we were in, but close enough thereto that we felt they could conceivably be talking about the same area.

I felt that since Colonel Henderson had made a thorough investigation on the part of the U.S. troops that this should be documented, so in case some confirmation of this or some questioning of this came up, from the ARVN forces, we would have the evidence he had already gathered readily available. And so I gave instructions that he should make this, or at least commit the investigation that he had previously made into a so-called formal investigation.

Mr. REDDAN. I have here a copy of a report which has been given to us and which is entitled "Report of Investigation by Col. Oran K.

Henderson," dated April 24, 1968, and the report itself is a page and a half long, and there are several attachments to it.

General KOSTER. I am familiar with that report, sir.

Mr. REDDAN. Are you familiar with this, counsel?

Mr. WILLIAMS. If you have an extra copy—

Mr. REDDAN. This is the only complete copy I have of the thing. That report that you now have in front of you, is that the report which—

General KOSTER. This is the one that was forwarded at one time, yes, sir.

Mr. REDDAN. And the opening sentence of that report, as I recall, indicates that it is a report investigating the attached information there, which is concluded by Colonel Henderson to be Viet Cong propaganda. What is your understanding that this report was also supposed to cover the allegations made by Warrant Officer Thompson?

General KOSTER. It was my understanding, and the way I intended this, and again, when I did give him the directive, and I am not positive this was in response to the directive I gave him, that he would come in providing the data that he had solicited from the various individuals he had interrogated at the time that he had made his informal inquiry.

Mr. REDDAN. You say informal inquiry. I assume this is opposed to formal inquiry. What is your definition, or how do you distinguish between formal and informal inquiry?

General KOSTER. Well, I think a formal investigation is where you take statements from individuals, and whereas what Colonel Henderson had done initially was more of an inquiry in nature, to see what the circumstances were surrounding the actions of the organizations that were participating in the combat on that day.

Mr. REDDAN. That is when he came to you with his verbal report?

General KOSTER. Yes, sir.

Mr. REDDAN. Now, is the written report what you would consider a formal report?

General KOSTER. Well, this particular one isn't what I had in mind, and as I recall, after I saw this, I again directed that we obtain a formal investigation that incorporated the statements of the individuals with whom he had spoken during the course of his initial investigation.

Mr. REDDAN. The report that you have there has certain attachments to it. But they are not statements of witnesses interviewed by Colonel Henderson, are they?

General KOSTER. No, sir, they are not.

Mr. REDDAN. And I gather from your testimony here this morning that you felt that this report was not of the type that you wanted, and then you directed a new report supported by statements of witnesses, is that right?

General KOSTER. That is correct.

Mr. REDDAN. Would you tell us to whom you gave this directive, and—

General KOSTER. To the best of my knowledge, I gave it to General Young, although it is conceivable it could have been to Colonel Parsons or to Colonel Henderson. But I believe it is to General Young.

Mr. REDDAN. Could you tell us when you gave General Young this order, what you expected him to do, and what did he report back to you?

General KOSTER. I can only recall that I directed an investigation, a so-called formal investigation to be made, which I felt would recapture the statements as I have indicated. I knew this was being accomplished. I wasn't sure whether Colonel Henderson was doing it himself. As it turned out, he had caused Colonel Barker to gather many of these statements.

Mr. REDDAN. Did you subsequently receive a report from Colonel Barker?

General KOSTER. I received one from Colonel Henderson, but it was one that had been endorsed by him, and it contained the Barker investigation.

Mr. REDDAN. Would you describe that report for us, please, sir?

General KOSTER. As I recall, it was several pages. It had two or three pages of what had been, who had been interrogated, and the conclusions by Colonel Barker, and then statements of certainly the two company commanders, some platoon sergeants, platoon leaders, some of the aviators, that sort of thing.

Mr. REDDAN. Do you recall specifically any of the persons interviewed?

General KOSTER. I would have said Captain Medina was one, and I don't recall other names just offhand.

Mr. REDDAN. Do you recall whether Warrant Officer Thompson was interviewed?

General KOSTER. I do not recall.

Mr. REDDAN. Do you recall approximately how many supporting statements there were attached to the report?

General KOSTER. At least a dozen, I would say, sir.

Mr. REDDAN. Do you recall the conclusions of the report of the investigation?

General KOSTER. They were generally along the lines that Colonel Henderson had given me previously, sir.

Mr. REDDAN. Did they differ in any way from the conclusions reached by Colonel Henderson?

General KOSTER. No, sir, not that I recall.

Mr. REDDAN. No change in the body count, to your present recollection?

General KOSTER. No, sir.

Mr. REDDAN. Nor the manner in which the civilians were killed?

General KOSTER. No, sir, not to the best of my knowledge.

Mr. REDDAN. Did the report contain anything with respect to a confrontation between the pilot and the ground forces?

General KOSTER. I don't recall anything about that aspect of it, sir.

Mr. REDDAN. Was this an area which you had expected to be covered?

General KOSTER. Not necessarily.

Mr. REDDAN. What did you intend or what did you direct General Young to have investigated?

General KOSTER. I think at that time we were focusing more on the information that Colonel Henderson had gathered, that confirmed there had been no unnecessary civilian casualties on the part of any of these troops, because we were at the same time considering this Viet Cong propaganda.

Mr. REDDAN. Do you recall approximately how long after the Colonel Henderson report was received that you received the Colonel Barker report?

General KOSTER. I do not recall specific times. I don't know whether I received Colonel Henderson's first report before or after I went to Hawaii on R. & R.

Mr. REDDAN. That would have been when?

General KOSTER. From the 27th of April until the 8th of May, I believe.

Mr. REDDAN. Do you recall whether Task Force Barker was still in operation at the time you received the report? That might help us fix the date.

General KOSTER. I was under the impression that it was not, because if he had been commanding the task force, I don't feel he would have made the report. I don't tie it in with the operations of the task force, other than that.

Mr. REDDAN. Do you recall how many copies of the report you received?

General KOSTER. To the best of my knowledge I saw only one.

Mr. REDDAN. Do you know what the normal distribution would have been on a report of that sort?

General KOSTER. I would have assumed that we would have had a couple of copies in the headquarters.

Mr. REDDAN. When is the last time you saw the report, General?

General KOSTER. To the best of my knowledge, I last saw it when I gave it to somebody for file or further disposition; and, as I recall, it was Colonel Parsons.

Mr. REDDAN. Is it your recollection that this report from Colonel Barker made reference to casualties resulting from preparatory artillery fire?

General KOSTER. I don't recall whether that was covered or not.

Mr. REDDAN. I believe in the Henderson report that you have in front of you, in the paragraph on page 2 with respect to the conclusions, I think that is one of the conclusions reached by Colonel Henderson?

General KOSTER. Yes, sir.

Mr. REDDAN. Do you recall whether that same conclusion was contained in Colonel Barker's report?

General KOSTER. I do not, sir.

Mr. REDDAN. Did you, as a result of the Colonel Henderson report, bring this possibility or this intelligence to the attention of the artillery commander of the Americal Division?

General KOSTER. No, sir, not as such, I don't believe.

Mr. REDDAN. Do you know whether there was any SOP which required the artillery commander to investigate all civilian casualties resulting from artillery fire?

General KOSTER. There certainly was, and we used that SOP rather repeatedly, but as far as I am concerned, it had no application when you are going into a target area such as we were, and were intentionally firing into that area.

Mr. REDDAN. I just can't understand when else civilian casualties could happen, unless the artillery was off its mark by a long way.

General KOSTER. Many times, either it is off its mark but just a little ways, it is off its mark a long ways, or it is firing into a friendly area, because somebody has asked them to fire in there. There were many such instances.

Mr. REDDAN. Well, now, when you saw this conclusion of Colonel Henderson's with respect to civilian casualties from artillery, did you make any effort to find out what the artillery overlay was for that operation?

General KOSTER. Not to the best of my knowledge, sir.

Mr. REDDAN. Would Colonel Parsons have any responsibility for referring his artillery casualty information to the artillery commander?

General KOSTER. The artillery commander should have known this, and if it was a proper investigation, it would have been undertaken on his initiative, I believe.

Mr. REDDAN. How would he know that, sir? This is the thing that bothers me.

General KOSTER. He has forward observers right out with the leading elements, and if there are casualties such as these they would be reported back immediately.

Mr. REDDAN. Well, of course this assumes that they did know this. However, could you in any way assist this committee in locating a copy of this Barker report?

General KOSTER. I wish I could, sir.

Mr. REDDAN. This is a collateral matter, but again I ask it from the standpoint of being helpful. Would a report like this normally be retired at this early date? Or should it have still been out in the field?

General KOSTER. I would have thought it would have been retained there for some time, and retained within the headquarters.

Mr. REDDAN. Do you know whether any copy of this report was ever sent to MACV?

General KOSTER. Not at my instigation, sir.

Mr. REDDAN. Do you know whether or not there was anything in that report which would normally cause Colonel Parsons to transmit it to 3-MAF, for instance?

General KOSTER. No, sir. As far as I was concerned, this was an incident that we had investigated. We found that the troops were not at fault, and there was nothing that warranted passing it to higher headquarters.

Mr. REDDAN. Is there anything in division procedures, or the MACV directives, which would require any passage of this report to MACV?

General KOSTER. Not with the information that was contained therein, in my opinion.

Mr. STRATTON. Mr. Chairman.

Mr. HÉBERT. Yes.

Mr. STRATTON. Could I ask a couple of questions in regard to these reports? General, I understood you to say, when Mr. Reddan showed you the report, that you were not sure whether this particular report was in response to your request to Colonel Henderson to write—to commit to writing the conclusions that he had made in his earlier report.

General KOSTER. It is my recollection that it was, but I have noted in Colonel Henderson's testimony, which I have now had the privilege of reading, that he feels he initiated this report on his own. I feel that it was in response to my request for him to conduct a formal investigation.

But I am not as sure on that point as I had been previously.

Mr. STRATTON. Well, in any event there is no question in your mind that this document is the first written report that you received on this particular incident?

General KOSTER. I believe it is, yes.

Mr. STRATTON. Now, did you ever, either at the time that Colonel Henderson made his oral report or subsequently thereto, inquire as to just how thorough an investigation he made?

General KOSTER. I believe during our discussions, I certainly had the impression that he had talked to many people who had been involved in the operations that day. I don't recall the details of our discussion, no.

Mr. STRATTON. Do you recall how thoroughly he interrogated Mr. Thompson, for example?

General KOSTER. I had the impression that he had been with Mr. Thompson for half an hour, or at least more than just a few minutes.

Mr. STRATTON. Do you recall whether you determined whether he had interrogated Colonel Holladay, who had brought the initial information to General Young?

General KOSTER. I knew that they had had a meeting at some time, and if they met, they must have talked.

Mr. STRATTON. Would you be surprised if you learned that Colonel Holladay was never questioned on this matter?

Mr. WILLIAMS. I object to this kind of interrogation. Whether General Koster was surprised or not surprised couldn't possibly be relevant. I think it is argumentative and I think it is a cross-examination, which has as its effect unfair prejudice to this witness if subsequent charges are brought against him.

Mr. STRATTON. Mr. Chairman, I am simply trying to get answers to factual information. If these questions are not designed to do that, I will certainly rephrase them. I have never been aware that this committee has to be friendly to the witnesses that are appearing before it, and the suggestion that we have to be friendly or else we can't ask any questions seems to me to be totally irrelevant.

Mr. HÉBERT. Well, Mr. Stratton, let me say this right now, that this committee is friendly to witnesses appearing is merely your opinion.

Mr. STRATTON. Counsel is suggesting that if the question is unfriendly, it is somehow irrelevant.

Mr. HÉBERT. I have repeatedly said and will repeat as often as you compel me to that the line of questioning is provocative. It is inquisitorial. And that it bears on subsequent charges that may be brought against General Koster.

Again I repeat that I hate to be doing this, and I do agree with you that counsel is adroit and clever enough to throw some of his own adjectives in in making the statement. I recognize that. And I don't want him to think that I don't recognize it. But I recognize the side of the table he is sitting on, and I recognize the side of the table that you are sitting on.

But my function is to try to keep this thing as equal as I possibly can and as fair as I can.

Mr. STRATTON. Mr. Chairman, let me rephrase the question, if I may, and see whether it is acceptable to you. Mr. Chairman, the question is, would you feel, General, that if Colonel Henderson had prepared his report and conducted his investigation without inquiring or making

any inquiry of Colonel Holladay, who had first brought this report to the attention of General Young, that this would have been what you would have regarded as an adequate investigation?

Mr. HÉBERT. There you are asking for an opinion, Mr. Stratton. Now, the fact of the matter is that the general has testified how he came into the possession of the report. The general has testified why he wanted a more formal investigation. But you obviously are reading from another man's testimony and trying to impeach the witness, based on what the other witness has testified. And I simply cannot allow those kinds of questions.

Mr. STRATTON. Let me try another question, then, Mr. Chairman, if I may. General, if I understand it correctly, when you directed Colonel Henderson to convey his conclusions or to put his conclusions into writing, were you directing him to conduct an additional inquiry, or were you directing him to simply put down into writing the conclusions which he had transmitted to you orally as a result of a previous inquiry?

General KOSTER. I was asking him to get the statements, written statements this time, of the individuals he had talked to previously.

Mr. STRATTON. I am talking first about this document here, General. The one that you said you thought was in response to your request to him to put this material that he had conveyed to you orally into writing.

General KOSTER. Yes, sir. Well, I don't understand the question.

Mr. STRATTON. You were not asking him to conduct a new investigation, interrogate additional witnesses, but simply to put down on paper what had been previously transmitted orally?

Mr. WILLIAMS. I object to this, Mr. Chairman. This is a statement that is the statement of the interrogator. It is not the statement of the witness. It is cross examination. It is argumentative. It goes right to the very heart of the charges lodged against him. I think it is unfair and I don't think it serves any legislative purpose.

Mr. HÉBERT. I agree with you. I ask Mr. Stratton again not to interrogate or to ask opinions, but—

Mr. STRATTON. Mr. Chairman.

Mr. HÉBERT. Mr. Stratton, I simply cannot do any more than I have done, and if you disagree with the ruling of the Chair you can appeal the ruling of the Chair.

Mr. STRATTON. I don't think I have made myself clear. I am trying to determine whether the first written report was the result of what was ordered to be a new inquiry, or simply a reduction to writing of the conclusions of the first one.

Mr. HÉBERT. I did not get that impression.

Mr. STRATTON. That was what the question was.

Mr. HÉBERT. The general has already testified that Colonel Henderson orally reported to him. He told him to reduce to writing what his report was. He returns with a written report, which according to what the general has said did not satisfy what he had told him to do. So he told him to go back and get the witnesses and get the affidavits.

He didn't use the word "affidavits," but to get the statements of the individuals. Wait, now. So far as the general knows, he went back and got these statements. He submitted a second report on the same inquiry, to a document which is elusive to this date to the committee, as far as we know.

The general has testified that he did see such a document, that he did file such a document. Its whereabouts now, as far as the committee knows, is unknown, and the general's own words, when asked would he supply it, he said, "I wish I could." These are the simple statements of fact.

Mr. STRATTON. I just wanted to make sure I understand the factual material, Mr. Chairman.

Mr. HÉBERT. All right. Then next time you ask me the questions and I will give you the factual material.

Mr. STRATTON. I take it from what you said that the document which we have here is a written account of conclusions previously presented orally, but reduced to writing in response to the general's directive.

Mr. HÉBERT. That is exactly what he said and that is exactly what I have said, that my interpretation of it was.

Mr. STRATTON. That is all I was asking. There was no new or fresh inquiry. It was the written report of the previous oral report.

Mr. HÉBERT. It was a supplementary report with additional facts or statements—

Mr. STRATTON. No, not this one.

Mr. HÉBERT. No, the next one.

Mr. STRATTON. Now, my next question is, again, I want to make sure in my own mind that I understand that the directive of General Koster to Colonel Henderson was not to conduct a fresh inquiry, but simply to get written statements, which previously had been picked up orally in the course of the initial investigation.

Mr. HÉBERT. The statement was, as I understand the statement, and the record will stand on what he said, he told him to go back and complete the report, or enlarge on the report by getting the statements to substantiate the conclusions that he had arrived at in this first draft of, or this first report.

Now, that is as I understand it. And it is as the general has testified.

Mr. STRATTON. All right, now, my further inquiry, Mr. Chairman, is whether General Koster knew that Colonel Henderson had turned this second assignment over to Colonel Barker.

General KOSTER. No, sir, I did not realize it until I received the document.

Mr. STRATTON. And I ask again, General, if you had known it—

Mr. HÉBERT. No, you are going off again, Mr. Stratton. You are asking him if such things had prevailed or certain conditions. The fact is he did not. That is a statement of fact. Now, to ask him what he would have done under certain circumstances, I will not let him answer those questions.

Mr. STRATTON. All right, Mr. Chairman.

Mr. REDDAN. General, did you receive any report relating to this My Lai 4 incident from anyone else other than the two reports that you have referred to here?

Mr. WILLIAMS. Are you talking about written reports?

Mr. REDDAN. Yes, written reports.

General KOSTER. I am not positive whether I received any other type of reports or not. To the best of my knowledge, I did not. But I am not positive.

Mr. REDDAN. Do you recall whether a written report of this incident was made by Major McKnight?

General KOSTER. I don't recall it, sir.

Mr. REDDAN. Or Colonel Luper?

General KOSTER. I don't recall, sir.

Mr. REDDAN. You have no recollection of any such report?

General KOSTER. I do not recall, no, sir.

Mr. REDDAN. Did you ever have any conversations with Colonel Anistranski relative to the My Lai operation?

General KOSTER. Not that I recall, sir.

Mr. REDDAN. Did you ever have any discussions with General Cushman with respect to the My Lai 4 operation?

General KOSTER. I have a recollection having mentioned the fact of Viet Cong propaganda leaflets that alleged certain things happening in our area, and that we had it under investigation but it was perhaps either to General Cushman or to General Van Risen, who was his deputy, and it would have been in a very offhand orientation during one of their visits to the Americal Division.

I have that recollection, but it would not have borne any resemblance whatsoever to what is presently being publicized.

Mr. REDDAN. Do you recall whether any distribution was made of either the so-called Henderson report or the Barker report to General Cushman or anybody at 3-MAF?

General KOSTER. Not at my instigation, sir.

Mr. REDDAN. I have no further questions.

Mr. HÉBERT. General, I want to ask you some questions along another line. I will leave this area now, with this one statement. Mr. Reddan has already indicated what the regulations were in reporting these matters to MACV. You know the regulations. You said you knew the regulations. And your judgment was that you carried out in the fullest the regulations within your own judgment.

General KOSTER. Yes, sir, I felt these casualties did not fit into categories that are discussed under the regulations.

Mr. HÉBERT. So it was a matter of judgment, and not a matter of failing to carry out regulations in your judgment.

General KOSTER. Yes, sir, that is correct.

Mr. HÉBERT. Because this is the thing, Mr. Stratton, what I have just asked the General, I am not going behind what he has said. I am taking exactly his own words. Now, we in the committee have other testimony from other witnesses. That is our judgment, to make our conclusions. But certainly it is not within our realm to attempt to impeach the witness or to test his credibility. I think I have made that clear.

Now, one other question. Are you knowledgeable of any regulations as to the conduct of combat photographers in the field, and as to what pictures they may or may not take? Are there any regulations or instructions given to photographers, to your knowledge?

General KOSTER. Not to my personal knowledge. I am sure they are governed by some regulations.

Mr. HÉBERT. If they are in the Government, they are going to have some regulations.

General KOSTER. I am not familiar with them, whatever they are, sir.

Mr. REDDAN. Along that same line, General, do you know whether or not combat photographers' pictures are used for purposes other

than hometown news shots and so forth? Is there any use made of them by the Army for historical purposes?

General KOSTER. Yes, I think they are probably eventually gathered up and forwarded on back to the historical section to be screened and some kept that way. There must be a repository for them someplace.

Mr. HÉBERT. Do you know if it was a custom that a photographer on combat duty would be permitted to have what he would consider his own personal camera to take his own personal pictures and not turn them in to the Government?

General KOSTER. I don't know whether there is a regulation that governs it or not. Almost everybody carried his own personal camera over there, unless he was carrying a—

Mr. HÉBERT. I mean a combat photographer whose mission it is to take pictures. That would be the same as a soldier carrying a rifle, he carried his own .45, and he would shoot with the rifle for the Government and shoot with the .45 for himself.

General KOSTER. I don't know whether there is a regulation or not that governs that.

Mr. HÉBERT. That is what we are confronted with, to solve that question. But you don't know.

General KOSTER. I do not know of the regulation, if there is one.

Mr. LALLY. Mr. Chairman. General, did Americal Division have any liaison with the district or province advisory teams?

General KOSTER. We didn't have an individual who stayed there all the time, but I would say particularly with province, we were in almost daily contact with the people at province headquarters. Some element of the staff. With the district, not so. I doubt if people had frequent liaison with the district headquarters.

Mr. LALLY. Did you receive from the province advisory team any reports, oral or otherwise, containing allegations of atrocities in the My Lai operation?

General KOSTER. I feel that I received this Viet Cong propaganda leaflet from someplace, and I am not sure whether it was forwarded up by one of the advisory teams or not. But other than that, I am not sure that I ever received any other correspondence or copies of correspondence. I do know that attached to this statement is the statement of Captain Rodriguez, which I saw at the time this was submitted to me.

Mr. LALLY. Do you recall any specific conversation with any of the province advisory staff regarding such allegations?

General KOSTER. Only after I had received the last of the reports, and I decided, since we had not uncovered anything untoward on the U.S. side, that before we ceased further investigations, that I would go and see Colonel Khien and Colonel Toan personally, and see if they had anything that they might have ascertained from ARVN sources that would cause us to do something more about it.

And I did go and see both of them on the same day. And this was after all of our investigations had been, well, at the stage that we have discussed today.

Mr. LALLY. And what was the information you received from the South Vietnamese military officers?

General KOSTER. That they were generally of the opinion that this was Viet Cong propaganda, that they had done some investigation,

that it had uncovered nothing that would substantiate it, that they would conduct further investigations.

Mr. LALLY. I have no further questions.

Mr. HÉBERT. General, were you ever shown any pictures allegedly taken during the My Lai 4 operation?

General KOSTER. None of the ones that have appeared—

Mr. HÉBERT. I mean at the time of the alleged incident, while you were in-country.

General KOSTER. None that—I might have seen pictures of combat assaults or helicopters flying or something like that, but to the best of my knowledge, I did not see any pictures that would have indicated there were untoward incidents during the operation.

Mr. HÉBERT. And undoubtedly, I think you would recall if you had seen them.

General KOSTER. I certainly would.

Mr. HÉBERT. Did you have a feeling at any time that there was an attempt to slough this thing off? I mean, just say, well, it is one of those things that happened in battle, and let's go on?

General KOSTER. No, sir. I didn't have that impression.

Mr. HÉBERT. You did not get that impression?

General KOSTER. No, sir.

Mr. HÉBERT. Your appreciation of the My Lai operation was that it was a success, of course.

General KOSTER. Yes, sir.

Mr. HÉBERT. And your appreciation of that success caused you to make Colonel Holladay an addressee to a commendation by General Westmoreland to you as head of the Americal Division?

General KOSTER. I don't know whether Colonel Holladay was an addressee. I relayed it on to Colonel Henderson.

Mr. HÉBERT. With an added paragraph.

General KOSTER. Yes, sir.

Mr. HÉBERT. Because of your feeling that it had been an outstanding operation.

General KOSTER. That is correct, sir.

Mr. SLATINSHEK. Just one question, General Koster. What particular purpose would be served by showing you photographs of the My Lai operation? Were these in the nature of a supplement to perhaps an action report, reviewing the operation in any sense?

General KOSTER. I wouldn't have seen them during the normal course of things. They didn't bring in the photographs of an operation. One might have been published in our division newspaper. One might have been shown to me as a particularly good photograph, just interest in photography. But as a rule, the pictures taken would not have been brought to me.

Mr. SLATINSHEK. I see. But your recollection is that perhaps you had seen a photograph or a number of them, but the context in which they were seen you don't recall?

General KOSTER. I don't recall ever seeing a number of photographs of any operation, being brought in to me as these were taken on such and such operation. I don't think it ever happened.

Mr. SLATINSHEK. And are photographs—this is for record purposes, of course—are photographs of this kind on occasion used to supplement an action report or whatever the Army considers an official report of the operation?

General KOSTER. Not so much on an official report, but they would be supporting an investigation, if they were germane to the investigation, they would have been attached.

Mr. SLATINSHEK. But it isn't SOP or a standard procedure to have combat photographers along for the purpose of supplementing historically the record of the operation.

General KOSTER. I don't believe that was the purpose of the combat photographers, no, sir.

Mr. SLATINSHEK. That is all.

Mr. HÉBERT. While you were in-country, did you hear any scuttlebutt or rumors or coffee-cup chatter that something untoward had happened at My Lai, outside of your investigation, other than that?

General KOSTER. No, sir.

Mr. HÉBERT. You heard no continuing rumors?

General KOSTER. No, sir, absolutely not.

Mr. HÉBERT. When was the first time that you heard, outside of your investigation—

General KOSTER. When I found it was being investigated down at Fort Benning, which is sometime last summer.

Mr. HÉBERT. After it had broken in the newspapers?

General KOSTER. Yes, sir.

Mr. HÉBERT. That was the first time you heard of it?

General KOSTER. Yes, sir.

Mr. HÉBERT. Thank you, General, very much. I appreciate your cooperation and your appearance.

General KOSTER. Thank you, sir.

[Whereupon, at 1:10 p.m., the subcommittee was recessed.]

The subcommittee met, pursuant to recess, at 2:10 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, special counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Mr. Rodriguez, will you identify yourself to the reporter?

TESTIMONY OF ANGEL RODRIGUEZ

Mr. RODRIGUEZ. Yes, sir, I am Angel Rodriguez. I am a teacher in Puerto Rico. I was born in San Juan.

Mr. REDDAN. Your address in Puerto Rico?

Mr. RODRIGUEZ. My address in Puerto Rico is J3, Calle del Oeste, Ciudad University, Rio Piedras, P.R.

Mr. HÉBERT. Now, Mr. Rodriguez, the committee wants to inform you of your rights and protection before the committee. You are under the full protection of this committee while you are under its jurisdiction, and by that I mean that your privacy is not to be violated, nor are you to be harassed by news media. You do not have to give any interviews, answer any questions for any news media. You do not have to allow yourself to be photographed or go on television, anything of that nature, except if you want to. But as far as we are concerned, you will be fully protected. When you leave, you will leave by the door in the rear, and an officer will be there, and only one member of the news media will be present, and he can ask you only one question. And that

is, "Do you care to make a statement?" If you say no, that's the end of it.

Now, you have a copy of the rules of the committee?

Mr. RODRIGUEZ. Yes, sir.

Mr. HÉBERT. And you understand that you can have counsel if you want?

Mr. RODRIGUEZ. Yes, I do, sir.

Mr. HÉBERT. You chose not to have counsel?

Mr. RODRIGUEZ. Not to have.

Mr. HÉBERT. All right. I will swear you in.

[Witness sworn.]

Mr. REDDAN. Mr. Rodriguez, you are now a civilian?

Mr. RODRIGUEZ. Yes.

Mr. REDDAN. You were discharged from the Army when, sir?

Mr. RODRIGUEZ. I am retired from the Army.

Mr. REDDAN. Retired from the Army?

Mr. RODRIGUEZ. Retirement from the Army.

Mr. REDDAN. When were you retired, sir?

Mr. RODRIGUEZ. I was retired on the 1st of November 1969.

Mr. REDDAN. You have had a tour of duty in Vietnam, have you not?

Mr. RODRIGUEZ. I did have.

Mr. REDDAN. During what period, sir?

Mr. RODRIGUEZ. It was the 1st of October, it was sometime in October, I can't recall the dates right now, until—

Mr. REDDAN. Of 1968?

Mr. RODRIGUEZ [continuing]. 1968. November 1969.

Mr. REDDAN. Let's see. You were there in March of 1968, were you not?

Mr. RODRIGUEZ. Yes, sir, I was there.

Mr. REDDAN. You were at the district office in Quang Ngai Province?

Mr. RODRIGUEZ. I was the assistant district advisor, to the Son Tinh District, in the Quang Ngai Province.

Mr. REDDAN. What were your duties in that capacity?

Mr. RODRIGUEZ. In that capacity, I was supposed to assist the senior advisor in all the operational duties, like going on operations and helping him in the taking care of the district, and the operational and administrative matters.

Mr. REDDAN. Did you participate in military operations in the field?

Mr. RODRIGUEZ. Yes, sir, I did.

Mr. REDDAN. Did you go out with the ARVN forces in that connection, or U.S. forces?

Mr. RODRIGUEZ. Yes, sir. Vietnam forces; ARVN forces. Especially popular forces, and the type of forces that we used to go with.

Mr. REDDAN. This committee is inquiring into the events which took place at My Lai 4 on March 16, 1968. And we are particularly interested in what allegations were made of civilian casualties in that area, and how these allegations were handled. That is, what investigation was made of them and how these allegations were disposed of. Did you, during your service in Vietnam, learn of any allegations of civilian casualties at My Lai 4 of March 16, 1968?

Mr. RODRIGUEZ. Sir, I learned about this from a letter that came from province headquarters, when I returned from Saigon on the 10th of April, 1969.

Mr. REDDAN. 1968.

Mr. RODRIGUEZ. Excuse me. That was 1968, yes. I was supposed to, since the senior advisor wasn't there—

Mr. REDDAN. Who was the senior advisor?

Mr. RODRIGUEZ. That was Colonel Gavin.

Mr. REDDAN. Colonel Gavin?

Mr. RODRIGUEZ. Well, he was a major then. I took action on this letter, since it was a hasty thing, they wanted this back, this report back.

Mr. REDDAN. Tell us what the letter was about, sir?

Mr. RODRIGUEZ. The letter had to do with requesting information on this alleged killing of so many people in the area, where they had the operation, the American troops had this operation on the—I don't recall the date. I think it was on 16 March or 18 March. And this letter requested to make an investigation, and give this information back to the province headquarters as soon as possible.

Mr. REDDAN. I will show you a letter dated April 11, 1968, from Son Tinh, from the district chief of Son Tinh to the province chief, at Quang Ngai. And I will ask you if that is the letter that you refer to.

Mr. RODRIGUEZ. No, sir.

Mr. REDDAN. That's not the one?

Mr. RODRIGUEZ. No, it is not the one.

Mr. REDDAN. When is the last time you saw the letter that you have just described to us here?

Mr. RODRIGUEZ. I saw it before the meeting.

Mr. REDDAN. This morning?

Mr. RODRIGUEZ. This morning. And I saw it in General Peers' committee.

Mr. REDDAN. Perhaps you can look through these letters which I hand you, and pick out the one that you have reference to. It is not in that group?

Mr. RODRIGUEZ. No, it is not in this group. Let me see here. I will check back here. No, it is not. This is it right here. This is the one that I signed. And this is the letter—no, the one that I saw came from province headquarters.

Mr. REDDAN. Was this the one?

Mr. RODRIGUEZ. This is the one I saw, sir. An information copy.

Mr. REDDAN. Were you able to find in those papers that I have handed you the copy of the letter that you received from the province office?

Mr. RODRIGUEZ. Yes.

Mr. REDDAN. I see. And what does that say?

Mr. RODRIGUEZ. Do you want me to read this?

Mr. REDDAN. Yes.

Mr. RODRIGUEZ. The letter reads:

Subject: Allied operation at Son My assembled and killed civilians.

On 16 March 1968 an American Army unit conducted a mopping up operation at Tu Cung and Co Luc hamlets of Son Tinh village. At about 10 o'clock on the above day, the American unit encountered a Viet Cong mine and received fire from Tu Cung hamlet. One American soldier was killed and a number of others wounded.

In response the operational forces attacked the village, assembled the people and shot and killed more than 400 people at Tu Cung hamlet, and 90 more people at Co Luc hamlet of Son My village. While the Vietcong were withdrawing from

the hamlet, 48 Vietcong and more than 52 guerrillas and self-defense soldiers were wounded by helicopter gunships.

Subsector comments.

Tu Cung and Co Luc are two areas of Son My village that have long been held by the Vietcong. The district forces lack the capability of entering the area. Therefore, allied units frequently conduct mopup operations and bombing attacks freely in the area. But the basic position of the report of the Son My village committee is that although the Vietcong cannot be held blameless for their actions in the 16 March 1968 operation, the American in anger killed too many civilians. Only one American was killed by the Vietcong, however the allies killed nearly 500 civilians in retaliation.

Really an atrocious attitude if it cannot be called an act of insane violence. Request you intervene on behalf of the people.

Respectfully, 1st Lt. Tran Ngoc Tan, district chief.

Mr. REDDAN. He was the Vietnamese district chief?

Mr. RODRIGUEZ. Yes, sir.

Mr. REDDAN. And as I gather from that letter, he is saying that the village chief relayed this information to him? Is that right?

Mr. RODRIGUEZ. The village chief gave this information to him.

Mr. REDDAN. The village chief at that time was located in Quang Ngai? Or someplace outside of My Lai 4?

Mr. RODRIGUEZ. He was in the Son Tinh district.

Mr. REDDAN. He was in the Son Tinh district?

Mr. RODRIGUEZ. Yes.

Mr. REDDAN. But he was away from the Viet Cong-controlled Son My area?

Mr. RODRIGUEZ. You are talking about the——

Mr. REDDAN. The village chief.

Mr. RODRIGUEZ. The village chief, no, this village chief used to live in Quang Ngai.

Mr. REDDAN. Yes.

Mr. RODRIGUEZ. Because the way that works, or used to work in Vietnam, is that the Vietnamese government had the village chief from the ARVN, from the South Vietnamese government, and they also had the Viet Cong Village chief, and this one we are talking about is about the South Vietnamese government. But the fact is that this village was in control of the Viet Cong.

Mr. REDDAN. Yes.

Mr. RODRIGUEZ. And actually he was not the Viet Cong—he was not the village in that respect. He was just a name.

Mr. REDDAN. He was a village chief in name?

Mr. RODRIGUEZ. Yes.

Mr. REDDAN. He couldn't live there because it was controlled by the Viet Cong?

Mr. RODRIGUEZ. That is correct, sir.

Mr. REDDAN. And he is reported these allegations, he is making these allegations to the province chief, is that right?

Mr. RODRIGUEZ. He is making this allegation to the district chief, and the district chief gave this information to the province chief.

Mr. REDDAN. I see.

Mr. RODRIGUEZ. There is a possibility that perhaps also it had to go to the village chief—I mean to the province chief through someone else.

Mr. REDDAN. Yes. But in any event, this is what came to you for investigation?

Mr. RODRIGUEZ. That is correct, sir.

Mr. REDDAN. Now, would you tell us what you did with that, sir?

Mr. RODRIGUEZ. As one of my duties as the assistant district advisor, since the district senior advisor wasn't there, he had left, I went to the district chief, Lieutenant Tan at the time, and I asked him what action he wanted to take on this allegation.

Mr. REDDAN. Who was Lieutenant Tan?

Mr. RODRIGUEZ. Lieutenant Tan was the district chief of Son Tinh.

Mr. REDDAN. All right.

Mr. RODRIGUEZ. And I sat down with Lieutenant Tan. We had very few facilities there. So I discussed this with him, and also took the typewriter and made the report side by side, and I made clear to him that this was very serious, and I wanted to know if he wanted to take any action on this matter.

The answer that he gave to me is in this report here, but I would like to state the fact that a place like this, when I was in Vietnam, was quite, what we call in the Army quite hot, and we could not get in there, and go count the bodies.

Mr. REDDAN. You could not go back in?

Mr. RODRIGUEZ. I could not go back and make an investigation in the place, in the area.

Mr. REDDAN. Yes.

Mr. RODRIGUEZ. So since he said this, I said—

Mr. REDDAN. Just tell us what he told you.

Mr. RODRIGUEZ. He said that it wasn't important, and also he took it as a propaganda affair. And he didn't want to go into the area. I could see his point, because he didn't have the troops to do this, to have an action, or to have an operation in the area.

Mr. REDDAN. So you made this report back?

Mr. RODRIGUEZ. Yes, sir.

Mr. REDDAN. And to whom did you send your report?

Mr. RODRIGUEZ. I sent this report to the province headquarters.

Mr. REDDAN. And what individual at the province headquarters did you send it to?

Mr. RODRIGUEZ. Sir, I don't recall. It has been a long time since, and also, since it was our way of doing things, was just to go and give it to either the administrative officer or perhaps the sergeant in charge of the operation, or someone else there. But I am certain that this was given back to the headquarters.

Mr. REDDAN. Did you talk to Colonel Guinn about this?

Mr. RODRIGUEZ. No, sir.

Mr. REDDAN. Did you ever talk to Colonel Gavin about it?

Mr. RODRIGUEZ. Yes.

Mr. REDDAN. When did you talk with him, sir?

Mr. RODRIGUEZ. I talked to him the very same day that he came back from his leave.

Mr. REDDAN. How long after your report would that have been?

Mr. RODRIGUEZ. Probably about 5 or 6 days.

Mr. REDDAN. Did he indicate to you what he was going to do, if anything, about this?

Mr. RODRIGUEZ. No, sir, not at all. He took the report and the report I made, or the statement, plus the letter, and it seems to me he didn't give too much importance to it, because—

Mr. REDDAN. You gave him a copy of the letter you had received and a copy of your reply?

Mr. RODRIGUEZ. That is correct.

Mr. REDDAN. And that is the last you heard?

Mr. RODRIGUEZ. That was the last I heard.

Mr. REDDAN. Now, during the rest of your stay in Vietnam, did you ever again hear any allegations concerning civilian killings in My Lai?

Mr. RODRIGUEZ. No, sir.

Mr. REDDAN. Shortly after the operation of Task Force Barker at My Lai on March 16, did you observe or did you learn of any demonstrations in the Quang Ngai City area by people in the My Lai area protesting the killing of civilians?

Mr. RODRIGUEZ. Sir: I heard of some demonstrations, but I can't tell you if they were referring to this incident, because I wasn't there. Well, actually, I went then to Saigon, and I didn't put too much importance to it, because that was a regular routine thing in the area. I mean, every time these people didn't like something they had some sort of demonstration. So that is why I didn't.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. No questions.

Mr. GUBSER. No questions.

Mr. HÉBERT. Mr. Dickinson?

Mr. DICKINSON. What was your military rank at the time you were on duty?

Mr. RODRIGUEZ. Sir, I was a captain.

Mr. DICKINSON. Were you Regular Army?

Mr. RODRIGUEZ. No, sir, I was Reserve, indefinite. I came through the ranks, and then I went to Vietnam as a captain.

Mr. DICKINSON. I see, now, just to make sure I understand, when you said that not much importance was placed on the demonstration, did you in any way tie the demonstrations into the allegations dealing with My Lai 4?

Mr. RODRIGUEZ. No, sir, I didn't.

Mr. DICKINSON. Well, was the complaint that you received by letter from the province chief unique? Was it the first time something like this had happened? Or was this a common everyday occurrence? Or could you just discuss that, please?

Mr. RODRIGUEZ. Well, in our intelligence reports, we normally had things of this nature, but in very small scale, like perhaps killing a few people, but very, very seldom American troops. I don't recall of any other time. But very few times I heard that American troops had been killing anyone there. I mean especially civilians. Not at all.

Mr. DICKINSON. This was the first time, to your knowledge, then, that an allegation had been made that American troops had intentionally killed civilians?

Mr. RODRIGUEZ. That is very true, sir.

Mr. DICKINSON. And then the number, the magnitude involved here must have certainly made it really remarkable or unique, wouldn't that be true?

Mr. RODRIGUEZ. That is very true, sir. But as I mentioned before here, I brought this up to the—although Lieutenant Tan knew about it, and he was the one that initiated this letter to Colonel Toan, who was the province chief at the time, I explained to him the importance, the seriousness of the thing. That is what I sat down with him and talked about. But it came in my mind, since the Viet Cong, the way of fighting a way there, just by propaganda, and that is the strongest one,

that American troops would be killing 490 civilians, and the way they are stating on this letter, just line them up and kill them like that.

So there is a possibility there that perhaps Lieutenant Tan didn't either believe that, or—

Mr. DICKINSON. Well, maybe it isn't fair for me to ask you, but did you get the impression that the lieutenant did believe it or did not believe it?

Mr. RODRIGUEZ. Well, it is very hard for me, sir, to judge that, because I don't know—

Mr. DICKINSON. Was he excited?

Mr. RODRIGUEZ. He was not.

Mr. DICKINSON. Upset?

Mr. RODRIGUEZ. It looks to be like he was—

Mr. DICKINSON. Indifferent?

Mr. RODRIGUEZ. Indifferent in some way, and in another way perhaps preoccupied by this affair, because this was a report coming from one of the village chiefs, and he depended on those village chiefs to stay there on the job. And he has to attend to all these complaints.

Mr. DICKINSON. Well, while you were also there in this capacity as adviser, did you also see some printed propaganda leaflets alleging the massacre?

Mr. RODRIGUEZ. Yes, sir, I did.

Mr. DICKINSON. At the same place?

Mr. RODRIGUEZ. At the same place.

Mr. DICKINSON. Did the propaganda leaflets in any way identify the place that you could tie into the complaint in the letter?

Mr. RODRIGUEZ. No, sir, I don't recall any. Perhaps there were, but I don't recall.

Mr. DICKINSON. You do recall seeing the leaflets?

Mr. RODRIGUEZ. Yes, they used to drop or throw leaflets all over the place, especially given to the civilians, in the Viet Cong-controlled areas, and they used to bring them into the Government-controlled areas.

Mr. DICKINSON. I am talking about Viet Cong leaflets now.

Mr. RODRIGUEZ. Yes; that is what I am talking about.

Mr. DICKINSON. Now, they were rather commonplace, were they not, the Viet Cong pamphlets, or leaflets, making different claims against the Americans?

Mr. RODRIGUEZ. I would say so, yes, sir.

Mr. DICKINSON. Was any investigation ever made as a result of this letter, that you know of? Did you do anything?

Mr. RODRIGUEZ. Yes, sir, this is what I am talking about, the actual investigation in the place wasn't done by me by myself. I stated the fact that Lieutenant Tan couldn't go there in the first place, because they needed at least two or three battalions to get in that place. And myself, with the Popular Forces, I had platoons of 15 or 20 civilians dressed as soldiers.

You can't do much with them, besides the fact that they left me about five or six times. So that's what. I made the report, I talked to Lieutenant Tan, the man I worked with, and I said, "Look, this is what you want to do, or what do you want to do? You want to set up an operation?" Well, let's get to headquarters, I mean, we couldn't do that. But he didn't—

Mr. DICKINSON. He didn't want to set up an operation?

Mr. RODRIGUEZ. Seems to me he didn't care much at the time.

Mr. DICKINSON. And that was your only contact with it, and the only thing you did about it was this, plus this briefing with Colonel Gavin when he returned, as to what had occurred?

Mr. RODRIGUEZ. That is right, sir.

Mr. DICKINSON. Colonel Gavin didn't do anything to indicate that anything additional was expected or required of you or that he was going to do anything additional?

Mr. RODRIGUEZ. Sir, my military mind, after 20 years in the service, told me that if action was going to be taken, it would be taken at the next higher headquarters. They had the capabilities to do it. And I explained the seriousness of this letter, and I gave him my statement. After that, what was done, I have no knowledge of it.

Mr. DICKINSON. All right. I have no further questions.

Mr. REDDAN. Mr. Rodriguez, do you know Mr. May?

Mr. RODRIGUEZ. Yes, sir.

Mr. REDDAN. Did you ever discuss this with him?

Mr. RODRIGUEZ. No, sir.

Mr. HÉBERT. Who is Mr. May?

Mr. RODRIGUEZ. Mr. May was the civilian senior adviser for the province. They had the civilian adviser plus they have the Army senior adviser that was the deputy for Mr. May.

Mr. REDDAN. Do you know who the CIA representatives were in that area at that time?

Mr. RODRIGUEZ. Yes, sir. Well, I met them several times, and I worked with them but I don't recall their names.

Mr. REDDAN. Could you name any of them at all?

Mr. RODRIGUEZ. No, sir. I don't recall the names of any one of them. They used to have a place in town, and live all together there, but I don't recall their names.

Mr. REDDAN. Did they ever come out?

Mr. RODRIGUEZ. Yes, sir, they did. They did. They used to go to the headquarters once a week. Or perhaps twice a week.

Mr. REDDAN. About how many CIA people did they have up there at that time?

Mr. RODRIGUEZ. At that time? It is very hard for me to give a figure. Perhaps three or four.

Mr. REDDAN. Did you know a Mr. [deleted]?

Mr. RODRIGUEZ. Yes, sir, I did.

Mr. REDDAN. Was he one of the CIA representatives?

Mr. RODRIGUEZ. I think so. That is what he informed me.

Mr. REDDAN. All right, I have no further questions.

Mr. HÉBERT. When was the next time you heard about this alleged massacre, Mr. Rodriguez? After you left the country?

Mr. RODRIGUEZ. That was the last time. This incident here, when I prepared the statement, sir. After that, I didn't hear much about it or I didn't hear anything about it.

Mr. HÉBERT. Until it appeared in the press?

Mr. RODRIGUEZ. Until I read Life magazine and a few other newspapers.

Mr. HÉBERT. Is it possible that if there was any wholesale killing in the My Lai area that some of the Vietnamese troops themselves could have been in the area, in the operation?

Mr. RODRIGUEZ. The operation was—

Mr. HÉBERT. Was it solely an American operation?

Mr. RODRIGUEZ. I think normally—I don't recall if we did on this particular day—perhaps Major Gavin knows—but if they had any Popular Forces involved, we used to have blocking positions with these types of forces. But normally when they had big American operations, we used to give them only some interpreters or people who knew the area, and it was a combined operation with the Vietnamese troops and the American troops.

Mr. DICKINSON. Did you ever talk to Colonel Henderson or anybody from his office about that?

Mr. RODRIGUEZ. No, sir.

Mr. DICKINSON. You were never interviewed?

Mr. RODRIGUEZ. No. See, what happened is this. I was the assistant district advisor, and we had a senior district advisor, and I got involved in this myself because he wasn't there. Otherwise he would be taking care of it, with my assistance.

Mr. DICKINSON. Thank you.

Mr. HÉBERT. Thank you very much, Mr. Rodriguez.

[Whereupon, at 2:40 p.m., the subcommittee proceeded to a further witness.]

TESTIMONY OF WILLIAM C. RIGGS

Mr. HÉBERT. Will you identify yourself to the reporter, for the record?

Mr. RIGGS. William C. Riggs.

Mr. REDDAN. Where do you live, sir?

Mr. RIGGS. I live at 1002 Tarlton Street, Midland, Tex.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Mr. RIGGS. I was Company Commander of Company A, Third Battalion, First Infantry, 11th Infantry Brigade.

Mr. HÉBERT. Now, Mr. Riggs, the subcommittee wants to assure you of the full protection for yourself, in your privacy, against the news media or anybody else.

Mr. RIGGS. Yes, sir.

Mr. HÉBERT. You do not have to speak to any news media. You do not have to answer any questions of the news media. You do not have to be photographed, except by your consent.

When you leave the room, you will leave by the rear door. An officer will be there to escort you. If a representative of the press is there, he can ask you only one question, and that is, "Do you care to speak?" or "Do you care to make a statement?"

If you say "No," that's the end of it, and you go away.

Mr. RIGGS. All right, sir.

Mr. HÉBERT. Now, you have a copy of the committee's rules? The book?

Mr. DICKINSON. Were you given a copy?

Mr. RIGGS. No, sir.

Mr. HÉBERT. Well, Mr. Reddan will brief you.

Mr. REDDAN. These are the rules of the subcommittee, Mr. Riggs, and the part which would be of interest to you starts on page 2. It says, "information for witnesses." And in there it tells you that if you are sworn to testify before the subcommittee, you are entitled to counsel, if you so wish. And that is the principal portion of those rules.

Mr. RIGGS. All right, sir.

Mr. HÉBERT. Is this the first you've been notified that you could have counsel, if you desired?

Mr. RIGGS. I don't think so, sir. I'm not real sure, but I believe when I was up here before, with Mr. Reddan, I think it was brought out then.

Mr. REDDAN. Didn't we give you a copy of these rules at that time?

Mr. RIGGS. No, sir.

Mr. REDDAN. I'm sorry. I thought we did.

Mr. HÉBERT. Well, do you desire counsel?

Mr. RIGGS. No, sir.

Mr. HÉBERT. All right. Will you stand? I will swear you in.

[Witness sworn.]

Mr. HÉBERT. All right.

Mr. Reddan.

Mr. REDDAN. Mr. Riggs, were you discharged or retired from the Army?

Mr. RIGGS. I resigned my commission.

Mr. REDDAN. I see. When was that, sir?

Mr. RIGGS. June 9, 1969.

Mr. REDDAN. And you were in Vietnam during what period?

Mr. RIGGS. Twice. I was there in September 1964, to September 1965. And November 1967 to November 1968.

Mr. REDDAN. Now, in your second tour of duty, you became part of Task Force Barker?

Mr. RIGGS. Yes, sir.

Mr. REDDAN. You commanded A Company?

Mr. RIGGS. Yes, sir.

Mr. REDDAN. As you know, we are looking into this My Lai operation, and as we understand it from other witnesses, your company occupied a blocking position north of the river on the day of the My Lai operation of March 16, 1968.

Mr. RIGGS. Yes, sir, that is correct.

Mr. GUBSER. Would you point that out on the map?

Mr. RIGGS. The yellow area, up in here, was generally our location.

Mr. GUBSER. Thank you.

Mr. REDDAN. How close is that to My Lai 4?

Mr. RIGGS. From my closest element, it's probably about 1,300 meters.

Mr. REDDAN. Were you close enough to hear the artillery prep fire?

Mr. RIGGS. Yes, sir, I believe I was, the best I recall.

Mr. REDDAN. Did any elements of your company become involved in the ground operation at My Lai 4 itself, on March 16?

Mr. RIGGS. No, sir.

Mr. REDDAN. Did any elements of your company go south of the river on March 16?

Mr. RIGGS. No, sir.

Mr. REDDAN. Did you, the following day, cross the river?

Mr. RIGGS. We did. It was either the following day, or the day after. My memory is hazy on this.

Mr. REDDAN. How far south did you proceed?

Mr. RIGGS. Around in here, sir, I think, because this is, according to the map symbol, a church, and there was a Buddhist temple.

Mr. REDDAN. You are referring to just south of the 80 coordinate line there?

Mr. RIGGS. Yes, sir.

Mr. REDDAN. And just north of My Lai 4?

Mr. RIGGS. Yes, sir.

Mr. REDDAN. How close would that be to My Lai 4 itself?

Mr. RIGGS. About—that would be about 800, 900 meters.

Mr. REDDAN. Did any of your element get closer than that to My Lai 4?

Mr. RIGGS. Possibly a couple of hundred meters. Just in a general—in the way we moved, I couldn't say for sure, but we moved pretty well spread out, so maybe 150 meters further south.

Mr. REDDAN. After completion of your blocking operations on the 16th, what were your orders thereafter? What were you supposed to do?

Mr. RIGGS. We moved south of the river, down to the area that I have generally indicated, and then we worked our way back to the west, and then crossed the river and went back north, up into this area here.

In fact, we went all the way the length of this thing here, to the best of my memory.

Mr. REDDAN. You crossed back over the river, and went back up above coordinate 83?

Mr. RIGGS. Yes, sir, went up on that high ground, and worked to the point that is marked 109.

Mr. REDDAN. Did you have any orders with respect to My Lai 4 itself, as to whether or not you should avoid it?

Mr. RIGGS. No, sir, not to the best of my memory, I did not, no, sir.

Mr. REDDAN. Was there anything which prevented any of your elements from going into My Lai 4, after you moved south of the river?

Mr. RIGGS. No, sir. In what respect?

Mr. REDDAN. Could you have gone in to make a body count, for instance, if you had been so directed?

Mr. RIGGS. Oh, yes, sir.

Mr. REDDAN. Did you receive any sniper fire as you approached in the vicinity just north of My Lai 4 there?

Mr. RIGGS. No, sir. We received a—I believe my days might be a little mixed up. I believe we received a sniper attack. They sneak in at night, in small groups. I think this was the night we stayed fairly close to that Buddhist temple that is indicated on the map, and we had some contact that night. But it was real quick, and that was it.

Mr. REDDAN. Now, you attended the briefings of the company commanders the night prior to the operation on the 16th, did you not?

Mr. RIGGS. Yes, sir.

Mr. REDDAN. Was there any discussion during that briefing with respect to the destruction of livestock or hootches or tunnels, wells, food stocks, anything of that sort?

Mr. RIGGS. Not to the best of my knowledge, no, sir. In general, our orders were pretty much the same in this respect, in that the civilian populace was not necessarily to be messed with.

Mr. REDDAN. What do you mean by that, sir?

Mr. RIGGS. Well, they weren't to be intimidated or coerced, threatened, tortured, anything like that.

Mr. REDDAN. Was anything specifically said about that?

MR. RIGGS. No, sir. This was just a general policy. And as far as any specific orders that we were given to do this, destroying tunnels was pretty much a standard procedure. But destroying livestock, foodstuffs, and homes, such as they were, was not, no, sir.

MR. REDDAN. Well, now, since you were only to occupy a blocking position, would it be possible that your orders may have been different from the ones given to, say, Charlie Company?

MR. RIGGS. Yes, sir. At the time the order was issued, each company commander received his particular assignment, his particular part of the mission. And at that time, to the best of my memory, Bravo and Charlie Companies were to be the two assault companies, and I was to be the blocking company, basically. If any other orders were given to the other two company commanders later, I was not present.

MR. REDDAN. Now, you were not airlifted back to LZ Dottie, were you?

MR. RIGGS. No, sir. You mean at the termination of this?

MR. REDDAN. Yes.

MR. RIGGS. No; I was not.

MR. REDDAN. How long was it before you returned to LZ Dottie?

MR. RIGGS. I'm just kind of guessing, but about 5 or 6 days.

MR. REDDAN. Upon your return there, was there any discussion that you heard with respect to civilian casualties in My Lai 4?

MR. RIGGS. No, sir.

MR. REDDAN. You heard no scuttlebutt or rumor that there was an investigation?

MR. RIGGS. No, sir. We were picked up—we were airlifted back when we did finally go back to Dottie, we were airlifted back, got back late in the afternoon, and the next morning I received orders to get on a helicopter, and I went south, back down to brigade headquarters, and met the brigade S-3, and went further south.

MR. REDDAN. That was Major McKnight?

MR. RIGGS. Yes, sir. And then I went down, and he gave me a new mission, and I left the task force the next day. My company departed. We went down to secure another LZ, where the first of the 20th Infantry had departed.

MR. REDDAN. You were detached from Task Force Barker, then, at that time?

MR. RIGGS. Yes, sir. This would have been right around the end of March.

MR. REDDAN. Did you have any discussions, or did Major McKnight make any reference to any civilian casualties at My Lai 4 during this trip?

MR. RIGGS. No, sir, not that I remember, he did not.

MR. REDDAN. Did you thereafter ever come back to Task Force Barker, or to the area of operation known as the Son My area?

MR. RIGGS. No, sir, I did not.

MR. REDDAN. That's all I have.

MR. HEBERT. Mr. Stratton, any questions?

MR. STRATTON. No, Mr. Chairman.

MR. HEBERT. Mr. Gubser?

MR. GUBSER. What type of admonitions or warnings were you given in your training and various briefings or talks, that came from su-

perior officers, about the manner of avoiding excessive civilian casualties?

Mr. RIGGS. Well, the thing that comes most to my mind, is my—not Colonel Barker, but the battalion commander of the third of the 1st Infantry, my parent unit, had made this a real definite point, that he expected, you know, strictly professional work, and he saw no reason for this, and that any variance would be dealt with rather harshly.

Mr. GUBSER. Did you ever hear the subject discussed while you were with Task Force Barker?

Mr. RIGGS. No, sir.

Mr. GUBSER. You don't know of any change in policy at Task Force Barker, as compared to what existed with your previous assignment?

Mr. RIGGS. In this respect?

Mr. GUBSER. Yes.

Mr. RIGGS. No, sir. Colonel Barker had his basic ideas and conduct along the same lines.

Mr. GUBSER. You have conducted operations where you were the assault company, I'm sure.

Mr. RIGGS. Yes, sir.

Mr. GUBSER. Did you have a photographer with you?

Mr. RIGGS. No, sir. In fact, I don't recall ever having had one with me.

Mr. GUBSER. Is that right?

Mr. RIGGS. Yes, sir.

Mr. GUBSER. Did you ever participate in an assault operation which was anticipated to be as major as the My Lai 4 assault?

Mr. RIGGS. Yes, sir, anticipated to be.

Mr. GUBSER. Yes.

Mr. RIGGS. But in fact there was actually—a couple of times there was very little contact, or no contact at all.

Mr. GUBSER. And you never recall having had a photographer assigned to that operation?

Mr. RIGGS. To the best of my knowledge, no, sir.

Mr. GUBSER. In other words, from your experience, it is rather unusual for a photographer to be assigned with assault troops?

Mr. RIGGS. Well, I know that they have gone. But I don't think anyone was ever with me. In fact, I'm almost 100 percent positive that I never had a photographer. About the only people I ever had with me were the intelligence specialists, and some captured prisoners that were giving information, and most of the time their information was the reason for this particular information. They knew where some weapons or some people or a combination of the two, or something like this, were. But no photographers or press people, no, sir.

Mr. GUBSER. All right, that's all, Mr. Chairman. Thank you.

Mr. DICKINSON. Mr. Chairman, I have just a couple of short questions.

Mr. HÉBERT. Mr. Dickinson.

Mr. DICKINSON. Was there a standard use and procedure for the use of smoke grenades, as far as the ground troops were concerned, and in connection with the helicopters?

Mr. RIGGS. I'm not sure I understand your question. In some cases, we used smoke to mark our position, and if we had to make a medevac or pickup, we used them to mark our position. In some cases, if we had

what we call the Cobras, or the gunships, the gunship company was going to support us, a lot of times, especially in the jungle, we used smoke to mark our positions, and then they would know where we were located. Sometimes when you get spread out in the underbrush and stuff over there, it's pretty hard to see.

Mr. DICKINSON. Did the color of the smoke have any significance?

Mr. RIGGS. Yes, sir. This would vary from operation to operation. Most of the time, red smoke was pretty much an emergency type signal, and we used the other colors just indiscriminately.

Usually what you did, you just popped your smoke, and then the helicopter pilot would identify it, rather than you telling him, because this kept the VC or the NVA from popping their own smoke and luring the guy in, especially if it was in the course of a medevac or something like this.

Mr. DICKINSON. Now, did you, at any time prior to being separated from Task Force Barker, hear anything about an unusual situation having developed in that particular operation, such as the killing of civilians, or an unusual number of civilians being killed?

Mr. RIGGS. Not as such, no, sir. The only thing that came to my mind was, of course, the information we had before the operation started. The intelligence information led all of us to believe that we would encounter—or especially the other two companies would encounter very heavy resistance moving in, that they were going to go against a heavy armed force.

And the only thing that has to do with the question you asked was at the end of the operation, when I heard on the radio—they were giving the body count and the weapons count, and I thought the two in proportion were somewhat out of line, based on the intelligence information.

But once again, I was not present, so I wasn't really in a position to say.

Mr. DICKINSON. But even that had nothing to do with civilians, I would assume.

Mr. RIGGS. No, sir.

Mr. DICKINSON. Not on the radio, anyway.

Mr. RIGGS. No.

Mr. DICKINSON. Did you hear anything about any civilians being killed in that particular operation while you were attached to Task Force Barker?

Mr. RIGGS. Not specifically, that I can remember, no, sir.

Mr. DICKINSON. Did you at any time before you left Vietnam hear about this operation?

Mr. RIGGS. No, sir. The same incident?

Mr. DICKINSON. Yes.

Mr. RIGGS. No, sir.

Mr. DICKINSON. When is the first that you heard that something unusual or untoward had occurred on this particular operation?

Mr. RIGGS. When I started reading it in the paper. And it was quite some time before I even realized that this was it. In fact, you know how the stories deal in generalities, a number of miles from Quang Ngai city and this, and I didn't place it.

Then when they started talking—the first time I really knew I'd been there was when the Task Force Barker was specifically mentioned,

and then the date rang a bell, and everything, you know, kind of fell in place, and I knew that I'd been there.

Mr. DICKINSON. But there was no rumor, no talk, there was nothing about it during the entire tour there, including your connection with Task Force Barker, and the first you heard anything really unusual had happened, so far as civilians were concerned, was when you read it in the newspaper a year or two later?

Mr. RIGGS. Yes, sir.

Mr. DICKINSON. That's all I have, Mr. Chairman. Thank you.

Mr. HÉBERT. Any further questions?

Mr. LALLY. Mr. Riggs, you moved with the brigade from Hawaii to Vietnam, did you?

Mr. RIGGS. Yes, sir.

Mr. LALLY. Either before leaving Hawaii, or after arriving in Vietnam, were the enlisted men given any instructions in the reporting of war crimes? Do you recall?

Mr. RIGGS. Not that I recall, no, sir.

Mr. LALLY. Another question. When was it that you were ordered south of the river from your blocking position?

Mr. RIGGS. I'm not real sure. Like I say, it's quite a while ago now. Either the next day, which would have been the 17th, or the 18th. But I'm not real sure.

Mr. LALLY. This was not a move which had been planned at the time of the briefing for the operation, is that correct, sir?

Mr. RIGGS. To the best of my memory, no, sir. In fact, when we had the briefings, whenever all the commanders received their specific missions, we covered strictly up through the termination of that operation, which I believe was going to be on the 17th, or the day after. In other words, they were figuring a 2-day operation, and then no further orders as to anything.

Mr. LALLY. When you were ordered to go south across the river, was there any objective given to you at that time?

Mr. RIGGS. No, sir. The S-3 just kind of drew a little goose egg there on the south portion of the river, and just told me to go down in there, take my unit and move down in there, and search the area out to see what we could find, if we could find anything, and just see what we come up with.

Pretty much of a standard operation for a company, a search and clear operation, or a search and destroy operation, such as the case might be. We looked for caches of rice, things like that.

Mr. LALLY. Do you recall whether you found anything in that area, on this operation?

Mr. RIGGS. To the best of my memory, no, sir, we did not.

Mr. LALLY. Nothing further.

Mr. GUBSER. What time of the morning were you lifted out there on the 16th, to your blocking position?

Mr. RIGGS. I walked in, sir.

Mr. GUBSER. You walked in?

Mr. RIGGS. Yes.

Mr. GUBSER. All the way from LZ Dottie?

Mr. RIGGS. No, sir, my company was in the field. We had LZ Uptight and then LZ Dottie, and of the three companies, usually two

worked out of each of the LZ's, and then the third company then stayed in the field for extended periods of time.

And at this particular operation, my company was the company that was in the field, and I was already in a position north of the outlined area by—I don't know—I don't recall now exactly where I was, but all we had to do was just move south.

Mr. GUBSER. You said you attended a briefing.

Mr. RIGGS. I was lifted, I was picked up with the helicopter and taken to the briefing, and then taken back to my unit.

Mr. GUBSER. When were you personally lifted back?

Mr. RIGGS. The afternoon of the day before.

Mr. GUBSER. The 15th?

Mr. RIGGS. The 15th, yes, sir, late in the afternoon. I don't recall what time. Three-thirty, four, somewhere around in there.

Mr. HÉBERT. How long did you serve with Colonel Barker?

Mr. RIGGS. Let's see. I was the third commander of Company A in the task force. The two previous ones were wounded. And so Task Force Barker was formed right after we got to Vietnam, and I went up there about February, I think, sir.

Mr. REDDAN. Captain Trinkle was wounded on the 23d of February. Did you replace Captain Trinkle?

Mr. RIGGS. No, sir, I replaced the man that replaced him. So that would have been about the first part of March, because to the best of my knowledge, the second captain was wounded after about a week or a week and a half in the field with the company.

Mr. HÉBERT. That was before the My Lai 4 operation?

Mr. RIGGS. Yes, sir.

Mr. HÉBERT. Was My Lai 4 your first combat?

Mr. RIGGS. No, sir, I was an infantry battalion advisor, my first tour in Vietnam, for 7 months.

Mr. HÉBERT. Then how long did you serve with Colonel Barker?

Mr. RIGGS. Well, for approximately, I guess, 5 or 6 weeks, sir.

Mr. HÉBERT. Did you have an opportunity to observe the type of a commander he was?

Mr. RIGGS. Yes, sir.

Mr. HÉBERT. What was your opinion of him?

Mr. RIGGS. I thought he was a real fine man, a real professional officer.

Mr. HÉBERT. Any further questions?

Thank you very much. We appreciate your coming in.

Mr. RIGGS. Yes, sir, you're more than welcome.

[Witness excused.]

Mr. HÉBERT. We stand adjourned until Monday morning at 10 o'clock.

[Whereupon the subcommittee adjourned until Monday, April 27, 1970, at 10 a.m.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Monday, April 27, 1970.

The subcommittee met, pursuant to recess, at 10 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, John F. Lally, assistant counsel, and Frank Slatinshek, assistant chief counsel of the full committee.

Mr. HÉBERT. Will you identify yourself for the reporter, please?

TESTIMONY OF LT. COL. FRANCIS R. LEWIS

Colonel LEWIS. Yes, I am a chaplain, Lt. Col. Francis R. Lewis.

Mr. HÉBERT. And what is your present assignment?

Colonel LEWIS. My present assignment is Military Ocean Terminal, Bayonne, N.J.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel LEWIS. I was the division chaplain.

Mr. HÉBERT. You were the division chaplain?

Colonel LEWIS. Of the Americal Division, yes, sir.

Mr. HÉBERT. Now, Chaplain, you have appeared before this staff and discussed informally your activities on that particular date?

Colonel LEWIS. Yes.

Mr. HÉBERT. This is the first time you are appearing before the committee formally. You have the booklet which Mr. Reddan gave you, setting forth your rights?

Colonel LEWIS. Yes, sir.

Mr. HÉBERT. You have the right of counsel if you so desire, after being placed under oath.

Colonel LEWIS. Right, sir.

Mr. HÉBERT. Now, the subcommittee also informs you that you are under the full protection of the subcommittee while you are under its jurisdiction. You are not compelled to answer any questions of the news media or to have your photograph taken, if you don't want to. When you leave the room you will leave by the door in the back. You will be met by an officer there, a uniformed officer, not a military officer. If the news media desire, they may have one individual there, who is permitted to ask you one question and one question only, and that is if you care to make a statement.

Colonel LEWIS. Right, sir.

Mr. HÉBERT. In the event you do not, that ends it. They will have to retire and they cannot badger you, nor force you to have your picture taken or anything of that nature at all. The area around here is secured against photographers and against news media. Obviously, you did not avail yourself of an attorney?

Colonel LEWIS. Right.

Mr. HÉBERT. So if you will rise and take the oath.

Colonel LEWIS. Surely.

[Witness sworn.]

Mr. REDDAN. Chaplain, of course you know we are looking into the so-called My Lai matter, and we are particularly interested here today in developing to the fullest extent what took place within the Army command in Vietnam following the operation of Task Force Barker on March 16, 1968.

At that time, you were the division chaplain?

Colonel LEWIS. Right, sir.

Mr. REDDAN. When did you first learn of any untoward action at My Lai 4, as a result of the operation of Task Force Barker?

Colonel LEWIS. I officially learned of a possible untoward action from one of my chaplains, Ned Creswell, who was at the time the artillery chaplain, and also covering the 123d Aviation Battalion, part of which supported the My Lai operation, with gunship and troop landing.

Mr. REDDAN. You say that was the first time you learned of it officially?

Colonel LEWIS. That is right.

Mr. REDDAN. Had you heard it unofficially prior to that time?

Colonel LEWIS. No; the only thing I learned was at the briefing; I kept all the briefing notes for the year I was there, and the briefing notes did indicate—well, I shouldn't say the briefing notes; but the briefing indicated that something other than a normal operation might have occurred.

Mr. REDDAN. How did the briefing indicate that, sir?

Colonel LEWIS. Well, the 128 was the official report that the briefer gave that night of Viet Cong killed.

Now, as I testified before to the committees, this one and Peers, my recollection is that at that briefing there was an undercurrent of uncertainty expressed. I don't know by whom. But the reason it was expressed, when they got to the point in the briefing where they usually said how many, they also said how many weapons were captured, and only three were reported by the briefer. So I heard this restlessness, a rumbling, and a few comments to the effect, well, boy, that must have been a bad show, or words to that effect.

Mr. REDDAN. Yes.

Colonel LEWIS. So that sort of stirred something in my mind, and then I say officially Creswell came in. I am not sure, I think he reported the next day, but I don't know. At least he came in within a short time and did report to me what he had heard from a warrant officer, or I should say a flyer, I am not sure he was a warrant officer, about the operation.

Mr. REDDAN. What did he report to you, sir?

Colonel LEWIS. To the best of my recollection, he reported that he heard from one of the flyers that there had been an unnecessary firing in the village, and that he felt that it should be investigated.

I have been trying to reconstruct exactly what he said, but the imprint of it—in other words, the impact of it was that unnecessary firing into the civilians had occurred. This is what had been reported to him by this officer that had flown in the operation.

Mr. REDDAN. Was anything said about unnecessary killings of civilians or the killing of civilians?

Colonel LEWIS. Well, when he said—yes, the civilians had been involved. This is the reason he—in other words, the report, the impact of that conversation was that part of those who were killed—now, I don't know whether he mentioned the number or not, but I heard from time to time a different number. But the impact was that civilians—in other words, women and children—had been killed unnecessarily. And that therefore he felt that it should be investigated. This is what he reported to me.

Mr. REDDAN. Did he go into any details with respect to the number of civilians who might have been involved, whether women and children were involved?

Colonel LEWIS. Again, trying to recollect, to the best of my memory, I don't know whether he actually gave this figure, but I got a figure somewhere—it might have been from him—that most of the people who had been killed on that day were women and children. And the figure that sticks in my mind, and how it does, I'm not sure, it might have been Creswell's reporting it; it might have been in conversation with other officers or other people, but the figure of 124 out of the 128 sticks in my mind. And as I try to reconstruct it, I just, I can't say whether it exactly was Creswell that said this, but that figure did stay with me, of 124 women and children.

Mr. REDDAN. Do you recall whether Chaplain Creswell told you that anyone had been seen firing into a group of women and children?

Colonel LEWIS. Now, that I'm not sure of. I think I did report before, and according to my Peers' testimony, that some sergeant had fired into women and children. Now, whether I got that—I probably got it, if I did get that impression, it was from Creswell, but I know before, and according to my Peers' testimony, that some sergeant had fired unnecessarily. If it was Creswell—but at least I got the impression a sergeant had fired into women and children.

Mr. REDDAN. Now, what did you tell Chaplain Creswell that you would do about this?

Colonel LEWIS. Well, I told him I would report it to the division and that I would let him know.

Mr. REDDAN. And did you do so?

Colonel LEWIS. Yes.

Mr. REDDAN. Would you tell us what you did, sir?

Colonel LEWIS. Again, the first thing I did was to go to the G-23 shop. In other words, why I went there, well, I don't know, but at least that was the first contact I made.

Mr. REDDAN. Who did you talk to there?

Colonel LEWIS. As I recall—and again I know that Colonel Trexler, the G-2, was there, and I think it was Colonel Balmer who was sitting alongside of him. This was to the best of my recollection.

Mr. REDDAN. Colonel Balmer was the operations officer?

Colonel LEWIS. He was the G-3. There were two of them there, in the G-3 shop. And I came in the back door, the front door, I guess, and I told them what I had heard from Chaplain Creswell.

Mr. REDDAN. Now, this was shortly after you had talked to the chaplain?

Colonel LEWIS. Within a few days, yes.

Mr. REDDAN. Did you go the same day?

Colonel LEWIS. I don't recall. I don't recall. But I know it was not—it was as soon after—well, it was very interesting. I just had conversations with a chaplain that visited me in Chu Lai, who said that he was there the day Creswell came in. I didn't know that at the time. And he remembered the conversation.

Mr. REDDAN. Who was he, sir?

Colonel LEWIS. He was a fellow who is now the staff and faculty at the chaplain's school named Chaplain Silliman.

Mr. REDDAN. Do you know his first name?

Colonel LEWIS. Edwin or Edward S-i-l-l-i-m-a-n.

Mr. REDDAN. And he was at the chaplain's school?

Colonel LEWIS. And he was there. I didn't know that at the time I testified before. But he said he remembered when Creswell came in.

Mr. REDDAN. He was at that time in the chaplain's school, you say.

Colonel LEWIS. Yes.

Mr. REDDAN. Where is that?

Colonel LEWIS. It is in Fort Hamilton, in Brooklyn. He is staff and faculty there. And he remembered that. And I don't know whether I directly immediately went up to the G-23. It was within a short space of after Creswell reported it to me. It might have been the same day; it might have been a couple of days later. But, in any case, I remember going in and sitting down and reporting to both of those officers what I had heard. And I think it was Balmer; I could be wrong, but one of them said they had heard something had happened there that was untoward, and an investigation would be made. Then I remember saying, that is my recollection, "When you find out, let me know." And then I left.

Mr. REDDAN. Did you say anything to them about the civilian killings?

Colonel LEWIS. I don't remember what I said, except that I do know that I reported that it should be investigated. If I did say civilian killings, I don't recall, I may have.

Mr. REDDAN. Well, do you think you would have reported everything that Chaplain Creswell told you?

Colonel LEWIS. Probably I did, but I may not have. I may not have because I distinctly remember that they did say that they had heard something. Now, I've forgotten exactly how they stated it. But they said something similar to that, which reinforced my feeling that it would be investigated. In other words, that they had heard something had not gone right with the operation and it would be investigated. They assured me of this.

Mr. REDDAN. Was it your impression from what they said that they understood that civilians had been killed there and this is what they were going to investigate?

Colonel LEWIS. Yes; this is my impression; right. Although I could be wrong. I don't know whether they actually did register that or not.

Mr. REDDAN. Now, did you talk to anyone else about this?

Colonel LEWIS. Yes; I did. And I found out later that the G-1 that I talked to misunderstood—in other words, I saw him after I testified to one of the committees, and he said that he thought I was talking about another operation.

Mr. REDDAN. Who was the G-1 that you talked with?

Colonel LEWIS. Corban Qualls. And at the time, as I remember, he told me to keep it under—you know, keep it quiet. And I assumed he was talking about this My Lai affair. But he was talking about another one that broke later, which we actually tried all of the platoon and the lieutenant that were involved.

Mr. REDDAN. What was the other one?

Colonel LEWIS. It was an incident where NBA nurses were captured and raped all night and then murdered; and the platoon, I think they tried 16 boys, including the lieutenant.

Mr. REDDAN. Were they part of Task Force Barker?

Colonel LEWIS. No, this was another brigade.

Mr. REDDAN. Now, did you talk to anyone else?

Colonel LEWIS. Yes, I did. And, again, I have forgotten exactly how many times but I did talk to Colonel Parsons.

Mr. REDDAN. The Chief of Staff?

Colonel LEWIS. The Chief of Staff, a couple of times on this incident. And both times I was told that an investigation was proceeding. But the thing that really cinched it for me, and at least in terms of my being satisfied, was, it was in talking to the task force commander, before he was killed, who I had gotten to know when he was on the advance party from Hawaii. And I had conversation with him one day in the division, when he came in for business, and before he went back. I hailed him and walked down to the helicopter with him. And this was the—the conversation that satisfied me, that a proper report or at least a proper summing up of the operation had been made.

Mr. REDDAN. I see.

Mr. DICKINSON. This was Colonel Barker?

Colonel LEWIS. That is right, sir.

Mr. REDDAN. Do you recall your conversations with Colonel Barker?

Colonel LEWIS. I only had one. I was going to see him again. Of course he was killed in June, and I have forgotten the date that I talked to him. But he was evidently in the division on business and was walking down toward his helicopter. And I hailed him and walked down with him, and I asked him about this investigation. I said, "What is going on on this operation which you were the commander of?" He said, "Chaplain, I have made an on-the-ground investigation," and I have forgotten whether he said he had made it to Colonel Henderson or would make it, but in essence he said that was what he was—either had reported or was going to report—was that it had been a combat operation, and that he was satisfied that this was so, and if civilians were killed, they were killed in the course of a combat operation, and he was not going to recommend any further action be taken.

Mr. REDDAN. Can you place that conversation?

Colonel LEWIS. Well, no. I think I gave a date, but in looking, in trying to reconstruct it, it must have been about a month before he was killed. It was between the operation and when he was killed, of course, but I can't recall. It was a casual—in other words, he was in division and I just happened to hail him and walk down, and I have no other way of tying it into a date. But it was—it was in April, sometime, I'm sure.

Mr. REDDAN. Did he say whether or not he had been directed to make an investigation, or he was making it on his own?

Colonel LEWIS. If he did, I don't recall. But at least he said that he had made it, and whether he had actually been directed or had actually sent it on, or whatever, because I never saw a report, at least he said this is what he had found out. In other words, I was satisfied, because I had got to know him quite well. He was there about a month before the brigade came over, and I had gotten to know him quite well and I trusted his judgment. So when he said this, this satisfied me.

Now, as far as my own feelings about it, and, of course, the negative reports that he didn't get from my own sources of information, together with what he said, satisfied me that this was just—this was done.

Mr. REDDAN. Now, going back to your conversations with Colonel Parsons, did you go to see Parsons the same day you went to see Balmer and Trexler?

Colonel LEWIS. No. In fact, there was quite a period there. Once I had seen Balmer and Trexler there was quite a period before I did anything more. And I think, to the best of my recollection, I did, I think I saw them—and I saw them because I think Balmer shipped out—I did see the successor, I'm sure, a couple of more times, but I can't pin that down. I know that before I went to see Parsons there was an interim period, and I don't know how long it was.

Mr. REDDAN. Was it 1 week, 2 weeks or—

Colonel LEWIS. Might have been 2 or 3 weeks, probably 2 or 3 weeks.

Mr. REDDAN. Well, what was your purpose in going to see Parsons?

Colonel LEWIS. Actually, I didn't go to see him directly on this. It was more in the nature of being there for other reasons, and then just bringing this up and asking him and being told that it was proceeding.

Mr. REDDAN. How did it come up, can you tell us?

Colonel LEWIS. How did the conversation come up?

Mr. REDDAN. Yes.

Colonel LEWIS. I brought it up.

Mr. REDDAN. Can you recall how you brought this up, and what you said to Colonel Parsons?

Colonel LEWIS. Well, to the best of my recollection, it was just that I asked him how the investigation of this Muscatine Operation, in which 128 reported Viet Cong had been killed, how this was proceeding. And the reply was that it was being investigated.

Mr. REDDAN. How many times did you go back to him?

Colonel LEWIS. I think not more than twice. Not more than twice, because then I talked to Barker, and then actually that was about the last time I talked to anybody officially on it.

Mr. REDDAN. Did you ever get any satisfaction at all from Parsons?

Colonel LEWIS. No. No, I didn't, other than the fact that it was being investigated and that was it.

Mr. REDDAN. In your conversations with Colonel Parsons, did you get the impression that he was rebuffing you in any way? That he was trying to tell you not to bother him about this, or to get into it any further?

Colonel LEWIS. Well, it was actually we didn't talk about it. Just the fact that he said that, yes, the investigation was proceeding, and so I felt that it was—that whatever needed to be done was being done. And, as I say, once I talked to Barker, I figured this operation, while it had been unfortunate, that it was a closed book. See, in other words,

there were many, many operations. This probably, as far as civilians were concerned, as subsequent information has come out, was the worst bad show we had. But there were lots of times that operations were conducted in which civilians were killed. So once I had satisfied myself in talking to Barker, then I made no further inquiries, except I kept my ear to the ground in my own sources to see whether anything further was reported, and nothing was reported in the whole time that I was there until I left.

Mr. HÉBERT. Chaplain, what you said here concerning the interest and the continued inquiry as to investigation, what was being done, would you draw from that, or would you have your own conclusions that the killing of innocent noncombatants was something that would be unusual, and if it did occur don't you feel that it would attract the attention of the military authorities?

Colonel LEWIS. I think it would have, yes. But I assumed that these rumors were not substantiated.

Mr. HÉBERT. What I am trying to find out is the general atmosphere in which the troops moved. You mentioned another incident where some others were charged?

Colonel LEWIS. That was later.

Mr. HÉBERT. Then you continually repeat about this, which apparently was a conversation in the area, among the troops. Now, if this had been, I would assume that this would have been a common practice, just wipe out everybody, it would have aroused no added interest, it would have just been taken and gone. But the fact that it apparently—

Colonel LEWIS. No, I wouldn't say that, but I would say this, that if—in other words, as General Peers has said, if it was a major catastrophe that occurred at My Lai, if this had come out, it would have been common knowledge throughout the division, but it didn't come out, you see. The fact is that I had chaplains in the area, I had two chaplains who were with Task Force Barker the whole time and stayed with them 3 months. One of them had service with Calley's platoon a couple of days after this happened. They were close to the men. Not a report. I knew the missionary at Quang Ngai real well, Stemple. And I told him any time he had anything that happened in his areas that affected civilian populace, by our troops, to let me know.

Mr. HÉBERT. And no chaplain reported back to you?

Colonel LEWIS. No chaplain reported to me. The missionary didn't say anything. The Buddhist chaplain, who I used to give all kinds of things to, was the 2d ARVN Division chaplain, and I told him the same thing, "If you have anybody affected in your communities, you let me know. You report to me." I had no other information from any of these sources, you see. No scuttlebutt at all.

Mr. HÉBERT. And none did come to you at all?

Colonel LEWIS. Nothing. In fact, when this broke, I called them long distance, both of these chaplains again, because we used to meet regularly at division chaplain staff, and I called them, and said wrack your memory. One of them was a priest.

Mr. HÉBERT. You mean when it broke in the newspapers?

Colonel LEWIS. When it finally broke, yes, and when the boys began to say this thing happened, and they said, "Chaplain, we have done it, but we didn't hear a thing. No scuttlebutt." So you see, this is the

thing that is interesting, because if I had had one little fellow that raised his hand and said "Chaplain, Sergeant Jones killed a woman. I saw him." Why this thing would have been a different ballgame. But I didn't hear a thing.

Mr. HÉBERT. Were you the senior chaplain?

Colonel LEWIS. That is right, sir.

Mr. HÉBERT. What denomination are you?

Colonel LEWIS. I am Protestant, Methodist.

Mr. HÉBERT. Methodist?

Colonel LEWIS. Right, sir.

Mr. HÉBERT. And what denominations were the other two?

Colonel LEWIS. One of them was Catholic and one of them was Baptist, and they were covering Task Force Barker, and both of them knew many of the men in the platoons and in the company, and knew them quite well. Father Shannon was the Catholic priest, and if ever there was a priest that had liaison and close contact with his men, it was Dick Shannon, and he didn't hear a thing. Not a thing.

Mr. REDDAN. Chaplain—

Colonel LEWIS. Yes.

Mr. REDDAN. Did you ever talk with the aviator who passed the word on to Chaplain Creswell?

Colonel LEWIS. Just casually, at the Artillery Club one night, there was a show going on, and Creswell was sitting with him, and introduced me to him. But it was just in passing. I never really got into conversation with this boy Thompson, as Creswell did.

Mr. REDDAN. Well, now, as I recall your testimony, you told Creswell that a sergeant had been shooting into women and children?

Colonel LEWIS. Yes.

Mr. REDDAN. Did you pass this on to the G-2, the G-3 and the Chief of Staff?

Colonel LEWIS. I don't know whether I actually did tell the G-2 or G-3 there that a sergeant had been firing. I may have. But I don't recollect whether I did or not. I did say that an investigation should be made.

Mr. REDDAN. Because I understood your testimony just a minute ago to be that if anyone had said that someone had been shooting into women and children, this would have been an entirely different matter.

Now, my point is that apparently someone did make this allegation.

Colonel LEWIS. Right.

Mr. REDDAN. And it really didn't make any difference?

Colonel LEWIS. Well, it was not—in other words, it was not substantiated, you see. In other words, according to my own contacts, and the primary one was Barker, it was not substantiated. Now, if it had been, in other words, if I hadn't been satisfied, if I hadn't talked to Barker, I am sure then I would, before I left the division, I would have gone in and asked to see whatever reports were made. But once I talked to Barker and once there was no other information that came, I was satisfied, because there were umpteen other operations going on every day, and I assumed that if there had been a bad show, that it would come to light.

But it did not come to light before I left, and so, therefore, I felt that—I felt when I went home that it was an operational mistake,

put it this way, that civilians had been killed by artillery gunships and as it was reported in the briefing, and the crossfire.

Mr. STRATTON. In other words, Chaplain, you left it entirely up to Colonel Barker to decide whether these allegations were correct or not?

Colonel LEWIS. Well—

Mr. STRATTON. If he said they weren't correct, that was the end of it?

Colonel LEWIS. As far as I was concerned—what he reported or was going to report, then it would be put in the proper hands. It was a command matter. When I found out that this had been done, and then before I left, they—well, he died in June, and there was still July and August before I left. Then when nothing else came out, I felt that it had been handled properly.

Mr. STRATTON. Did you go back to Chaplain Creswell after you had talked to Colonel Barker and say "Well, you must have been mistaken. Colonel Barker says there's nothing to it"?

Colonel LEWIS. Well, now, I don't recall what impression I left with Creswell, but I assumed that I had told him that the investigation had been made. I may not have. I may not have satisfied him before I left, but I remember we had a going away party up at his artillery chapel, and as I recollect, my impression is that I had left him satisfied that an investigation had been conducted, and it was an operational matter.

I may not have. I may have not satisfied him. I don't know. Because I haven't talked to him since this has broken, and I don't recall that we talked about it just before I left. I may not have. It may have been an oversight on my part.

Mr. REDDAN. Going back for a moment, Chaplain, to your conversations with Colonel Parsons, you may recall that when you were here on January 16, we talked to you about this, and I'd like to read from the record and see whether this helps you refresh your recollection, or if you want to correct this record in any way.

Colonel LEWIS. All right.

Mr. REDDAN. Talking about the Chief of Staff, Colonel Parsons:

What do you recall about your specific conversations?

Colonel LEWIS. Very slight, but I recall a couple of times asking him about it, and my memory—and I could be wrong—but my memory was that in one way or another we were, you know, this was closed. Now, what he actually said to me, I am not sure, but I do remember feeling the sense of rebuff, that, you know, this was not to be talked about, not to be even brought up, I think.

And then I asked you:

"Did you get the impression that it was a closed book, because a thorough investigation had been made and nothing turned up, or was it a closed book because this was the sort of thing that it is better to close the book on?"

Colonel LEWIS. I think I was a little nonplussed as to why I felt—I don't think I said this to Colonel Parsons. I think it should have been aired within the staff, at maybe a chief of staff's briefing. But again I looked at it this way. I felt that if there was substantial reason why the division seemed to be keeping this secret, that they probably had good reasons to, because after all, we were dealing with civilians. We were dealing with people whose country we are in, and I didn't know all the reasons why this might have been classified. Put it this way. I didn't feel, however, there was a so-called coverup, because it didn't—I didn't know, really, that there was any kind of an incident that is now alleged to have happened. I didn't have the feeling that this was there. Now, if I had had some

evidence, then I wouldn't have been satisfied, but I didn't, so therefore I didn't even—the idea of a coverup didn't enter in.

Now was that your impression at the time you talked to Colonel Parsons, that this was not to be talked about, was not even to be brought up?

Colonel LEWIS. Well, the impression I got was that—of course, you see, the thing is, it is hard to separate it from later impressions.

Mr. REDDAN. Yes.

Colonel LEWIS. But it seems to me at the time that they didn't want to talk about it. But maybe the reason was that they just didn't have any information to talk about. In other words, that they felt that it was a closed book, too. I don't know. But at the time I didn't see—it did seem a little bit strange that it wasn't brought up again in some way. I found out since then that a lot of officers didn't know anything about it at all, which was amazing to me, because I thought that once it got into the command channel, that whatever was necessary to be done would be done.

But again, I could be wrong. Maybe they didn't feel that it was necessary, because there was no evidence, there was no data that came to them which made it necessary.

Mr. REDDAN. No way to talk to the witnesses?

Colonel LEWIS. That's it, exactly it.

Mr. STRATTON. Without trying to guess what might have been in somebody else's mind, was it a fact that you felt you were rebuffed by Colonel Parsons when you brought this to his attention, and was it a fact, as you testified here earlier, that you got the impression they didn't want anybody talking about it?

Colonel LEWIS. I would say that I think the second statement, that it was not to be talked about, may be a fair one. But as I say, I could be doing an injustice to their feelings about it. This may be my feeling, but—and it was in a sense, yes. It was in a sense.

Mr. STRATTON. I am not interested in your trying to rationalize the thing with all of the other background. The question is whether your recollection when you talked to Colonel Parsons was one of being rebuffed, and that he told you in effect, you leave this to us, this is not something to be talked about, whatever may have been his reasons? I think this particular point is important.

Colonel LEWIS. Well, I guess you could say that the second statement, that this is something that should not be talked about, would be probably the fairest, yes.

Mr. STRATTON. Thank you.

Mr. REDDAN. Now, do you know Colonel Anistranski?

Colonel LEWIS. Yes.

Mr. REDDAN. And what slot did he have?

Colonel LEWIS. He was the G-5.

Mr. REDDAN. And he had a responsibility for civilian matters?

Colonel LEWIS. Liaison, right.

Mr. REDDAN. Civilian casualties and so forth?

Colonel LEWIS. Right.

Mr. REDDAN. Now, did you ever have any conversations with Colonel Anistranski about this matter?

Colonel LEWIS. Officially, no, and informally, maybe, but I don't recollect that I did, no.

MR. REDDAN. Do you have any recollection as to whether or not you got your information with respect to civilian casualties from Colonel Anistranski?

Colonel LEWIS. I don't know where I came up with that figure of 120. I have been trying to think about it. I thought it was something that was said in a passing moment in the briefing, but—and it could have been. I don't know whether I got it from him. I don't really know. I may not have.

But anyway, I remember distinctly hearing someone say that only four of those were males. Now, who said that, I don't know. I really don't know. But that's the best of my recollection, and that was bad news.

MR. REDDAN. Well, as division chaplain, would you have had any official reason to go to Colonel Anistranski about the unnecessary killing of civilians?

Colonel LEWIS. Not necessarily, no.

MR. REDDAN. Or even the necessary killing of civilians, if such a thing could exist?

Colonel LEWIS. No. Except that sometimes I would go with him, when the civilian community was—well, one time we had—the Viet Cong came in and burned down a village, and I went down with him, and we went through the village. And sometimes—not necessarily with him personally, but with other members of his staff, I would go out on liaison visits to civilian communities. And if there—if he had gone down there for liaison work, I might have gone down with him. It didn't come up. This is another thing, you see.

If he had said "Come on, Chaplain, we are going to go down to My Lai," why I'd have gone down with him. But he didn't. So in other words, I didn't have any official contact with him on My Lai. Nothing official.

MR. REDDAN. Well, now, what was your relationship with Colonel Anistranski?

Colonel LEWIS. It was a good relationship. It was good. And for example, many times I would go to him for assistance in helping—well, I did an awful lot of work with one of the principal chaplains that I mentioned, the Buddhist chaplains of the 2d ARVN Division, and many times I would go to Colonel Anistranski for food and other—well, sometimes other kinds of aid. And he would turn over—turn it over to me, and I would then take it to the chaplain. And occasionally we would have other kinds of liaison in regard to his civilian work. I would go in occasionally and he would brief me on what was going on in the G-5 shop in addition to his—you see, he had regular briefings every night, and at the regular staff briefing. And in addition to that, I would go into his shop many times for liaison contact, because I did quite a bit of it too with the civilian counterpart.

MR. REDDAN. In other words, you were in and out of his shop?

Colonel LEWIS. Quite a bit.

And that is another thing, you see. If this had come up, I am sure that Gus would have said to me "Hey, Lewis," you know, "this is what's happened at My Lai." But again, he never said a thing. Never said a thing.

In other words, I didn't hear—the only source of my information about My Lai was the briefing, Chaplain Creswell, and Colonel

Barker, official source. Nobody else said anything to me about it. So I figured there must not have been anything to it. This was one of the impressions I got.

Mr. STRATTON. Didn't you testify earlier, before the staff, that you sat behind Colonel Anistranski at that briefing?

Colonel LEWIS. And I thought he was the one that mentioned this.

Mr. STRATTON. And when there was—you said kind of a buzz over the number of casualties, that he was the one that indicated that only 4 of the 128 were actually military males?

Colonel LEWIS. I thought it was him, but I testified that I wasn't sure, and I still don't know who said that. I have tried to think who in the world it could have been—it could have been somebody in the operational shop.

Mr. STRATTON. Could you give us a little idea of what you mean by this buzz, Colonel?

Colonel LEWIS. Well, whenever an operation—

Mr. STRATTON. Were these people mumbling under their breath, imperceptibly or were they talking rather loudly and somewhat cynically with respect to the announced figures?

Colonel LEWIS. When they came out with 128 VC, and then they mentioned that only three weapons had been captured, there was—from where I was sitting, there was—I got the recollection that this was a bad show. Boy, that sure must have been some operation.

Mr. STRATTON. Well, now, I am trying to nail this down a little bit as to whether this is the kind of thing that somebody sitting next to you might mumble, so that you would hear it, but somebody three or four seats away wouldn't hear it? Or were there some people who were speaking up loudly enough so that anybody in the room might have been able to hear what they said?

Colonel LEWIS. I don't know how many heard it. But this is what I got from—this is the impression I got from the briefing.

Mr. STRATTON. Can you recall whether the nature of the comments was loud enough so that it would be heard more than just by the fellow sitting next to the person making the remark?

Colonel LEWIS. Well, my impression was that it was a common feeling. That's my impression, that it was a common recollection. But I don't know whether it was or not.

Mr. STRATTON. This would be something that the briefer then would probably have been aware of, in the process of his briefing?

Colonel LEWIS. I would think so. I would think that he might have—he might have given voice to it himself. I don't know.

Mr. STRATTON. Where did you sit in terms of the number of rows back from the—

Colonel LEWIS. The general was in the front row, and then the general's staff was in the second row, and the principal, special staff was the third. So I was about three rows back.

Mr. STRATTON. So the distance wouldn't be large enough so that somebody sitting in the front row probably wouldn't have been as well aware as you?

Colonel LEWIS. If the briefer had mentioned this, I think everybody would have gotten it, and I am surprised, the more I talk to some people about this, the more I am surprised how few of them seemed to get the impression I did. I really am.

Mr. STRATTON. General Koster was there at that briefing, was he not?

Colonel LEWIS. That is right.

Mr. STRATTON. Thank you.

Mr. REDDAN. Just one final question.

Colonel LEWIS. Right.

Mr. REDDAN. Is it your best recollection at the present time that you did hear from Colonel Anistranski that most of the 128 were women and children? Is that your best recollection at this time?

Colonel LEWIS. Well, I think I testified to that before, but I really don't know. In trying to reconstruct—I have gone over my Peers testimony. In trying to be specific, I may have made misjudgments. I really don't know. All I do know is that these are the things that came to me, the impressions. And of course subsequent to this, you see, as the thing died down, it just went out, you know, I went on to other things, and in trying to reconstruct the impression how that came, I don't know. It may have been him. It may not have. But I do know that those figures stuck in my mind because I think—not on this sheet, I have the original briefing notes here, I kept all the briefings from the whole year I was there, and I remember him writing down on one of them some figures, and I had a figure, 124, that I'd written down.

How that impression came, at the time if I had written down more information, I might be able to be more specific. But now I really can't tie it in with anybody specifically.

Mr. STRATTON. But if these are briefing notes, then this impression must have been picked up at the time of the briefing.

Colonel LEWIS. It seems to me that, because it is reported right here on the thing, and I am sure that it was. But maybe—

Mr. REDDAN. Have you ever reviewed all of your briefing notes?

Colonel LEWIS. No. I reviewed the Peers Committee report, and some of these things that I've said in here, I've thought about it, probably I have made some misjudgments. Specific misjudgments, not general impressions.

Mr. REDDAN. I understood you to say that you kept all of your briefing notes during the period of time you were over there.

Colonel LEWIS. Oh, I am sorry. These are the briefing notes that they gave out in the division every night.

Mr. REDDAN. Yes.

Colonel LEWIS. And I kept all of them. And I just have the briefing ones for My Lai here.

Mr. REDDAN. I see.

Well, my question was, in an effort to refresh your recollection, have you reviewed all of those briefing notes?

Colonel LEWIS. I reviewed the ones prior to My Lai and the ones afterwards, just to sort of—and you know, just to get—try to get back.

Mr. DICKINSON. May I see them?

Colonel LEWIS. Yes, sir.

Mr. REDDAN. I just wanted to ask one more question of the chaplain. In any of these briefing notes, did you find any reference to civilian casualties at My Lai 4?

Colonel LEWIS. Except I did put down, not on those, but I think on one of them, 125 out of 128.

Mr. REDDAN. But that was your add-on?

Colonel LEWIS. Yes.

Mr. REDDAN. I mean the official briefing.

Colonel LEWIS. Well, I will tell you this. My best recollection was that I asked Barker about civilians, and I think that Barker mentioned something like 20 to 30.

Mr. REDDAN. Yes.

Colonel LEWIS. He said that was what he was going to report, civilians killed, in his subsequent report.

Mr. REDDAN. What I mean is in your official briefings at division level, did anybody ever make reference to the fact that there may have been civilians killed at My Lai 4 on March 16th?

Colonel LEWIS. No.

Mr. HÉBERT. Mr. Gubser?

Mr. GUBSER. I have no questions.

Mr. HÉBERT. Mr. Dickinson.

Mr. DICKINSON. I want to make sure this has not already been asked.

Mr. Reddan, have you already asked what is the normal and natural and official thing for the Colonel to do if this had come to his attention? Have you asked this of the Colonel?

Mr. REDDAN. I asked him whether or not there was any official action that he would have to take on the basis of this. But perhaps you might—

Mr. DICKINSON. Let me maybe clear it up a little bit.

Colonel LEWIS. All right.

Mr. DICKINSON. If, as you mentioned earlier, someone had come forward and said to you "This is a fact, and I was a witness, and I saw this happen," or even if it were rumor, but strong enough so that you would feel constrained to take some official action, what would you have done that you did not do?

Colonel LEWIS. Well, if I had had one of these boys come to say, one of my chaplains, and he had said that he would admit this, then we would have taken him in right in to see—well, I would take him in to see the General, as far as that goes, if necessary. But the first thing we had to do is go to see either the IG or the judge advocate. These are the two principal staff officers that would carry through with a report such as this.

In other words, my duty, if it was actually beyond just alleged, so-called war atrocity, would be to report it, and take the boy with me.

Mr. DICKINSON. All right. If you didn't have a boy, but persistent rumors or enough rumors going about to make you concerned, and to make you feel that there must be something here somewhere, what would you do then, the same thing?

Colonel LEWIS. My duty would be to report it to my command, through my command channels, to somebody in authority.

Mr. DICKINSON. All right. Now your command channel would be what?

Colonel LEWIS. Well, I report to the G-1. I report, I can report to the G-2-3 on matters. I can report to G-5 on some matters.

In other words, as long as it gets into command channels.

Mr. DICKINSON. And would you do this orally or by writing?

Colonel LEWIS. Well, if it was serious enough, in other words, for example, if there was something there that I would have gone in to

see the general personally, but in this matter I felt that it was in command channels. I was assured it was. And therefore it was being properly handled. It is not my job to make investigations, you see, and it is not my job to do the command job. In other words, this sort of thing. All my job is to report.

Mr. DICKINSON. That is what I am asking, is what is your job, and once you have ascertained for a fact that has been put in the command channel over you, and the person to whom you would normally report it is cognizant of the allegations, such as, or particularly the task force commander, as in this case Barker, you ascertained he did know of it, was aware of it, and he told you he had investigated it, then your obligation officially is filled then, is this what I understand?

Colonel LEWIS. It is. As long as one person in the command knows this, then my obligation is to keep my ear to the ground, but that's it. That's it. In other words, anybody—a Pfc., if he reports to his corporal, that is all he has to do. If his corporal doesn't carry it on, make proper steps, then of course the corporal's at fault. But the Pfc. says "Corporal, I want you to know something happened," and if I report to any senior man in the command channel, on an allegation, and I did report other things that came to my attention—in fact, sometimes I would go in and see General Koster, but not on this one, because as I said, nothing substantial was backed up, and therefore I didn't. And in fact, I have seen Koster two or three times since this has happened and he said: Well, if he had felt that we needed to bring in other people, we would have done it.

Mr. STRATTON. Would the gentleman yield?

Mr. DICKINSON. Yes.

Mr. STRATTON. Isn't it odd, Chaplain, that nobody ever took Mr. Thompson up to see the general on this matter?

Colonel LEWIS. I think it is very odd.

Mr. STRATTON. Well—

Colonel LEWIS. In fact, I thought—according to the later reports, I thought this had been done.

Mr. STRATTON. You said that if the fellow had come to you, you would have taken him to the general. Now, he came to Chaplain Creswell. Chaplain Creswell came to you. Yet somehow nobody ever bothered to take the individual who had allegedly seen this incident directly to the top to report it.

Colonel LEWIS. Well, I understand though that Thompson did talk to Henderson and to General Young. Now, I may be wrong. But this is what—the assumption that I had.

In fact, I was told by Creswell that one of the flyers had gone in to see General Young. This was another understanding that I had. Now, if that hadn't been done, then I got a false report. But I had the assumption that these things were going on. Maybe it was a false assumption. Maybe I was—as it turned out, it seems to be that some things were not done that should have been done. But at least I had the understanding that these things were going to be done and were being done. Gentlemen, in looking back at it now, Monday morning quarterbacking, if I had any idea that the followthroughs were not going to be completely adequate, then I would have taken other steps. But I didn't have that knowledge at the time.

Mr. STRATTON. Thank you.

Mr. REDDAN. Mr. Chairman, I would just like to, for the record, refer to the MACV Directive, 20-4, dated 27 April, 1967, which covers the reporting of war crimes. And subsection 5 of that directive, with respect to responsibilities, states:

It is the responsibility of all military personnel, having knowledge or receiving a report of an incident, or of an act thought to be a war crime, to make such incident known to his Commanding Officer as soon as practicable.

I just wanted to put that in, casually, an enlisted man reporting to his corporal would not meet the MACV directives. He would have to report to his commanding officer.

Incidentally, who officially was your commanding officer.

Colonel LEWIS. General Koster. But you see, being part of the special staff, I worked through the G-1, and so I didn't always—it was only one officer, or two officers, that report directly to the general, and that is the information officer and the judge advocate.

Mr. HÉBERT. Were you familiar with the MACV directive?

Colonel LEWIS. Yes, I knew about this directive, right.

Mr. REDDAN. But you did not report to General Koster?

Colonel LEWIS. No.

Mr. GUBSER. Can I clear something up?

Mr. HÉBERT. Sure.

Mr. GUBSER. This briefing sheet you have for March 17 mentions 128 Viet Cong in the body count?

Colonel LEWIS. Right.

Mr. GUBSER. Now, when was the briefing at which you heard that only four were military-age males, and there were only three weapons recovered?

Colonel LEWIS. This briefing. You see, the briefing—you don't have the classified portion of the briefing. In the classified portion of the briefing, they tell you about how many of our people were killed, and how many guns were captured, a few other things that are not covered in that, because that is an unclassified portion of the briefing. But it was either at that briefing or subsequent to it that I heard that only four of those were male. This was the impression I got.

Mr. GUBSER. You say males, you mean military-age males?

Colonel LEWIS. That is right.

Mr. DICKINSON. If I may read from this report, I think this is what we are talking about, it says jungle warriors together with artillery and helicopter support, hit the village of My Lai early yesterday morning, contacts throughout the morning and early afternoon resulted in 128 enemy killed, 13 suspects detained, and three weapons captured.

Colonel LEWIS. Yes; it is right there. It does have the weapons in there, right.

Mr. DICKINSON. So in addition to that, the rumor that you heard at the briefing, when these were passed out, was that of the 128 body count, only four were military males?

Colonel LEWIS. That is right. And I don't know who said that. But I have a distinct memory of somebody saying only four of those were military males. Whether it was said at that briefing—at least I got that information somewhere.

Mr. DICKINSON. Would counsel want a copy made of this to put in our record?

Colonel LEWIS. I think you have one.

Mr. LALLY. We have one.

Mr. HÉBERT. Any further questions?

Mr. LALLY. Colonel, you mentioned the rape-murder incident that occurred later on. During the period you were in Vietnam, were there any other allegations that came to your attention of civilian killings?

Colonel LEWIS. A few, yes. I had a couple of times, the fellows would come and say that Viet Cong prisoners were burned out of helicopters. And I would say, "All right, you tell me who did it and the witnesses and you bring them here and we will go right up to the proper people."

And then usually you would find that when they would back out. They would say, "Well, now, this is what I heard, see." I had some Marines that reported some things to me that I reported on to their headquarters. You see, we had a civilian—

Mr. DICKINSON. Civilian assistance program?

Colonel LEWIS. That is right, in the area, and I used to cover them from the division. They didn't have any Marine chaplains to cover them, so I would go down occasionally and cover their unit. They would report things to me. Then I would report those up to chaplain below in the 3d MACV Headquarters. So I did have, and of course sometimes my own chaplains in the field would get reports, and they would phone it back to me. And we would then put it into the proper—

Mr. LALLY. Well, did those reports relate to civilians? Or were they again Viet Cong?

Colonel LEWIS. Well, you see, actually, the word Viet Cong is a misnomer, not a misnomer, but it is a word that can cover a multitude of people. I would be flying sometimes with the commander, and they would shoot some Viet Cong, because they would be carrying weapons. So you would drop down on the ground and find out they were 11- and 12-year-old girls. But they were with rifles.

Now, they were a part of the Viet Cong force. So when you say Viet Cong, you mean anyone who was in a Viet Cong area that might be either fighting in the force, or assisting with rice or whatever. And many times they would be civilians, in the sense in which they would be women and girls, you see.

Mr. HÉBERT. What you have just now said, that many times there would be women or girls—

Colonel LEWIS. Young boys.

Mr. HÉBERT [continuing]. Or boys, 11, and they did carry rifles?

Colonel LEWIS. Correct.

Mr. HÉBERT. And, really, technically, they were civilians, but in reality they were part of the Viet Cong makeup, the whole complex?

Colonel LEWIS. Correct.

Mr. HÉBERT. Therefore, would you include them as being Viet Cong?

Colonel LEWIS. Well, they would always do so on the board.

Mr. HÉBERT. They would always do so?

Colonel LEWIS. Right. Whenever you had Viet Cong casualties, they didn't discriminate between a 7 year old and 90 year old.

Mr. HÉBERT. It was a casualty in an area where the Viet Cong were in control?

It wouldn't be for example, if a truck ran over a civilian in the village.

Colonel LEWIS. No; I don't mean that. Yes, in a combat, that is right.

Mr. HÉBERT. It has been testified here that My Lai 4 was in effect an armed camp surrounded by trenches and protected, and under Viet Cong control for some 25 years?

Colonel LEWIS. Correct.

Mr. HÉBERT. Recognized as a real fortress for Viet Cong. So, assuming that, I mean establishing that as being a fact, then applying your definition to what a Viet Cong is, anybody in that area would be classified as a Viet Cong?

Colonel LEWIS. That is right. Exactly.

Mr. HÉBERT. So, therefore, no matter what their sex, their age, or what, therefore, anybody in this area—

Colonel LEWIS. That was killed.

Mr. HÉBERT [continuing]. That was killed had to be counted as a Viet Cong?

Colonel LEWIS. That's why we have the 128 count there.

Mr. HÉBERT. That was the 128 count?

Colonel LEWIS. That's right, yes.

Mr. DICKINSON. I just have one other question, Mr. Chairman.

It is really not pertinent to this inquiry, but the other atrocity, if you want to use that term, where the lieutenant and his whole platoon were tried for the rape-murder of the North Vietnamese nurses, in what area did this occur?

Colonel LEWIS. It occurred up in I think the Quaison Valley area, which was north of Chu Lai. It was a very active area, and I only got in on the fringe of it because it happened—it happened I think in June. I am not positive of the time it happened. But the trial occurred after I left. But all the investigation was going on while I was still there. I sent one of my chaplains up to visit some of the boys who had actually been put in the stockade, up in Da Nang, under the Marine control. And you see, one of the things that complicates, I think, the investigation of My Lai, was that this thing was hot and heavy, and the other, I think, may have been just not forgotten, but in comparison, this was—there was a line open to MACV on this one, you see. On what is being done, and who is going to be tried, and so forth and so on. In other words, a progress report every day.

Mr. DICKINSON. On what?

Colonel LEWIS. On this other atrocity north.

Mr. DICKINSON. I see.

Colonel LEWIS. Yes.

Mr. DICKINSON. Where that was not the case in the My Lai incident?

Colonel LEWIS. No; because there was nothing that came out, see. This one actually, the boys came forward and admitted what they had done. And the lieutenant, I think, got something like 30 to 40 years. I wasn't there, but that's what I heard. And I think they got from 2 to 30 years; 16 of them were tried. And this one actually did—the boys came forward and admitted doing what they had done.

Mr. DICKINSON. And they were Army?

Colonel LEWIS. This is part of our Americal Division, right.

Mr. DICKINSON. Thank you.

Mr. REDDAN. Chaplain, I would like to have your comments on this bit of testimony from the Peers Committee, from Colonel Anistranski. They are asking him about how he learned of this My Lai matter, and he stated, "The man that I recall mentioning something about some murders or something like that, people being killed, was Chaplain Lewis."

Colonel LEWIS. Well, then, I probably did talk to him about it, right. But I don't have any—it was informal, then. I don't think it was, I don't recall going into his office and sitting down with him and just formalizing. It must have been at the mess or something. In fact, I probably talked to quite a number of people on this, but I don't want to pin down and say I did, because I don't recollect when and where.

Mr. REDDAN. Well, his recollection is this.

Colonel LEWIS. Sure.

Mr. REDDAN. And he also goes on to say, "I can say this much, that Chaplain Lewis mentioned it to me every time he saw me."

Colonel LEWIS. Is that right?

Mr. REDDAN [reading]: "He was joking about—I don't know if you would call it joking, but he would say to me, 'Hey, what are you doing for those civilians? What are you doing here? What are you doing there?'"

Colonel LEWIS. That's strange.

Mr. REDDAN. Would you have any comment to make on that, sir?

Colonel LEWIS. Well, again, you see, the official one reporting I remember, because this—in other words, I knew that I had to do this. But the unofficial, as I say, I may have talked to any number of people, informally about this. In fact, I know I did. But I wouldn't want to say who or where, because I don't know. I really don't. I know, for example, that I talked to Creswell any number of times on it, and I know I talked to my deputy about this, and my sergeant. But I have since seen my sergeant and the sergeant doesn't have any memory of it. And I'm sure up at the mess this came out, but you see, the thing that's hard to understand is that there was so much else going on all of the time that if this hadn't ballooned into, like the other one—in other words, if this hadn't—which it didn't—develop into a full-blown war crimes investigation, but it wasn't that, then everything else would take—in other words, our interest then would be centered on more important matters, and this is just what happened. Because I'm sure, in talking to both Generals Koster and Young, that they didn't know what these little boys had been reporting. And we just didn't know at division level.

Mr. REDDAN. Well, that's a judgment?

Colonel LEWIS. That is right, I am making a judgment. What I am saying is that there were a million other things going on subsequent to this action, you see, and as a result of that, when you're trying to reconstruct your memory of what happened then, which doesn't have the same import that it does now, at all, it is very difficult, very difficult.

Mr. REDDAN. That is all.

Mr. HÉBERT. Thank you very much, Colonel. I appreciate your appearance.

Colonel LEWIS. All right.

[Witness excused.]

[Whereupon, at 11 a.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 11:15 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, John F. Lally, assistant counsel, and Frank Slatinshek, assistant chief counsel of the full committee.

Mr. HÉBERT. Captain, have a seat, please. Will you identify yourself to the reporter?

TESTIMONY OF CAPT. RONALD J. KESHEL.

Captain KESHEL. Capt. Ronald J. Keshel, K-e-s-h-e-l, 284381684.

Mr. HÉBERT. What is your present assignment?

Captain KESHEL. Company A, 1st Battalion, 2d Training Brigade, Fort Leonard Wood, Mo.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Captain KESHEL. Sir, I was S-5 of the 11th Infantry Brigade.

Mr. HÉBERT. In Vietnam?

Captain KESHEL. Yes, sir, in Vietnam.

Mr. HÉBERT. You have received a copy of the rules and regulations of this subcommittee from Mr. Reddan?

Captain KESHEL. Yes, sir, I have.

Mr. HÉBERT. You have read them?

Captain KESHEL. Yes, sir.

Mr. HÉBERT. You understand them?

Captain KESHEL. What I read, I understand, yes, sir.

Mr. HÉBERT. Well, is there anything you want to ask relating to your rights before the subcommittee?

Captain KESHEL. No, sir.

Mr. HÉBERT. You were informed that you could have counsel, after being placed under oath?

Captain KESHEL. Yes.

Mr. HÉBERT. You do not desire counsel, obviously?

Captain KESHEL. No, sir, I don't desire counsel.

Mr. HÉBERT. Now, the subcommittee impresses upon you that you are under its full protection while under the jurisdiction of the subcommittee. Your privacy will be completely protected. By that I mean that you are not forced, nor compelled in any way at all to respond to any news media representative, to give out any statements, to discuss the case—obviously, you cannot discuss what takes place in this room—but after you leave, you do not have to have your picture taken or give out any interviews at all, if you do not desire. After you finish your testimony you will leave by the rear door. You will be met there by an officer, and if the news media desires it is allowed to ask you only one question, which shall be, "Do you care to make a statement?" If you care to talk further or discuss anything, you may. If you do not and you refuse, you will be fully protected to leave the building without harassment. Understood?

Captain KESHEL. Yes, sir.

Mr. HÉBERT. All right. If you will rise, I will swear you.

[Witness sworn.]

Mr. REDDAN. Captain, in February, March, and April of 1968, what position did you hold?

Captain KESHEL. I was the S-5 with the 11th Infantry Brigade, sir.

Mr. REDDAN. Stationed at Duc Pho?

Captain KESHEL. Yes, sir.

Mr. REDDAN. As the S-5, did you have any responsibility for civil affairs?

Captain KESHEL. Yes, sir.

Mr. REDDAN. Now, did you participate in any way in the Task Force Barker operation of March 16, 1968?

Captain KESHEL. No, sir.

Mr. REDDAN. After that date, did you ever hear any report, or rumor, or scuttlebutt with respect to possible civilian casualties at My Lai 4?

Captain KESHEL. Yes, sir, on one occasion.

Mr. REDDAN. Would you tell the committee about that, sir?

Captain KESHEL. After the incident in question I went over to the officers' club at the aviation battalion, which was collocated with us at Duc Pho. I used to go over there maybe once a week to the club, have a few beers, because we didn't have an officers' club there on our side of the base. And when I was in there I heard a couple, I overheard a couple—I assume they were pilots, talking about the fact that they had heard that Americans had shot civilians, heard or seen that Americans had shot civilians in an operation in Muscatine.

Mr. REDDAN. Could you fix that date with any degree of accuracy?

Captain KESHEL. It would have been the week after. I would say it was in the twenties of March. I don't know whether it was a Monday, Tuesday, Wednesday, Thursday. But in the twenties.

Mr. REDDAN. Did you have any conversation with them when you heard this?

Captain KESHEL. No, sir.

Mr. REDDAN. Did you ever hear it from any other source?

Captain KESHEL. No, sir.

Mr. REDDAN. Now, did there come a time shortly thereafter when you had occasion to visit the division headquarters?

Captain KESHEL. Yes, sir.

Mr. REDDAN. What was the purpose of that?

Captain KESHEL. I went to division on the weekends to pick up money, piasters. And we used these piasters to pay the daily hired laborers within the brigade. It was my responsibility to pick up the money and apportion it out to the different units that used it.

Mr. REDDAN. Excuse me. Would these funds also be used for the purpose of paying civilians for injury or harm to property and so forth?

Captain KESHEL. Well, it didn't come over the same funding tables, but I could use it like if an American truck ran over a Vietnamese motorbike, I could go down and pay it. I was limited to 4,000 piasters, about 30 some dollars. But I could go down and pay that much out of this money, and then the finance officer would reimburse me out of his funding, which covered the compensation.

Mr. REDDAN. Would these funds also be used for the injury or killing of Vietnamese civilians?

Captain KESHEL. Well, if there was an accidental shooting or something like that, yes, sir.

Mr. REDDAN. And you got these funds from the division. Who would you get them from?

Captain KESHEL. From G-1. I don't remember his name. He was a captain who worked in there, and he'd just hand out the money.

Mr. REDDAN. Now, on any of your visits to division, did you have any occasion to talk to Colonel Anistranski?

Captain KESHEL. Yes, sir. I talked to him every time I went to division, if he was there. I would go in there, and since he was the G-5 and I was the S-5, I would go in there and talk to him about different problems we were working on, schools or whatever the subject was, and see if he had anything to put out to me on something to put emphasis on, and on this particular day, and this would have been in March—

Mr. REDDAN. Now, after March 16, on your first visit to the division, did you have an occasion to see Colonel Anistranski?

Captain KESHEL. Yes, sir.

Mr. REDDAN. Could you tell the committee about that visit? What was said and so forth?

Captain KESHEL. I went in to see the colonel, and I knocked on the door and reported to him, and the first thing he said to me was that Task Force Barker's in trouble. And he said the whole brigade might be in trouble, and that the Vietnamese were launching an inquiry into what had taken place in the Task Force Barker area. And he didn't specify what had taken place. So I asked him what the problem was, and if there was anything I ought to know about or I ought to do, and he said, "It is being taken care of." And he tapped his desk—he had a manila folder on his desk, and he tapped that folder and he said, "I got it all in here."

Now, I don't know if he was referring to the little folder he had or to the desk itself, but he tapped that folder and he said, "I got it all in here." And when he told me, no, that there was nothing for me to be concerned about, he pointed at me with his finger, and he said, "Don't you worry about it. It's being taken care of."

Mr. REDDAN. Now, did this close your conversation with him about that matter?

Captain KESHEL. Yes, sir.

Mr. REDDAN. Did you thereafter have any conversations with him about it again?

Captain KESHEL. No, sir.

Mr. REDDAN. When you returned to the brigade, did you report to Colonel Henderson?

Captain KESHEL. No, sir.

Mr. REDDAN. Your conversation with him?

Captain KESHEL. No, sir.

Mr. REDDAN. Did you ever have any conversation with Colonel Barker with respect to this conversation with Anistranski?

Captain KESHEL. Yes, sir.

Mr. REDDAN. Would you tell the committee about that, sir?

Captain KESHEL. I talked to Colonel Barker—it must have been in May. At any rate, the exact date when I talked to him would be a day or two after he came back from R. & R., and I am not exactly sure when that was, but it was shortly before he went up to take the bat-

talion. I think it was late in May. And I talked to him, and I asked him whether or not—well, first, I was in the mess hall and I called him over to the side and I told him I wanted to talk to him. And I got along good with the colonel. And he came over, and I told him about the conversation I had had with Anistranski. And he got—he got all—oh, I wouldn't say he was flustered, but he got real, he spit it out, he said, "Anistranski's nuts" or crazy or one of the two. I am sure he used the word "nuts" as I recall.

And he said, "He is nuts." And after he said that, I just asked him, I said, you know whether there had been any killing of civilians up there. And he said, no, there hadn't been, that if there had been, he didn't know about it, and that as the commanding officer he wouldn't condone anything of this nature, and that it wasn't the American way to kill civilians or make war on civilians, innocent women and children, and that he didn't know anything about it.

Mr. REDDAN. Did that end that conversation?

Captain KESHEL. Yes, sir.

Mr. REDDAN. Did you ever have any further conversations with him or anyone else about this matter, while you were in-country in Vietnam?

Captain KESHEL. No, sir, because Colonel Barker, he left a couple of days later and went up and took a battalion, and he got killed the next month.

Mr. DICKINSON. Before you leave that, when you were discussing this with Colonel Anistranski, did you relate to him the conversation you had heard about the helicopter pilots? Was this mentioned at all to him?

Captain KESHEL. No, sir.

Mr. DICKINSON. Did you mention it to Barker?

Captain KESHEL. No, sir.

Mr. DICKINSON. What you had overheard?

Captain KESHEL. No, sir.

Mr. DICKINSON. At the time you were talking with Colonel Anistranski, did you in your own mind put the two together and tie them together in any way?

Captain KESHEL. No, sir.

Mr. DICKINSON. Did you connect them?

Captain KESHEL. No, sir. When I went in and talked to Colonel Anistranski, he was mad, and I didn't get any talking in. I just more or less stood there, and he was really mad, and I didn't say much of anything. I just said, "Yes, sir." And I asked him if there was anything I could do, anything I could do to help. He said, "No, don't you worry about it. It's being taken care of." So that took care of our conversation. I just saluted and left.

Mr. STRATTON. Captain, when he said, "Don't you worry about it, it's being taken care of." I take it that what he meant was keep your bloody nose out of the matter, is that the way you understood it?

Captain KESHEL. That's the way I construed it.

Mr. STRATTON. Thank you.

Mr. GUBSER. I have one question. This officer's club at Duc Pho where you overheard the flyers talking about it, were warrant officers privileged to use that officer's club?

Captain KESHEL. Yes, sir.

Mr. GUBSER. Do you remember whether they were warrant officers that you heard?

Captain KESHEL. Well, I really never turned around, you know, to take a good look at the rank and so forth. But 9 out of 10 officers in there were warrant officers because mostly warrant officers fly the helicopters. I mean on any given—maybe that flight it was 50-50, but generally speaking, an aviation battalion, there are seven or eight warrant officers for every commissioned officer.

So they probably might have been warrant officers.

Mr. GUBSER. Do you know Warrant Officer Thompson?

Captain KESHEL. Do I know him?

Mr. GUBSER. Did you know him then?

Captain KESHEL. No, I can't place him, although the name Thompson, it is a common name, it rings a bell.

Mr. GUBSER. You don't believe that necessarily he was one of the flyers?

Captain KESHEL. No, sir.

Mr. GUBSER. That is all.

Mr. LALLY. Was that the 174th Aviation Battalion, Captain?

Captain KESHEL. Yes, Sharks and Dolphins, the 174th.

Mr. LALLY. One further question. Did Colonel Anistranski ever come to you and ask you for information about this Task Force Barker operation?

Captain KESHEL. No, sir. The only relation I had with Task Force Barker was to drop leaflets for them, and I did that by just picking up the telephone and calling division. I think it is important to bring in here that when I talked to Anistranski, it was either the weekend of the 23d, 24th, or the 29th and 30th. And I am not sure which weekend it was. And that on the 30th, I left and went on R. & R., and I was gone until about the 13th of April. So if anything had, you know, if he had wanted to talk to me, I wasn't available.

Mr. LALLY. But you never referred him to Colonel Henderson to get information on this operation, did you?

Captain KESHEL. No, sir. I logically assumed that anything he knew about, the brigade knew about. The way I looked at it, I figured division would know about something—first of all he didn't specify what was wrong when I talked to him. All he said was that they're in trouble, and don't worry about it. And he didn't say what the trouble was. He didn't say whether it was misappropriation of money or an atrocity, or whether they went out of their AO, it could have been a million things. He didn't specify what the problem was.

Mr. LALLY. But as I understand your testimony, you never remember him coming to you with a question as to whether or not you heard anything about what happened on the Task Force Barker operation?

Captain KESHEL. No, he never called me, sat me down and asked me any questions about that.

Mr. REDDAN. Although Colonel Anistranski may not have made specific reference to the atrocities, was there any doubt in your mind as to that's what he was talking about?

Captain KESHEL. Well, sir, I never really gave it that much thought.

Mr. REDDAN. You did give it some thought, because you talked to Colonel Barker, and related what Colonel Anistranski told you, and asked him if, as a matter of fact, civilians had been killed?

Captain KESHEL. Yes, sir, but at the time, at the time of the discussion, I never gave it much thought.

Mr. REDDAN. I see. But you subsequently, then, reached the conclusion that that is what he was talking about?

Captain KESHEL. I subsequently reached the conclusion that possibility existed.

Mr. REDDAN. And it was for that reason you went to Colonel Barker?

Captain KESHEL. Yes, sir.

Mr. HÉBERT. Thank you very much.

Mr. REDDAN. Just one more.

Did Major McKnight ever talk to you about this matter?

Captain KESHEL. No, sir.

Mr. REDDAN. All right.

Mr. HÉBERT. Thank you very much, Captain.

[Witness excused.]

[Whereupon, at 11:30 a.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 11:30 a.m., in room 2337, Rayburn House Office Building, F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: Mr. Frank M. Slatinshek, assistant chief counsel, Mr. John T. M. Reddan, counsel, and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. Colonel, will you identify yourself to the reporter?

TESTIMONY OF CHARLES ANISTRANSKI

Mr. ANISTRANSKI. Mr. Charles Anistranski, 79 North Grant St., Wilkes-Barre, Pa. Zip there is 18702.

Mr. HÉBERT. You are out of the military now?

Mr. ANISTRANSKI. Yes, sir, I am retired.

Mr. HÉBERT. You are retired?

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. What do you do now?

Mr. ANISTRANSKI. I am a schoolteacher.

Mr. HÉBERT. Schoolteacher? Where do you teach school?

Mr. ANISTRANSKI. In Wilkes-Barre, Pa.

Mr. REDDAN. If you can keep your voice up, please, because the acoustics are very bad here.

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. What was your assignment in the military on March 16, 1968?

Mr. ANISTRANSKI. I was the G-5 of the Americal Division.

Mr. HÉBERT. In Vietnam?

Mr. ANISTRANSKI. In Vietnam.

Mr. HÉBERT. You have been given a copy of the rules and regulations of the committee by Mr. Reddan, have you not?

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. Have you read them?

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. Do you understand them?

Mr. ANISTRANSKI. Yes sir.

Mr. HÉBERT. You know that you are allowed counsel after being placed under oath if you so desire?

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. Now, the subcommittee informs you of the full protection while you are under its jurisdiction. What that means is this, that your privacy will be fully protected, you are not obliged to talk to anybody at all in the news media, or have your picture taken against your will. This is a matter for you to decide. You are not to discuss what takes place in this room with any unauthorized person. When you leave the room, you will leave by that door in the back. An officer, a uniformed officer, will meet you, and if the news media desire to have a representative, one for all the news media, they may do so, and that individual who represents the news media is permitted to ask you only one question and that is: "Do you care to make a statement?" And having replied in the affirmative you are on your own; having replied in the negative, he must retire, and you will be protected until you leave the building, and there will be no sneak pictures of you, or sound machines or anything of that nature. You understand?

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. Any questions that you desire to ask?

Mr. ANISTRANSKI. Just one, sir.

Mr. HÉBERT. Yes.

Mr. ANISTRANSKI. I had a phone call from a Lieutenant Colonel Goodwin, who wishes to speak with me, and he has a lawyer down here with him right now. And I really don't have anything to say to him, and I would rather not speak to him.

Mr. HÉBERT. Well, then, you don't have to speak to him. Mr. Reddan informs me the identity of Mr. Goodwin. You are not to discuss with Mr. Goodwin anything that goes on in this committee.

Mr. ANISTRANSKI. Very well, sir.

Mr. HÉBERT. He is not privy at all. He is not an authorized person within the realm of this investigation.

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. If you will rise, I will swear you in.

[Witness sworn.]

Mr. REDDAN. Will you tell the committee, please, briefly, what your duties were as the G-5?

Mr. ANISTRANSKI. As the G-5 of the Americal Division, I was responsible for the civic actions within our area of responsibility, and also psychological operations within our area of responsibility.

Mr. REDDAN. Did you have any responsibility for civilian casualties within the Americal Division?

Mr. ANISTRANSKI. Yes, sir, I did.

Mr. REDDAN. What were they, sir?

Mr. ANISTRANSKI. Well, through the S-5's, whenever civilians were injured as a result of conflict or accidents on the highway, they reported to me that the civilians were injured or killed, I posted the data the 5 o'clock briefing, and we briefed the commanding general on these accidents or incidents, and then through the S-5's or perhaps myself, on occasion we would go down and settle with the family in terms of solatium payments, food, clothing, whatever they needed.

Mr. GUBSER. Right at that point, could I just clarify something. Is there a difference between S-5 and G-5? S-5 is the brigade level and G-5 is the division level?

Mr. ANISTRANSKI. Yes.

Mr. GUBSER. Thank you.

Mr. REDDAN. Were you finished?

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. Now, were there any established procedures by which these civilian casualties were reported to MACV or to the 3 MAF?

Mr. ANISTRANSKI. Yes, sir. We had a monthly report that we wrote to 3d MAF. That report was compiled in my office, and signed off, and sent up to 3d MAF.

Mr. REDDAN. Were there any particular procedures to be followed with respect to the investigation of civilian casualties?

Mr. ANISTRANSKI. Normally, the unit that was responsible for the casualties did the investigation in conjunction with the S-5, and then they reported them to me. Or on occasion I was detailed to some of these investigations myself.

Mr. REDDAN. Under any circumstances, would this investigation have to be coordinated with MACV?

Mr. ANISTRANSKI. No, sir. We send the investigation forward.

Mr. REDDAN. Supposing the allegation of civilian casualties was tantamount to the allegation of a war crime.

Mr. ANISTRANSKI. I imagine it would be then, sir.

Mr. REDDAN. Are you familiar with that regulation, sir?

Mr. ANISTRANSKI. It's been some time, sir. I am not familiar with it now.

Mr. REDDAN. Well, were you familiar—did you know that there was such a regulation?

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. When did it first come to your attention, either officially or unofficially, that there had been civilian casualties at My Lai 4 on March 16, 1968, as a result of an operation of Task Force Barker?

Mr. ANISTRANSKI. The first time I become aware of it, sir, was when it was flashed on the TV screen. I was assigned in the Washington area, and I saw it there for the first time.

Mr. REDDAN. When is the first time that you become aware that there were possible civilian casualties in the Muscatine AO as a result of the operation of Task Force Barker?

Mr. ANISTRANSKI. I don't recall it ever being brought to my attention, sir.

Mr. REDDAN. Did you ever hear of any civilian casualties while you were in Vietnam?

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. Shortly after March 16, did you hear general discussions in the division area which indicated that civilians had been killed in an operation?

Mr. ANISTRANSKI. There was some voice made, sir, and I never really got in on it. I counted upon the Chief of Staff or the Commanding General to let me know.

Mr. REDDAN. Well, maybe I can help you a little more, Colonel. One morning as you were returning from church, did you hear discussions of any matter which suggested that there had been civilian casualties in connection with an operation?

Mr. ANISTRANSKI. Coming out of mass one Sunday morning, I heard some comments being made.

Mr. REDDAN. All right. What did you hear?

Mr. ANISTRANSKI. Other than that there was some civilians killed during the operation, that was it.

Mr. REDDAN. Well, in as much detail as you can, sir.

Mr. ANISTRANSKI. That's about it, sir. I kept right on walking.

Mr. REDDAN. What operation were they talking about?

Mr. ANISTRANSKI. They were talking about the 11th Brigade in general.

Mr. REDDAN. Were they talking about Task Force Barker?

Mr. ANISTRANSKI. I didn't per se hear Task Force Barker mentioned.

Mr. REDDAN. Did you hear any names mentioned?

Mr. ANISTRANSKI. No, sir, I did not. Other than—

Mr. STRATTON. Where was this and when was it, Colonel?

Mr. ANISTRANSKI. This was at the division CP. There is a Catholic church there.

Mr. STRATTON. Division CP?

Mr. ANISTRANSKI. Yes, at Chu Lai.

Mr. STRATTON. All right.

Mr. REDDAN. Now, Colonel, I don't want you to be nervous while you are testifying before the subcommittee, but I want to tell you that it is most important that you testify fully and accurately, because you are under oath.

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. And I wish you would think very carefully before you answer your questions, and answer the questions that are put to you, and I will ask you once more if you ever heard any names mentioned in connection with civilian casualties?

Mr. ANISTRANSKI. To the best I recall sir, as I walked out of mass that Sunday morning, the only thing that I remember is GI's talking about and mentioning a platoon commander by the name of Calley. That's all I could remember. I kept going over to my office.

Mr. REDDAN. Did you ever hear the name of Calley or Mitchell mentioned?

Mr. ANISTRANSKI. The Lieutenant Calley and his platoon sergeant?

Mr. REDDAN. Yes.

Mr. ANISTRANSKI. It is so vague now, sir. It has been 2 years.

Mr. REDDAN. I know it has, but you testified before the Peers Committee on 12 January, and I am trying to help you here by referring to your testimony before the committee at that time. I will read your statement there.

The question was put to you:

You said something about this meeting with Colonel Henderson, that you mentioned the names of Lieutenant Calley and Sergeant Mitchell. I wasn't clear whether you were referring to something you had read recently in the newspaper or if it had reference—

And you interposed, "I had no reference to a lieutenant or sergeant with Colonel Henderson."

Yes, what was the reference about?

My statement was that, if I am recalling, that their names were mentioned in and around the division headquarters by other personnel, GI's around the division headquarters. But I did not mention the lieutenant's name or the sergeant's name to Colonel Henderson at any time.

The question is, do I understand at Chu Lai in the spring of 1968, in connection with this incident, that the names of Lieutenant Calley and Sergeant Mitchell were mentioned at that time?

Answer. "Yes, sir."

Now, is that correct?

Mr. ANISTRANSKI. Sir, I had heard the names mentioned. I kept right on going. I never stopped.

Mr. REDDAN. Well, let's see. The next question:

Can you indicate in any way any more specifically than you have who was mentioning their names? The only persons you have indicated up to this time who gave you any information whatsoever about this thing was Chaplain Lewis. Now, I guess you didn't get the names of Lieutenant Calley and Sergeant Mitchell from Chaplain Lewis.

And your answer was: "No, it is just ordinary scuttlebutt being disseminated at headquarters."

Did you have any discussion with anyone with respect to a Lieutenant Calley or a Sergeant Mitchell?

Mr. ANISTRANSKI. No, sir, I did not.

Mr. REDDAN. Did you have any—what were they saying about them?

Mr. ANISTRANSKI. Well, when I walked out of mass, and the troops usually went to—I guess it was 10 o'clock mass in the morning, thereabouts—you could hear them talking about every after action report, and the names were mentioned, and I continued to move. I went directly to my office from there.

Mr. STRATTON. You mean to say you were walking by some people who were standing outside of mass?

Mr. ANISTRANSKI. There were a couple hundred people there, sir.

Mr. STRATTON. And you were just walking and yet they were speaking so loudly that you could hear reference to specific names and accusations just as you walked by?

Mr. ANISTRANSKI. When you are shoulder to shoulder with these people, moving through them, sir, you could almost hear anything you want.

Mr. STRATTON. Well, this seems to be a rather specific type of information that you were picking up as you went by, rather than the kind of casual half sentences that you might hear if you weren't really listening.

Mr. ANISTRANSKI. They talk pretty loudly, the GI's. They like to talk about their action.

Mr. STRATTON. And you also talked about scuttlebutt around headquarters, so I take it these were mentioned elsewhere?

Mr. ANISTRANSKI. No, sir.

Mr. STRATTON. In headquarters as well.

Mr. ANISTRANSKI. That statement that was mentioned, that's confined to coming from church only. It has never been mentioned again to me.

Mr. STRATTON. I don't understand.

Mr. ANISTRANSKI. Coming from church. That was the only place that I heard that. It wasn't addressed again in the division area as long as I was there.

Mr. STRATTON. So you didn't hear any scuttlebutt around headquarters?

Mr. ANISTRANSKI. Well, the chapel is right across the street from division headquarters. So I said division headquarters area.

Mr. STRATTON. I see. All right.

Mr. REDDAN. Now, did you hear from anyone else the possibility of civilian casualties at My Lai 4?

Mr. ANISTRANSKI. It was never mentioned around division mess or anyplace, sir, that I remember.

Mr. REDDAN. Is the name of the village a stumbling block for you here, Colonel? I say My Lai 4, because this is where it took place. If I use some other word, would you give a different answer?

Mr. ANISTRANSKI. No, sir.

Mr. REDDAN. Well, now did Chaplain Lewis ever talk to you about civilian casualties?

Mr. ANISTRANSKI. Chaplain Lewis used to come into my office about every day and talk to me about the refugees, the civilians, casualties, and asked me what I was doing about it.

Mr. HÉBERT. May I interrupt there?

Mr. REDDAN. Yes.

Mr. HÉBERT. Repeating back what you said, Colonel, as I understood you to say, "Chaplain Lewis used to come into my office every day and talk about refugees"—repeat it.

Mr. ANISTRANSKI. He would talk about refugees, and he asked me if I heard about different casualties, or injuries, and I would jot these things down and respond to him if I could.

Mr. HÉBERT. That is what I thought you said.

Mr. ANISTRANSKI. Yes, sir.

Mr. HÉBERT. Now, the question I want to ask you is, are you talking in general? He was talking about—

Mr. ANISTRANSKI. I am making a general statement, yes, sir.

Mr. HÉBERT. A general statement. He wasn't in there talking to you specifically about what happened at My Lai?

Mr. ANISTRANSKI. Not that I remember, sir.

Mr. HÉBERT. All right. You would say he was talking to you every day about them, you meant that was his job to talk about them and he would come and talk to you?

Mr. ANISTRANSKI. Yes, sir. He would come right down past my office and stop in and ask me.

Mr. HÉBERT. There was no significance as a specific pinpointing of My Lai?

Mr. ANISTRANSKI. Not that I remember, sir.

Mr. HÉBERT. All right.

Mr. REDDAN. Do you recall this bit of your testimony before the Peers Group? You were asked whether or not you had visited the 11th brigade, and the question was put to you:

"Now, your visit to the 11th Brigade was prompted by the previous discussions with Chaplain Lewis?"

And your answer was, "Yes, sir."

Question. "Which was an allegation to the effect that some women and children, perhaps noncombatants, had been killed unnecessarily?"

Answer. "Affirmative. That is correct, sir."

Question. "Do you recall whether there was an order of magnitude of any variety connected with it? Were there lots of them, or were there just a few or—"

And then you interposed:

Well, he just asked me if I had heard of any civilians being killed in one of the operations, and I said "No, where did it happen?" and he told me, "Down south," and I asked him if Jimmy knew anything about it, and he said he didn't know. So the morning after the General's briefing, or shortly thereafter—I can't recall the date—there was a lot of pressure right near the end of March on this

incident. There was a lot of talk about it. GI's were talking in the mess halls. Surprisingly, none of the commissioned personnel talked about it. None of the General Staff members at the mess or any other place, or the Special Staff members.

Question. "You knew the enlisted personnel were talking?"

Answer. "The enlisted personnel were talking all around headquarters, sir."

Now, is this correct?

Mr. ANISTRANSKI. The best I can understand it, sir.

Mr. REDDAN. No, the best you can understand what?

Mr. ANISTRANSKI. That there was some talk made around there.

Mr. REDDAN. Well, I am reading you your testimony. And I am asking you if you want to change or correct it or if you want that to stand in our record as part of your testimony, also.

Mr. ANISTRANSKI. I am trying to put events in my mind. I just—well, other than hearing casual remarks made by the GI's, I hadn't heard a thing other than that.

Mr. REDDAN. Colonel, I want you to weigh your answers very, very carefully, because you may be home free and clear as far as the military courts are concerned, but you are not home free and clear as far as the civilian courts are concerned, if this committee feels that you are failing to abide by your oath.

And I want you to know that the manner in which you testify before this subcommittee may have a very serious effect on your future well-being. I hope I make myself clear on this.

Mr. ANISTRANSKI. Yes, sir, I am trying to tell you the absolute truth, sir.

Mr. REDDAN. All right.

Mr. ANISTRANSKI. I can't—I wish I could help you. I just don't remember those things.

Mr. REDDAN. How many times did the division chaplain come in and talk to you about this matter?

Mr. ANISTRANSKI. I wish I could answer that question, sir. I really don't know.

Mr. REDDAN. Did he come in to see you many times?

Mr. ANISTRANSKI. Well, he stopped in just about every day and talked about something. Someone being killed or injured just about every day that I was there.

Mr. REDDAN. I don't think you are making an effort to separate these incidents for the committee, Colonel. I might as well tell you this frankly. You were asked:

What made you take that trip to Duc Pho to talk with Colonel Henderson? And just what did you say to him? What was your query or the message that you were taking him?

Answer. Chaplain Lewis mentioned to me—twice it was, perhaps—of some civilians killed in the operation, and knowing that General Koster always wanted the necessary information posted at the briefings, we always told him whether there were civilians killed or not in these operations, whether they were killed on the highways by truck or whether they were shot down or whatever happened. Animals killed or anything like that. And when it was mentioned to me by Chaplain Lewis, I felt that perhaps I could go down and get something from Colonel Henderson. When I asked him whether he needed any G-5 assistance down there, he said, "No, I don't, and if we need any assistance from you, I will contact my S-5, and you and the S-5 will work it out." So I waited and never got anything.

Now, did you go down and talk to Colonel Henderson?

Mr. ANISTRANSKI. Yes, sir, I did.

Mr. REDDAN. What did you talk to him about?

Mr. ANISTRANSKI. I had been down there periodically and I would go and talk to Colonel Henderson.

Mr. REDDAN. Specifically about this operation of the 16th?

Mr. ANISTRANSKI. I did not talk to Colonel Henderson, to the best of my knowledge, about My Lai. I never mentioned the name My Lai to Colonel Henderson.

Mr. REDDAN. I know you didn't. You have very carefully avoided any mention of My Lai, because you say you never heard that name.

I am saying if you never heard the name, did you hear of an operation on or about March 16th by Task Force Barker, regardless of where it was, that involved civilian casualties? Now, don't try to wiggle off on the fact you never heard of My Lai 4. I don't care about that.

Mr. ANISTRANSKI. If I could answer that question, sir, I would.

Mr. REDDAN. Well, you answered to the Peers Committee?

Mr. ANISTRANSKI. I am trying. If you will read it back to me, sir, I will verify what I said to them.

Mr. REDDAN. I will read it to you again.

"Going back to your visit to Colonel Henderson, just when was it? What made you make that trip to Duc Pho to talk to Colonel Henderson? And just what did you say to him? What was your query or the message you were taking him?"

Do you remember the visit they are talking about?

Mr. ANISTRANSKI. Any one visit, sir, I can't mention. I went down there many, many times, down to Duc Pho, and talked to Henderson about—

Mr. REDDAN. I'll bet you did. But I am only interested in this one particular visit. You answered their question, so I assume you knew what they were talking about?

Mr. ANISTRANSKI. Well, they were centering their questions, sir, at the My Lai incident. If I misled them some way, it wasn't that intent.

Mr. REDDAN. This is why we are giving you your chance to correct the record, if what you are saying now is not correct.

Mr. ANISTRANSKI. Sir, I would like to state that when I went down there, I did not mention anything, any names to Colonel Henderson. I asked if he needed my assistance from the G-5 section.

Mr. REDDAN. For what purpose?

Mr. ANISTRANSKI. Any purpose, sir. Civilian casualties, or building material moneys.

Mr. REDDAN. You didn't have any specific investigation that you thought you might help him with?

Mr. ANISTRANSKI. No, sir. I didn't have any investigation.

Mr. REDDAN. Did you tell Colonel Henderson each time you went to visit him, "Colonel, I would be very happy to help you with anything you got down here, what can I do for you?"

Mr. ANISTRANSKI. Just about every time I went down there, sir.

Mr. REDDAN. And every time he said to you. "I don't need any help from you, if I need any help from you. I will get in touch with my S-5 and he will get in touch with you." Did he tell you this each time?

Mr. ANISTRANSKI. He would mention he would work through S-5 to me.

Mr. REDDAN. And despite this, each time you went down you went through this futile exercise, knowing that he was going to turn you down anyhow? Is this what you want the committee to understand?

Mr. ANISTRANSKI. I don't know what you are driving at, sir.

Mr. REDDAN. What I am driving at is this, Colonel. At one particular time, you went down there and you asked whether or not he needed any assistance in this matter. He told you, "No. If I do, I will get in touch with my S-5 and he will let you know." And you say this happened every time you went to see him. And I am just wondering why you kept beating your head on the wall when he didn't want any help from you on anything.

Mr. ANISTRANSKI. Well, I went down there as a general staff officer to try to help, if I could. You know, sir, we've had a lot of people injured over there, and we try to help them.

Mr. REDDAN. Mr. Chairman, I suggest that we suspend with this witness at this point. I think there are several matters we should discuss and bring him back at another time.

Mr. HÉBERT. All right.

Mr. REDDAN. All right, would you step outside, please, Colonel?

[Witness excused.]

Mr. HÉBERT. Off the record.

[Discussion off the record.]

[Whereupon, at 12 o'clock noon, the subcommittee recessed.]

AFTERNOON SESSION—APRIL 27, 1970

Mr. REDDAN. You knew the S-3, the name of the S-3, Captain Keshel?

Mr. ANISTRANSKI. S-5, sir.

Mr. REDDAN. I mean the S-5.

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. How often did you meet with Captain Keshel?

Mr. ANISTRANSKI. Oh, on a weekly basis, on or off, sometimes more.

Mr. REDDAN. What would be the purpose for your meetings?

Mr. ANISTRANSKI. The projects that he had underway in his area of responsibility. Money that I gave to him to buy civic equipment. I had a daily phone call from him. I didn't take the phone call myself, but Captain Keshel used to call my office and let me know what activities were taking place down in his area, to include injuries to civilians. Things of that nature.

Mr. REDDAN. Did he ever have any discussions with you relative to a large number of civilians that might have been killed or injured as a result of a Task Force Barker operation?

Mr. ANISTRANSKI. To the best of my knowledge, sir, he did not.

Mr. REDDAN. Do you recall a time shortly after, or after the March 16, 1968, date, when the captain came to your office and upon entering the office, you said to him—made this statement or words to this effect: "Task Force Barker is in trouble. The whole brigade might be in trouble. The Vietnamese are launching an inquiry about what took place in Task Force Barker. It's being taken care of. I have got it all right here. Don't you worry about it."

Did you say any such thing as that to the S-5?

Mr. ANISTRANSKI. To the best of my knowledge, sir, I did not say that to Captain Keshel.

Mr. REDDAN. Did you say anything to that effect to Captain Keshel?

Mr. ANISTRANSKI. No, sir, I did not. I had confrontations with Captain Keshel, but not about this.

Mr. REDDAN. You categorically deny that you ever made any such statement?

Mr. ANISTRANSKI. Yes, sir, I do.

Mr. REDDAN. Now, just so that we get the record straight, I will ask you about several parts of your testimony before the Peers Group, and let you tell us at this time whether this is your testimony.

And you were being asked about anything you may have heard concerning civilians being killed, and you say:

Hearsay. Now, I heard on several occasions, and we made it a practice because the General didn't want any rumors spread around, any time we heard people making off-the-cuff statements we tried to squelch them. And there were some occasions or incidents where some of the personnel would ask, "well, you're in the G-5 business, did you hear anything about Lieutenant Calley and Sergeant Mitchell?" And I remember the names. And I told them, "No, are you looking into it?" I went down to Brigade and spoke to Colonel Henderson. He said it was another skirmish they had had and that they had a good operation going in that area. I dropped it right there, I didn't interfere with the Commander's prerogative being the deployment of troops.

Now, is that your statement?

Mr. ANISTRANSKI. That's my statement, sir.

Mr. REDDAN. Is it true?

Mr. ANISTRANSKI. To the best of my knowledge, sir.

Mr. REDDAN. Now, you say here that the General didn't want rumors passed around, and you say, "We tried to squelch them."

Now, having heard this, what did you do to try to squelch it?

Mr. ANISTRANSKI. I don't know who that makes reference to at the time. I don't understand their interrogation.

Mr. REDDAN. Well, I'll go back further, if you want me to?

Mr. ANISTRANSKI. Would you, please?

Mr. REDDAN. All right. The question:

Subsequent to this time, a week or 10 days or 2 weeks or even 3, did Colonel Lewis ever tell you about some of these reports which he had, which would have indicated that some civilians were killed at My Lai or Son My on March 16th?

That's the question.

Mr. ANISTRANSKI. All right.

Mr. REDDAN. And then your answer:

Let me say this. I don't recall Chaplain Lewis ever telling me specifically about this small village. But I do recall Chaplain Lewis telling me on many occasions that there were a number of civilians killed here or here, or some place else. This extended from Duc Pho all the way up to almost to Da Nang. If you remember, our AO in general was over there. In each case I can mostly state I had gotten chewed out by General Koster, and I went into the area and looked it over as a S-5. And on another occasion I had gotten in a jeep and driven all the way to Duc Pho to investigate for General Koster some incidents where civilians were killed. He wanted to know personally. This one was news to me when I first saw it reflected on newspapers and TV.

Question. Did you ever hear that an investigation was being conducted?

Answer. Yes, sir.

Question. In this particular situation, and within the division?

Answer. Not within the division, sir.

See, they asked you if you heard this thing was being investigated.

"Not within the division, sir. Hearsay. Now I heard on several occasions"

and the rest follows, what I just read to you.

Mr. ANISTRANSKI. Again, I apparently was making reference to Chaplain Lewis, because he came in many times and asked me what I was doing about the civilians that were being injured.

Mr. REDDAN. Did Chaplain Lewis say anything about Lieutenant Calley and Sergeant Mitchell?

Mr. ANISTRANSKI. I don't recall Chaplain Lewis ever mentioning the names, sir.

Mr. REDDAN. You got those names some place else?

Mr. ANISTRANSKI. I got those names walking from Mass. I have heard them and when I try to search my soul to find out just what did transpire, I couldn't put one and one together.

Mr. REDDAN. Well, now, did you ever hear the names of Calley and Mitchell mentioned any other time?

Mr. ANISTRANSKI. No, sir.

Mr. REDDAN. This was the one and only time?

Mr. ANISTRANSKI. Right there in the division area when I came out of church, they were talking about the platoon commander and the sergeant, and I continued to march, and I know, oftentimes I would tell Chaplain Lewis, if you have something of this magnitude, when he brought in these different refugees being overrun, things of that nature, I would ask Chaplain Lewis, "Did you address it to your chaplains down in brigade and have them do something about it?"

Mr. REDDAN. Colonel, it would be helpful if you confine your answer to the matter that we have under study. We understand the subsequent means of operation over there, but this doesn't help us understand what happened in the investigation at My Lai 4.

Now, you stated here, as I read before, you said:

I didn't interfere with the Commander's prerogative, that prerogative being the deployment of troops.

So then you were asked:

Well, when you get something like that, is that just an arbitrary cutoff, rather than to find out what did transpire from the individual who was telling the story? If I make my point clear, somebody comes to you, for example, and says, "Is anyone looking into something like this?" Is it just an arbitrary cutoff or is it that you search out what the individual is talking about?

And your answer was:

Sir, we go through channels. I felt I had an obligation to go to the 11th Brigade to talk to the Commander about this, and I did.

And the question, "What did he tell you?"

Answer, "That it was another operation. It was a tough area, and we knew it was a tough area, and I took the Commander's word for it."

Mr. ANISTRANSKI. Again, sir, I am alluding to many incidents that could have happened.

Mr. REDDAN. No, you are not alluding to many incidents. You are alluding to this one incident. You went down—this is what they are talking about. You know that. You understand English. You refer to Calley and Mitchell, the Peers committee didn't. You know precisely what they were talking about, and you said you went down to talk to Colonel Henderson. And I am trying to find out whether or not you are now stating to this committee under oath that this is what you did.

Mr. ANISTRANSKI. If I could relate it with My Lai, sir. I would tell you. I have gone down there many times and talked to him.

Mr. REDDAN. What did you mean when you said he told you that this was another operation, it was a tough area? What was he talking about?

Mr. ANISTRANSKI. Well, he had something like four brigades, four battalions operating with the brigade, and they were all in contact with the enemy.

Mr. DICKINSON. When you say this area, what did you mean?

Mr. ANISTRANSKI. I was talking about the Duc Pho area.

Mr. REDDAN. Now, they questioned you about your conversation with Henderson, and the question they posed was, "Did he tell you he was conducting an investigation or that an investigation was being conducted?" And your answer was, "No, sir, he didn't tell me anything. I just asked him a question and it was dropped right there, that there was an operation going on in the area, and that we would be informed through the S-5 channels after the operation if they needed assistance.

Now, what do you mean by that?

Mr. ANISTRANSKI. Again, with four battalions working in that area, sir, I don't know which incident I was talking to them about. If it was the My Lai incident, I did not know the name at the time.

Mr. REDDAN. My question is, What were you talking to the Peers committee about. You were telling them that. What were you telling them?

Mr. ANISTRANSKI. Maybe it was a matter of the way they asked the question, sir.

Mr. REDDAN. Well, let me go on. Here they tell you that they are an administrative group. They say that we can take any fragment of information that you might have, even if it is hearsay. They want to point out that you don't have to have been on the spot, but if you had learned anything, they would want to know anything that could be useful. And you say, yes, you are not trying to hide anything.

Then the question was:

What have you heard others say may not deserve much weight but it might help put a puzzle together, so anything at all that you can recall could be helpful.

And then you gave an answer, you said:

The only thing I can tell you, sir, is the fact that every morning at 0700 hours, we would go into the general's office and so forth, and I had invariably spoken to just about every man around here that mentioned something about this, and I didn't get anything out of the 11th Brigade, sir.

Who did you talk to about this? And what is this that you were talking about?

Mr. ANISTRANSKI. I probably, again I was probably talking to my staff. I had three majors working for me.

Mr. REDDAN. Yes, but what were you trying to find out?

Mr. ANISTRANSKI. Well, any time we did hear rumors or whatever you may think they're called nowadays, I thought it was incumbent upon me to at least check them out to find out how true they were.

Mr. REDDAN. And were you checking out what Chaplain Lewis told you or what you heard—

Mr. ANISTRANSKI. Sir, every day I got something from Chaplain Lewis.

Mr. REDDAN. I bet you did. Now let me go on. You say, "And as fast as it came up, that's how fast it died." Now what came up fast and what died?

Mr. ANISTRANSKI. All of these little incidents that come up, sir. As soon as they are addressed to us, and we brief the commanding general on them, he wants, on them—

Mr. DICKINSON. You don't mean it to include all these things, do you? You referred to it. That refers to something specific?

Mr. ANISTRANSKI. Well, we are talking about deaths.

Mr. DICKINSON. Deaths?

Mr. ANISTRANSKI. Yes.

Mr. DICKINSON. All right. Is that what you mean by "it"? Deaths in general?

Mr. ANISTRANSKI. If it is implied there, to you, sir, that I mean My Lai, in that area, that wasn't the intent.

Mr. REDDAN. Well, now, you had never heard the name of My Lai up to that point?

Mr. ANISTRANSKI. That is right.

Mr. REDDAN. So when we say did it refer to My Lai you can truthfully say you have no idea because you didn't know there was such a place as My Lai?

Mr. ANISTRANSKI. That is correct, sir, so help me God.

Mr. REDDAN. So if we can find a magic word that will indicate the same area, it might be helpful. If we say Son My, does that mean anything?

Mr. ANISTRANSKI. That doesn't—

Mr. REDDAN. How about Pinkville?

Mr. ANISTRANSKI. No, sir.

Mr. REDDAN. How about Muscatine operation?

Mr. ANISTRANSKI. The Muscatine was an operation, overall operation.

Mr. REDDAN. How about the AO extension of the Muscatine operation?

Mr. ANISTRANSKI. Yes.

Mr. REDDAN. Did you ever hear anything about Task Force Barker operation in the AO extension, which involved the killing of civilians?

Mr. ANISTRANSKI. I've heard that, yes, sir. We've heard the extension, but during our briefing—

Mr. REDDAN. Did you hear of civilians being killed, Vietnamese civilians being killed in the AO extension?

Mr. ANISTRANSKI. Well, again, sir, I am going to have to tell you that it happens during every engagement. We had someone injured or killed.

Mr. REDDAN. Yes. Well, I'll get to that a little bit later here. But did you hear that a large number of civilians were killed in an operation around the 16th of March 1968?

Mr. ANISTRANSKI. Sir, if I recall, and I am being as honest as I can with you, if I recall that night when the briefing came up, and it showed that we used to put kills—on the briefing charts—when that number came up, it looked like a pretty good operation. But at that time I had no connection with the civilians at all.

Mr. REDDAN. Well, when Chaplain Lewis came in and told you what he did, you went down—because he came in and talked to you, you went down to see Colonel Henderson; isn't that a fact?

Mr. ANISTRANSKI. Sir, I went down to see him about every week.

Mr. REDDAN. Yes. Let me read this to you. Maybe this will help you: "As fast as it came up, that's how fast it died. The man that I can recall mentioning something about some murders or something like that, people being killed, was Chaplain Lewis."

And they asked you, "Now, your visit to the 11th Brigade was prompted by the previous discussions with Chaplain Lewis?"

Answer, "Yes, sir."

Question, "Which was an allegation of the fact that some women and children perhaps or noncombatants had been killed unnecessarily?"

Answer, "Affirmative. That is correct."

Mr. ANISTRANSKI. Again, sir, I am going to have to submit to my original position. When I heard there were deaths in the area, civilians, we went down and we looked into the matter and we tried to remove them. And—

Mr. REDDAN. Are you talking about the March 16 operation of Task Force Barker or are you just talking about things in general?

Mr. ANISTRANSKI. I was talking in generalities, at the time.

Mr. REDDAN. Well, please, Colonel, stop talking in generalities, and just address yourself to the question. Your testimony indicates that you went down to see, or states categorically that you went down to see Colonel Henderson because Chaplain Lewis had told you about women and children being killed unnecessarily. And you say, "Yes, sir, that's correct." Now, is that correct?

Mr. ANISTRANSKI. I said it, sir, and it is in the testimony there.

Mr. REDDAN. Is it correct?

Mr. ANISTRANSKI. I cannot honestly state that that statement applies to My Lai.

Mr. REDDAN. Does it apply to the information which Chaplain Lewis had given you?

Mr. ANISTRANSKI. Again, sir, every time the deaths came up like this, I went down there.

Mr. REDDAN. Every time a death came up you went running down to see Colonel Henderson?

Mr. ANISTRANSKI. No, sir.

Mr. REDDAN. No?

Mr. ANISTRANSKI. We would have them in groups, sir.

Mr. REDDAN. I am not going to get off into generalities. We don't have the time, Colonel. Do you want to now correct your testimony that this—do you want to say this didn't happen?

Mr. ANISTRANSKI. I would like to say this much, sir, that the deaths did occur, but whether it applies directly to My Lai, I can't honestly state.

Mr. REDDAN. Well, we've got to be rid of the name My Lai because that's apparently a hangup with you. What I am asking you here is whether your visit to the 11th Brigade, that they are discussing with you at this time, whether your visit to the 11th Brigade to talk to Colonel Henderson was prompted by your previous discussion with Chaplain Lewis, to the effect that women and children and perhaps noncombatants had been killed unnecessarily.

Mr. ANISTRANSKI. How do I answer it? I have to go back to the—

Mr. REDDAN. We want you to answer to the best of your recollection. And you were under oath before the Peers Group, were you not?

Mr. ANISTRANSKI. Yes, sir.

Mr. REDDAN. And you are under oath here. Now, if there is a difference in your testimony, all we want is your best present recollection. I don't care what you said before the Peers Committee. I am reading this to see if I can't refresh your recollection.

Mr. ANISTRANSKI. I cannot associate those deaths with the incident, sir.

Mr. DICKINSON. With what?

Mr. ANISTRANSKI. With My Lai, I just can't, because there were so many going on.

Mr. DICKINSON. What did you associate those deaths with?

Mr. ANISTRANSKI. The common actions that were going on in the division area.

Mr. DICKINSON. In general?

Mr. ANISTRANSKI. In general, yes, sir. I know the gentleman told me not to talk in generalities.

Mr. DICKINSON. Here is a series of questions put to you dealing with My Lai, to which you have given affirmative answers, clear answers, concise and responsive. And now all of a sudden, your mind is a blank?

Mr. ANISTRANSKI. No, sir. It is not a blank.

Mr. DICKINSON. This is not what you intended to say? What you did say is not what you intended to say, according to what you are telling us now?

Mr. ANISTRANSKI. If the context was picked up to imply that I was talking about My Lai, that was not my intent.

Mr. DICKINSON. Well, you've got the testimony there. Go ahead.

Mr. REDDAN. Let me go on with this. When they asked you whether or not you didn't go down to talk to Henderson because of what Chaplain Lewis had told you about women and children being killed, you say, "Affirmative. That is correct."

Then they question you. "Do you recall whether there was any order of magnitude or any various item connected with this? Were there lots of them or were there just a few?"

And you interposed; "Well, he just asked me if I had heard of any civilians being killed in one of the operations. And I said 'No, where did it happen?' And he told me, 'Down south.' And I asked him if Jim May knew anything about it. He said he didn't know. So the morning after the General's briefing or shortly thereafter, I can't recall the date, there was a lot of pressure right near the end of March on this incident. There was a lot of talk about it. GI's were talking in the messhalls. Surprisingly, none of the commissioned personnel talked about it. None of the General Staff members at the mess or any other place, or the Special Staff members."

Now, what is the incident you are talking about? You say there was a lot of pressure right near the end of March on this incident. What incident?

Mr. ANISTRANSKI. We had a lot of civilians killed, moving out—this was about the time of the Tet Offensive.

Mr. REDDAN. No, this was sometime after the Tet Offensive. This was in March. Your Tet Offensive was in January or February.

Mr. ANISTRANSKI. I had a prison break there sometime around—sir, the best I can say is that it is probably taken out of context.

Mr. REDDAN. You mean they phoned the record here?

Mr. ANISTRANSKI. The way it reads—

Mr. REDDAN. I am reading the whole thing to you. I haven't skipped a line. If they have given us an incomplete record, the pagination follows. I have been reading to you from page 10 and 11 of your testimony, or what has been given to us as a verbatim stenographic transcript of your testimony. And all they have been talking about is the killing of women and children which was brought to your attention by Chaplain Lewis, and your visit to Colonel Henderson. And in connection with that, you are saying; you said you wanted to know if Jim May knew anything about it. And you asked Chaplain Lewis where did it happen, and he said, "Down south." And you said, "Does Jim May know anything about it?" And he said he didn't know. Then you say there was a lot of pressure right near the end of March on this incident. And I want to know what sort of pressure and what incident are you talking about.

Mr. ANISTRANSKI. I am trying to recall. Any time we had civilian casualties, by virtue of military operations, General Koster would bring out the rules of engagement, at the staff meetings, and talk about these rules of engagement.

Mr. REDDAN. Did he do that at this time?

Mr. ANISTRANSKI. I can't associate dates, sir.

Mr. REDDAN. Well, what does that have to do with what I have just asked you?

Mr. ANISTRANSKI. I may have moved out, when he started mentioning that, and gone down to the brigades where a lot of the civilian casualties were taking place.

Mr. DICKINSON. Getting back to the question he asked you, though. What incident were you talking about that pressure was brought on?

Mr. ANISTRANSKI. The number of civilian—

Mr. DICKINSON. An incident. What incident are you talking about?

Mr. ANISTRANSKI. I think it was the way the question was asked, sir. They directed it at My Lai. I was talking in generalities.

Mr. DICKINSON. You couldn't talk in generalities if you saw it. It refers to something specific.

Mr. ANISTRANSKI. I may have, though, sir. I don't know. I was—

Mr. REDDAN. What is your present testimony, then, with respect to this?

Mr. ANISTRANSKI. I would like to make this known to you, sir. That when we had casualties, civilian casualties, General Koster would always address it to me and have me look into the matter and try to find out just what was going on and whether or not people were sticking to rules of engagement, and not unnecessarily firing upon civilians. I may have moved out when he made that comment, to talk to all of the brigade commanders and their staffs.

Mr. REDDAN. What do you mean you may have moved out?

Mr. ANISTRANSKI. See, again I can't pinpoint the date. He had done this several times. He would mention the fact that there were civilian casualties fallen by the wayside. Why? Are we sticking to the rules of engagement? Are the commanders on top of the tactical situation? And from a civic point of view, I would try to go down and find out whether this was really the case.

Mr. REDDAN. Now, again, the Peers committee, at page 20 of your testimony, is referring to your visit to Colonel Henderson. And the question was—

Well, I gather that you had some question as to the kind of job that Captain Keshel, the S-5 of the brigade, was doing?

You said—

That is right. As I said, when everything was—when I was told by the brigade commander that information concerning this operation would be forwarded to me through the S-4, that was fine with me. He was brigade commander.

Now, what is this operation you are talking about?

Mr. ANISTRANSKI. After every operation they submitted an after action report. And in that after action report, it would give a full assessment of what transpired. And based on that after action report, we took action, either to erase the problems we had and correct them—again, I don't know which one it refers to. If that's talking about any, a specific operation, then again it was taken out of context, sir.

Mr. REDDAN. Did you mention Lieutenant Calley or Sergeant Mitchell's name to Colonel Henderson when you went down to see him?

Mr. ANISTRANSKI. I did not, sir, to the best of my knowledge.

Mr. REDDAN. Are you positive?

Mr. ANISTRANSKI. To the best of my knowledge. It may be in there. They may have taken it down another way. To the best of my knowledge, sir, I did not mention anything to the Colonel about the names.

Mr. REDDAN. Why didn't you?

Mr. ANISTRANSKI. I really had no position in the matter, as a staff officer.

Mr. REDDAN. You were down there to help him, weren't you?

Mr. ANISTRANSKI. I go down to help him.

Mr. REDDAN. And here are two of his men that you had heard had been involved in some unnecessary killings. And you didn't mention that to him?

Mr. ANISTRANSKI. No. To the best of my knowledge, sir, I didn't say anything to Colonel Henderson about names.

Mr. REDDAN. Now, they said, on page 24 of your testimony, going back to your visit with Colonel Henderson:

Just when was it? What made you make that trip to Duc Pho to talk with Colonel Henderson and just what did you say to him? What was your query or message?

Answer:

Chaplain Lewis mentioned it to me. I think it was perhaps some civilians killed in the operation, and knowing that General Koster always wanted the necessary information posted at the operation, we always told him whether there were civilians killed or not in these operations. Whether they were killed on highways by trucks or whether he was shot down or whatever happened. And it was mentioned to me by Chaplain Lewis. I felt that perhaps I could go down and get something from Colonel Henderson. When I asked him whether he needed any G-5 assistance down there, he said, "No, I don't. And if we need any assistance from you, I will contact my S-5, and you and the S-5 will work it out." So I waited and I never got anything.

Now, is that correct?

Mr. ANISTRANSKI. To the best of my knowledge, and again, sir, I don't know which operation they are talking about. I am talking about operations in general.

Mr. REDDAN. Do you know what operation you are talking about? They are not talking—you are the one who is talking about the operation.

Mr. ANISTRANSKI. Yes, sir. The questioning there came from a panel of 9 or 10 people, and they kept writing up the same question and looking for an answer. And I kept giving the same—I reiterated the same answer in a general way.

Mr. REDDAN. But can you tell us today what operation you were talking about when you were testifying before the Peers Group?

Mr. ANISTRANSKI. I was talking about operations from Da Nang all the way down through Duc Pho.

Mr. REDDAN. Of course you didn't say that?

Mr. ANISTRANSKI. No, I didn't, sir.

Mr. REDDAN. Now, again, they are talking to you about your visit to Colonel Henderson. And they asked you whether, the S-5 indicated that he knew anything about anybody being killed. And your answer is:

No, he did not. No, sir. He didn't give me any idea. He couldn't tell me. The kid was off working in other areas, building schools and things of this nature. And as soon as his attention was called to something like this he went ahead and started to take care of it.

Question. Well, had he ever taken care of it?

Answer. It was never brought to my attention whether he did or not. It really came up so fast and then died so suddenly. By died, I mean squelched. Or whatever happened to it. I don't know.

Again, what is it you are talking about there?

Mr. ANISTRANSKI. Sir, I do not recall. I thought it was operations in general.

Mr. REDDAN. And the next question was:

"Well, I wish you would clarify this one for me. How was it squelched?"

And you said "People just stopped talking about it."

Mr. ANISTRANSKI. Again, I probably—I favored their form of questioning on that, sir. That is all I can say.

Mr. REDDAN. And then on page 30, Mr. MacCrate said to you "You said that it came up very quickly. Could you enlarge what you mean?"

And the answer:

Well, when the big kills were mentioned at the evening briefing, I recall General Koster asking "Where are the weapons?" and then for about a week they discussed this operation. The kills, minus weapons, and all that sort of stuff. There were some casual remarks made, if you want to call them that, about going in there and shooting up a village, and then it died right after that.

Now, what are you talking about there?

Mr. ANISTRANSKI. The commanding general, whenever the G-3 section posted kills during operations, always equated kills with the number of weapons, because if you kill an enemy, he has a weapon. And it was incumbent upon the maneuvering element to go in there and get that weapon.

Mr. REDDAN. Yes, Colonel, I don't want to cut you off, but this is not responsive to the question, and we are running out of time here. Can't you tell me what you were talking about at this particular piece of testimony?

Mr. ANISTRANSKI. Well, again, sir, the only thing I can say, on operations in general, the general got up and he made statements, "We don't have any kills, how can you have kills without weapons?"

Mr. REDDAN. All right, you are talking about them going in there, "going in there and shooting up a village." Now, is this what they did as a general method of operation?

Mr. ANISTRANSKI. Well, I probably am using his words, because he often mentioned that, "Don't go in and shoot up the villages and get all these kills without any weapons."

Mr. STRATTON. Did there come a time when you did go into a village and get a lot of kills and not too many weapons?

Mr. ANISTRANSKI. Sir, the best of my knowledge, the division never engaged the enemy in villages. They engaged them out in the jungles.

Mr. STRATTON. Do you recall sitting in on the briefing following the March 16 operation of Task Force Barker?

Mr. ANISTRANSKI. I was at the briefing.

Mr. STRATTON. And you sat just ahead of Chaplain Lewis, did you not?

Mr. ANISTRANSKI. I sat in the front row.

Mr. STRATTON. I thought the generals sat in the front row.

Mr. ANISTRANSKI. Well, the briefing row. The general was up in front of us.

Mr. STRATTON. Well, then, you were in the second row, weren't you?

Mr. ANISTRANSKI. Check.

Mr. STRATTON. And the chaplain was in the third row, right?

Mr. ANISTRANSKI. I think the chaplain sat someplace behind me.

Mr. STRATTON. So that would put him in the third row. And do you remember how many casualties were reported, how many enemy killed were reported in that briefing?

Mr. ANISTRANSKI. I don't recall the number, sir.

Mr. STRATTON. Well, roughly, do you remember a number?

Mr. ANISTRANSKI. Over 100.

Mr. STRATTON. Would 128 sound about right to you?

Mr. ANISTRANSKI. Someplace in that area. I don't know if it is the right number or not, sir.

Mr. STRATTON. Do you remember what happened when that reference was made to that particular figure in the briefing room?

Mr. ANISTRANSKI. I can tell you what the commanding general probably said.

Mr. STRATTON. I don't want what he probably said, I want to know what happened. If you know what he said, I would be interested in that. Anything that took place when that particular figure was mentioned.

Mr. ANISTRANSKI. Well, as usual, when we have got a lot of kills there was a roar that went up in the briefing room.

Mr. STRATTON. Well, I am not talking about "as usual." I am talking about this particular briefing, and that is what you are talking about, right?

A roar went up in the briefing room. What kind of a roar?

Mr. ANISTRANSKI. Well, a cheer.

Mr. STRATTON. "Hurray for us!" you mean?

Mr. ANISTRANSKI. As a sign of success in combat.

Mr. STRATTON. That's what happened when that figure was announced?

Mr. ANISTRANSKI. Well, you will always get a reaction like that when days go by and you are not getting any kills.

Mr. STRATTON. I say, is that what happened in this particular briefing?

Mr. ANISTRANSKI. I really can't say, sir.

Mr. STRATTON. Well, you just undertook to tell me what happened. You wanted to tell me what the general said in this particular briefing.

Mr. ANISTRANSKI. At this particular briefing, I cannot honestly recall. I can only tell you what he said at all briefings when we had big kills.

Mr. STRATTON. I don't want to know what he said at briefings. You said you recalled this particular briefing, and you said you were there, and you said you sat right in front of Chaplain Lewis. You recall that. So you know what briefing we are talking about.

Now, what I want to know is what happened when they announced the total number of casualties at that particular briefing?

Mr. ANISTRANSKI. To the best of my knowledge, the general mentioned the fact that there were a lot of kills and no weapons.

Mr. STRATTON. The general mentioned that?

Mr. ANISTRANSKI. Yes, sir.

Mr. STRATTON. How many weapons were picked up, do you remember?

Mr. ANISTRANSKI. Just a handful of them, sir.

Mr. STRATTON. Three? Does that sound about right?

Mr. ANISTRANSKI. Someplace—then again, see—2 years. Less than a dozen.

Mr. STRATTON. Less than a dozen. And what was the explanation given to the general when he made that comment?

Mr. ANISTRANSKI. He turned to the G-3 briefing officer and told him to find out.

Mr. STRATTON. Who would that be?

Mr. ANISTRANSKI. That's a young captain.

Mr. STRATTON. A young captain?

Mr. ANISTRANSKI. Yes.

Mr. STRATTON. You don't know what his name is?

Mr. ANISTRANSKI. No, sir, I don't recall. They change the briefers just about every day.

Mr. STRATTON. Now, at that point you turned to Colonel Lewis, did you not—Chaplain Lewis—and told him that of that 128, only 4 were actually military-age males; isn't that correct?

Mr. ANISTRANSKI. I said that to Colonel Lewis, sir?

Mr. STRATTON. Didn't you?

Mr. ANISTRANSKI. To the best of my knowledge, I didn't ever turn to Chaplain Lewis—Colonel Lewis.

Mr. STRATTON. Didn't you indicate to him at that time that actually there were only four of that number who were military-age males?

Mr. ANISTRANSKI. Me, sir?

Mr. STRATTON. Yes, you.

Mr. ANISTRANSKI. No, sir. To the best of my knowledge, I never talked about those things to Chaplain Lewis.

Mr. STRATTON. Well, he sat right behind you, didn't he?

Mr. ANISTRANSKI. Would I turn around and talk about a briefing that was going on with him?

Mr. STRATTON. Well, there was quite a furor when that figure was mentioned, as you have already pointed out. Didn't you turn around to him and point out to him that the surprising thing was that of that 128, only 4 were actually military-age males?

Mr. ANISTRANSKI. I didn't say that, sir. If someone else said that, I didn't say that to Chaplain Lewis.

Mr. GUBSER. Did you hear it said in the briefing?

Mr. ANISTRANSKI. No, sir, I did not.

Mr. GUBSER. Now, wait a minute: Can I go for just a second?

Mr. STRATTON. All right.

Mr. GUBSER. What was your job now, as the G-5?

Mr. ANISTRANSKI. Civil affairs.

Mr. GUBSER. All right, now. In other words, civilian casualties were your responsibility, right?

Mr. ANISTRANSKI. Yes, sir.

Mr. GUBSER. And you should take particular notice of civilian casualties, right?

Mr. ANISTRANSKI. That is correct.

Mr. GUBSER. Now, do you think if you'd heard the statement that only 4 of the 128 Viet Cong killed were males of military age, do you think you would have taken mental note of that, considering your responsibility?

Mr. ANISTRANSKI. The gentleman said that I made the statement.

Mr. GUBSER. No; I am not saying that now. Did you hear it said?

Mr. ANISTRANSKI. I would have taken mental note of that.

Mr. GUBSER. In other words, you are saying here now that you did not hear that statement made?

Mr. ANISTRANSKI. To the best of my knowledge, sir, I did not hear the statement made.

Mr. GUBSER. And you think if it had been made, due to your responsibility, you would remember it?

Mr. ANISTRANSKI. I think I would.

Mr. GUBSER. All right.

Mr. STRATTON. When this figure was mentioned, there was actually, you said, a roar, a hubbub. The fact of the matter was that the reaction was a rather skeptical one, was it not?

Mr. ANISTRANSKI. It became skeptical after the general got up and mentioned the number of weapons taken.

Mr. STRATTON. There was a good deal of doubt as to whether there really had been 128 Viet Cong killed, if they only took three weapons; is that correct?

Mr. ANISTRANSKI. I am not making that assumption, sir. I am not doubting that whatsoever. I am not in operations.

Mr. STRATTON. I am talking about the reaction that occurred in that room when that figure was mentioned. It turned out to be a rather skeptical one, did it not?

Mr. ANISTRANSKI. I wouldn't say that, sir. I think it got quiet when the Commanding General made the comment.

Mr. STRATTON. And you said the general turned to his G-3 and wanted him to investigate as to exactly how many were killed, is that right?

Mr. ANISTRANSKI. He was looking right at the briefer and he told the briefer to find out.

Mr. STRATTON. All right. Now——

Mr. DICKINSON. Wait a minute! Find out what?

Mr. ANISTRANSKI. Find out what happened to the weapons.

Mr. DICKINSON. Well, that's not the answer to his question. That's what I understood you to say earlier.

Mr. STRATTON. Find out what happened to the weapons?

Mr. ANISTRANSKI. If there were any. If they had a big kill, namely, he wanted weapons with it.

Mr. STRATTON. Did he also ask him to find out how it was that there were so many killed with so few weapons?

Mr. ANISTRANSKI. In words of that effect, he did.

Mr. STRATTON. Well, now, you said that your responsibility as the G-5 was also with respect to civilian casualties. If there had been few weapons and a lot killed, this would suggest that maybe some of those that were killed were civilians. This must have been in your area. What did you do to inquire into this matter in response to the General's question?

Mr. ANISTRANSKI. I don't know whether I submitted to the G-3's call down to 11th Brigade for information, or whether in general terms again, I went down there to find out from Colonel Henderson.

Mr. STRATTON. Well, you remember this specific briefing. You remember the general raising the question. You remember him making a direction to look into it. This was in your area of responsibility.

Now, what did you do? You can remember the briefing. You must remember what you did after the briefing was over.

Mr. ANISTRANSKI. To the best of my knowledge, sir, I probably didn't do anything. I just waited for G-3 to get the information from the 11th Brigade.

Mr. STRATTON. Well, this is your responsibility. You wouldn't just sit there and do nothing, would you?

Mr. ANISTRANSKI. Well, once it is addressed to us——

Mr. DICKINSON. Would the gentleman yield? Let me nail down one point.

Mr. STRATTON. Go ahead.

Mr. DICKINSON. Right now, in the last few minutes here, we have discussed a briefing that you recall attending, you recall where you sat, you recall the response made by the general. Now, what was the briefing about?

Mr. ANISTRANSKI. Every night we got briefings on tactical——

Mr. DICKINSON. Don't tell me about every night. I asked you what this particular briefing was about. You remember where you say who was there and what was said.

Now, tell me what the briefing was about.

Mr. ANISTRANSKI. Operations in the division area of responsibility.

Mr. DICKINSON. You tell me what this briefing was about, and that will answer my question. This briefing:

Mr. ANISTRANSKI. The briefing on this particular——

Mr. DICKINSON. It had to do with some particular operation. Now you tell me what that operation is?

Mr. ANISTRANSKI. It dealt with all operations in the division area. Not exclusively one, sir. We briefed on the entire operation.

Mr. DICKINSON. All right.

The kill, the 128, with the missing weapons, did that have to do with any particular operation. They had to be killed some particular place, now, Colonel.

Mr. ANISTRANSKI. I am trying to think, sir.

Mr. DICKINSON. Well, I wish you would.

Mr. ANISTRANSKI. The total kills were posted up there, and the total number of weapons that we captured during that specific day.

Mr. DICKINSON. All right. For one day, then.

Mr. ANISTRANSKI. Yes.

Mr. DICKINSON. All right. Where were they operating this one day that we are talking about?

Mr. ANISTRANSKI. From Danang all the way down to Duc Pho, sir. We had something like 12 infantry battalions maneuvering in the jungles.

Mr. DICKINSON. And you had no knowledge of where these people were killed—you have used the word before “a village was shot up.” Did you know where this was? That is when you were talking to the Peers Committee?

Mr. ANISTRANSKI. I don't know what village they were talking about. Villages oftentimes get shot up by helicopters.

Mr. DICKINSON. Don't tell me what they oftentimes do. I am just asking you a direct question and you can say yes or no.

Now, you used the term “a village was shot up and civilians killed.” Do you know what village you were talking about?

Mr. ANISTRANSKI. I don't know what village I was talking about, sir.

Mr. DICKINSON. All right. And these people that were killed there, and this briefing, you had no way to tie this to the operation at Pinkville and My Lai?

Mr. ANISTRANSKI. I can't associate the kills and the weapons and all with the village, sir. I just can't do it.

Mr. DICKINSON. Thank you.

Mr. STRATTON. That is all I have.

Mr. GUBSER. When counsel gets back I have a question.

Mr. DICKINSON. Then let me go on. Your job—your responsibility as G-5 would be to handle claims of civilians, and if a civilian was killed, either accidentally or as a result of a combat mission, would this come to your attention and be handled through your shop?

Mr. ANISTRANSKI. Yes, sir. The claims are carried by the brigade S-5 and they eventually get to me.

Mr. DICKINSON. You do have oversight over S-5?

Mr. ANISTRANSKI. Coordination, sir.

Mr. DICKINSON. Coordination?

Mr. ANISTRANSKI. Yes, sir.

Mr. DICKINSON. Now, what would be—if you were to get five killed, say, in civilians, innocent civilians, five claims growing out of one operation, would this be usual or unusual?

Mr. ANISTRANSKI. Very usual, sir.

Mr. DICKINSON. Very usual?

Mr. ANISTRANSKI. Yes, sir.

Mr. DICKINSON. If you were to get 10 out of one operation, would that be usual?

Mr. ANISTRANSKI. Very usual, sir.

Mr. DICKINSON. Very what?

Mr. ANISTRANSKI. Usual.

Mr. DICKINSON. If you were to get 20 growing out of one operation, would that be usual or unusual?

Mr. ANISTRANSKI. That becomes unusual.

Mr. DICKINSON. Well, I am trying to arrive at where something is exceptional or that you would recall.

Mr. ANISTRANSKI. They varied between 3 and 10 killed on any big day of contact.

Mr. DICKINSON. All right. If you got 20, 28, or 20 or above, this would tend toward the unique and be very unusual, is that right?

Mr. ANISTRANSKI. I would think so, yes, sir.

Mr. DICKINSON. Did you ever handle any with 20 or more as long as you were G-5?

Mr. ANISTRANSKI. Yes, sir.

Mr. DICKINSON. How many?

Mr. ANISTRANSKI. Twenty-six.

Mr. DICKINSON. How many occasions?

Mr. ANISTRANSKI. One, sir.

Mr. DICKINSON. Once. So on your whole tour then you had one with 26?

Mr. ANISTRANSKI. Yes, sir.

Mr. DICKINSON. Where was that?

Mr. ANISTRANSKI. That was just south of Binh Son district headquarters. I was placed on orders to investigate the circumstances surrounding the incident.

Mr. DICKINSON. Binh Son.

And how were they killed?

Mr. ANISTRANSKI. They were killed by an M79 round that was armed. It was during a reward program. A live round was dropped in a jeep that had 80 millimeter and 105 millimeter rounds in it. And it just took $\frac{1}{4}$ pound pressure to blow it sky high, and it blew sky high and killed the GI's and the children around there.

Mr. DICKINSON. So that was very exceptional. That stands out in your memory, right?

Mr. ANISTRANSKI. Yes, sir.

Mr. DICKINSON. All right.

Mr. REDDAN. That was not a military operation, though, was it?

Mr. ANISTRANSKI. That was a rewards program. This was not a military operation.

Mr. DICKINSON. What I'm trying to get at now, if 20 people were killed in this operation, the Task Force Barker operation on March 16, would that, in the normal course of events, come to you and across your desk?

Mr. ANISTRANSKI. It certainly would, sir, because I would have to go to Finance and draw the necessary funds to settle with the families.

Mr. DICKINSON. Did it ever come to your attention?

Mr. ANISTRANSKI. Not the My Lai incident, sir.

Mr. DICKINSON. Let's not start bandying names now. I'm asking you as a result of the operation of Task Force Barker on March 16, 1968 wherever it was—

Mr. ANISTRANSKI. I did not draw.

Mr. DICKINSON. Did you get any complaints, did anyone come to you of civilians killed; and if so, how many, and what did you do about it?

Mr. ANISTRANSKI. No; no one came to me, sir, and I don't recall going for any large sum of money.

Mr. DICKINSON. Nothing unusual came to you as a result of Task Force Barker's operation in this area on March 16?

Mr. ANISTRANSKI. Sir, I didn't even read the after action report of the area.

Mr. DICKINSON. That's not answering my question.

Mr. ANISTRANSKI. No one. The answer to your question.

Mr. DICKINSON. The answer to my question is no?

Mr. ANISTRANSKI. No.

Mr. DICKINSON. And neither officially nor unofficially did you ever hear of any unusual occurrences in relation to wounded or killed civilians as a result of Task Force Barker operating in this area; is that correct?

Mr. ANISTRANSKI. Unofficially, from Captain—from Chaplain Lewis, sir. He said there were a lot of civilians killed down south, but he never pinpointed it.

Mr. DICKINSON. Was he referring to this?

Mr. ANISTRANSKI. I don't know, sir, I really don't know.

Mr. DICKINSON. Well, I was wondering why you would respond to this, if I'm talking about a particular operation on a particular day, and you answered it yes; in fact, Chaplain Lewis told you.

Mr. ANISTRANSKI. Unofficially, he would come by and tell me about every one of these.

Mr. DICKINSON. But now when I pressure you, you say you're not sure whether he was talking about this or something else.

Mr. ANISTRANSKI. Well, again, he may have been talking about the entire area of responsibility for the brigade, sir. He said down south. Down south means all the way to Saigon to me.

Mr. DICKINSON. Mr. Chairman, if we had the time, I think we might get a little more definitive answer, but this is another rollcall, second round.

Mr. GUBSER. Can I ask a question?

The CHAIRMAN. Yes.

Mr. GUBSER. I show you a mimeographed sheet entitled "Americal News Sheet," volume 1, No. 332, Sunday, March 17, 1968.

Are you familiar with what that is?

Mr. ANISTRANSKI. Sir, I was shown that document at the Peers committee.

Mr. DICKINSON. What's the answer?

Mr. ANISTRANSKI. Yes.

Mr. GUBSER. What is it? Is it a newsheet that's handed out each day at the briefing?

Mr. ANISTRANSKI. Each day, the division information officer published the highlights of the division's operations.

Mr. GUBSER. This was handed to you at the beginning of the operation on the previous day's operation?

Mr. ANISTRANSKI. I don't know if it was handed to me or not, sir. We would go in and post the charts and hand them out. I may have picked one out.

Mr. GUBSER. They are handouts?

Mr. ANISTRANSKI. Yes, sir. Everybody in the division gets them.

Mr. GUBSER. This is the unclassified substance of what takes place at the briefing, right?

Mr. ANISTRANSKI. Yes. One day late.

Mr. GUBSER. But the briefing itself is classified, in much more detail.

Now, here in the unclassified version, it refers to the My Lai assault, and I quote, "The 128 enemy dead was the largest enemy body count recorded by the 11th Brigade for a 24-hour period since they took control of Operation Muscatine."

Then, three paragraphs later, I read another sentence, which says:

Contacts throughout the morning and early afternoon resulted in 128 enemy killed, thirteen suspects detained and three weapons captured.

Now, you've told us repeatedly this afternoon of the importance which you all placed upon the relationship between number killed and weapons captured.

And is it true, is it a safe assumption for me, that when there was a great dispute between number killed and weapons captured, it would be logical to presume that there would be civilian deaths, or at least suspected?

Mr. ANISTRANSKI. We have been advised to answer that this way: It could be suspected.

Mr. GUBSER. But wouldn't you, as a professional man, with the responsibility in this area, if you were doing your job, wouldn't you wonder if this didn't involve civilian deaths, with 128 killed, and only three weapons captured?

Mr. ANISTRANSKI. As a responsible man, yes, sir.

Mr. GUBSER. Now, I ask you again, were you irresponsible that day, because you did hear this? It was not only in print, it was undoubtedly discussed orally. In fact, you have testified to that effect.

Were you irresponsible that day?

Mr. ANISTRANSKI. No, sir.

Mr. GUBSER. Well, then, why didn't you begin to wonder about civilian casualties on this March 16 operation?

Mr. ANISTRANSKI. Well, again, sir, I submit to the fact that all reports on operations come up through the brigade, to division. We write the major plan that goes down for execution. All after action reports come back up to us. And, based on those after action reports, we take action.

I would be superimposing myself on a brigade commander, as a division staff officer.

Mr. GUBSER. In other words, if you knew the facts that came up through the command were wrong, and would cause you not to reimburse some of these families for civilian deaths, even if you knew those were wrong, because the wrong information came up to you, you're telling me that you have no obligation to do anything about it?

Mr. ANISTRANSKI. No, sir. You want me to admit to the fact that I'm wrong in my action. What I'm telling you, sir, is that when we write our operation plan, I had two annexes that were placed therein, civil affairs annex, to tell them what to do in the event of civilian casualties, and where they would go, how we would settle with the families.

I had one that went in on psychological operations.

Now, after each operation, they wrote an after action report that came to division headquarters for staff analysis.

Mr. GUBSER. But it was your responsibility to take action when the after action report showed a civilian death; isn't that right?

Mr. ANISTRANSKI. Sir, it would be.

Mr. GUBSER. Yes, it was your continuing responsibility?

Mr. ANISTRANSKI. Yes, sir.

Mr. GUBSER. Now, you heard, at this briefing, you heard that there were 128 killed, and only three weapons captured.

You have told me that as a responsible officer you should have suspected, at least, that there were civilians killed; and then in the next breath you tell me because it didn't come up through chain of command in the after action report, you weren't obligated to investigate your suspicion. Is that correct?

Mr. ANISTRANSKI. Sir, this is a transaction that transpired between commander and commander. As a special or general staff officer, you don't have that prerogative by the book.

Mr. DICKINSON. Mr. Chairman, what are we going to do with this rolloccall?

Mr. HÉBERT. I'm not going to answer it.

Mr. GUBSER. I'm going.

Mr. DICKINSON. I've got to go.

Mr. REDDAN. Just one question, Colonel.

Can you be recalled to active duty?

Mr. ANISTRANSKI. I imagine so, sir.

Mr. GUBSER. You're on the retired list?

Mr. ANISTRANSKI. Yes, sir.

Mr. GUBSER. Receiving retired pay?

Mr. ANISTRANSKI. Yes, sir.

Mr. GUBSER. He's still in service.

Mr. HÉBERT. Thank you very much, Colonel.

[Witness excused.]

[Whereupon, at 4:05 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 3 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert, Mr. Stratton, Mr. Gubser, and Mr. Dickinson.

Also present: Mr. John T. M. Reddan, counsel and Mr. John F. Lally, assistant counsel.

FURTHER TESTIMONY OF RONALD L. HAEBERLE

Mr. HÉBERT. Mr. Haeberle, is this your counsel?

Mr. HAEBERLE. Yes, sir.

Mr. HÉBERT. Will you identify yourself?

Mr. SILARD. John Silard.

Mr. REDDAN. Mr. Haeberle, you are still under oath.

Mr. HAEBERLE. Fine.

Mr. REDDAN. Did you bring the records which the subcommittee requested of you?

Mr. HAEBERLE. Yes; I did. My tax accountant mailed the one thing you asked for Sunday, but I have everything else that is on that in this right here.

Mr. REDDAN. The material which your accountant mailed has not come in yet?

Mr. HAEBERLE. It is my form from where I work, and a 1099 form from Life magazine, and I have the Life vouchers right here.

Mr. REDDAN. Where is the material that your accountant was to send?

Mr. HAEBERLE. It is still in the mail yet. But I have correspondence stuff right here.

Mr. REDDAN. The material the accountant is sending to you?

Mr. SILARD. He sent it air mail, special, yesterday, and it hasn't arrived.

Mr. REDDAN. And it is addressed to you?

Mr. SILARD. Yes, sir.

Mr. REDDAN. And when you receive it, you will forward it to the committee?

Mr. SILARD. Yes, sir.

Mr. REDDAN. Will you give Mr. Lally the material you brought back with you pursuant to our request? Is that all of the material?

Mr. HAEBERLE. That is 1969. Do you want 1970?

Mr. REDDAN. Yes, 1970 also.

Mr. HAEBERLE. Here's 1970.

Mr. REDDAN. Now, are these all of your records with respect to your 1969 tax?

Mr. HAEBERLE. Yes, they are.

Mr. HEBERT. And this other volume which you are handling, the other manila folder—

Mr. HAEBERLE. Is 1970.

Mr. HEBERT [continuing]. Marked 1970; these are all of your records relating to your 1970 return?

Mr. HAEBERLE. Correct.

Mr. REDDAN. Now I notice in here you have a typed statement, "Income in 1970 Relating to My Lai Photographs."

Mr. HAEBERLE. Yes.

Mr. REDDAN. Do you know when this was typed up?

Mr. HAEBERLE. This was typed up this morning with the vouchers that I have there.

Mr. REDDAN. Now, was any of the other material typed up this morning?

Mr. HAEBERLE. Everything was typed up, the vouchers I have in there.

Mr. REDDAN. Well, now—

Mr. HAEBERLE. The one you are waiting for, from Time—

Mr. REDDAN. Now, here is a statement from Morgan Guaranty Trust Co. This was obviously not typed up this morning.

Mr. HAEBERLE. Oh no. I am sorry, the vouchers were not typed this morning.

Mr. REDDAN. Which of this material that you just handed to us was typed up this morning?

Mr. HAEBERLE. The only thing typed up this morning is the one—is the two typed sheets you have there. That one there, and the other one right there. That was typed this morning, and the older folder also has the same thing—

Mr. REDDAN. This is an original and a carbon copy.

Mr. HAEBERLE. Correct.

Mr. REDDAN. It is entitled "Income in 1970 Related to My Lai Photographs."

Mr. HAEBERLE. Correct.

Mr. REDDAN. And the one in 1969?

Mr. HAEBERLE. Is the same.

Mr. REDDAN. The same is true. The document carrying the heading "Income in 1969 Related to My Lai Photographs" was typed up this morning?

Mr. HAEBERLE. That piece of paper was typed this morning.

Mr. REDDAN. All the other documents in there are original documents; is that right?

Mr. HAEBERLE. Correct.

Mr. REDDAN. All right. Well, thank you so much. We will have to have a chance to go through this, so we will excuse you now, and call you tomorrow morning at 10 o'clock.

Mr. HAEBERLE. 10 o'clock?

Mr. REDDAN. Yes. We were trying to get to you this morning, but since you didn't get here till this afternoon—

Mr. HAEBERLE. We were waiting for that one.

Mr. REDDAN. All right, and the other should be in tomorrow, and you can bring that with you.

Mr. SILARD. Yes.

Mr. REDDAN. Thank you.

[Witness excused.]

[Whereupon, at 3:05 p.m. the subcommittee proceeded to a further witness.]

Mr. HÉBERT. Colonel, will you identify yourself to the reporter, please?

TESTIMONY OF COL. ROBERT B. LUPER

Colonel LUPER. Robert B. Luper, colonel, U.S. Army.

Mr. HÉBERT. What is your present assignment?

Colonel LUPER. I am with the staff and faculty at the Command General Staff College, Fort Leavenworth, Kans.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel LUPER. I commanded the 6th Battalion, Leavenworth, which was in direct support of the 11th Brigade.

Mr. HÉBERT. Colonel, you have been handed a copy of the rules of the subcommittee by Mr. Reddan. Have you read them?

Colonel LUPER. Yes, sir.

Mr. HÉBERT. You found in there you are entitled to counsel after you are sworn. You understand that?

Colonel LUPER. I understand it, sir.

Mr. HÉBERT. You obviously have elected to have counsel.

Colonel LUPER. I have.

Mr. HÉBERT. Counsel, will you identify yourself?

Colonel MUNDT. Yes, sir. I am Lt. Col. James A. Mundt, M-u-n-d-t. I am also stationed at Fort Leavenworth, Kans., with the U.S. Army garrison. I am a member of the Judge Advocate General Corps, a member of the bar of the State of Colorado, and admitted to practice before the U.S. Supreme Court.

Mr. HÉBERT. Now, Colonel, have you been charged with any offense?

Colonel LUPER. Yes, sir, I have.

Mr. HÉBERT. What was that charge?

Colonel LUPER. Failure to obey a lawful order.

Mr. HÉBERT. Just one count?

Colonel LUPER. Yes, sir.

Colonel MUNDT. Would you like a copy of the charge, sir?

Mr. REDDAN. If you have it?

Colonel MUNDT. Yes, sir, I will be more than happy to show it to you. If I could have this back, sir, when we are done?

Mr. REDDAN. Yes.

Mr. HÉBERT. Now, Colonel, while you are under the jurisdiction of this subcommittee, the subcommittee is going to give you full protection as to your privacy. It will be fully respected. You are not compelled nor urged to talk to any news media, have your picture taken or make any statements. When you leave this room, you leave by the rear door. An officer will be there to escort you. The news media, if they elect, are allowed to have one representative at that door; and that one representative can ask you only one question, "Do you care to make any statement?" Replying in the negative, he must retire. He cannot interpose himself upon you, cannot attempt to steal a picture, cannot attempt to put a microphone in front of you or anything that would invade your privacy whatsoever. You are under our complete protection, and the area is secured around this room, and you will leave unmolested.

Now, because you are under charges, the subcommittee in no way will ask you any question that will prejudice your position, nor will it ask any question to prejudice the position of the Government. We are not in any way probing into the falsity or nonfalsity of the charges made against you. All we are trying to do is to find out if anything untoward happened at My Lai 4 on March 16, 1968, and what disposition was made of any complaint that was offered at that particular time. Now, the counsel is here to protect your legal rights, and he has full authority to do so. He understands, I am sure, that he cannot prompt you, nor suggest to you how to answer any questions. If a question is raised that he does not want you to answer, then he can, of course, tell you to stand on your constitutional rights, which will be respected by the committee. Now, do we understand each other?

One other thing which is very important. The transcript of this testimony which we will take today is available to you or your counsel. It can be read here in the rooms of the committee. It cannot be taken away from the committee room, and will not be offered to anybody else to read or to analyze or use in any way at all. It is not subject to call by anybody, and will not be given to anybody, for your full protection.

Colonel MUNDT. May I say something?

Mr. HÉBERT. Yes.

Colonel MUNDT. I have discussed this with Colonel Luper at great length whether he should testify or not. I realize you are not inquiring into whether the charges against him are true or not. We feel that they cannot be substantiated and therefore we have no hesitancy to answer whatever questions the committee may put to him. We respect the important job the committee has and we are willing to answer anything you may wish to ask at this time.

Mr. HÉBERT. Will you rise?

[Witness sworn.]

Mr. REDDAN. Colonel, on March 16, 1968, you commanded the 6th Battalion, Leavenworth, 11th Infantry Brigade, is that right, sir?

Colonel LUPER. That is right, sir.

Mr. REDDAN. Now, did your organization take any part in the Task Force Barker Operation of March 16, 1968?

Colonel LUPER. I had one battery from my battalion which was furnishing direct artillery support to Task Force Barker.

Mr. REDDAN. And that was a battery at LZ Uptight?

Colonel LUPER. That is correct, sir.

Mr. REDDAN. Who commanded that battery, sir?

Colonel LUPER. Captain Gamble.

Mr. REDDAN. Prior to the operation, did you have an opportunity to see any of the overlays for the operation for the artillery firing?

Colonel LUPER. Sir, I do not recall seeing any overlays prior to the operation. I was at LZ Dottie, as I recall, the afternoon before the operation. I was aware, basically, of the plan, of the area they were going into. As far as overlays, maps, written operation order, anything like this, no, sir, I have not seen.

Mr. REDDAN. Did you say that you attended any of the briefings on this operation?

Colonel LUPER. No. I did go up into LZ Dottie, as I said. I talked briefly with Colonel Barker, and I talked briefly with my liaison officer.

Mr. REDDAN. Were you advised as to precisely what part your artillery battery was to take in this particular operation?

Colonel LUPER. They were to fire a—

Mr. REDDAN. Incidentally, Colonel, behind you is an aerial map of My Lai 4. I don't know whether you can orient yourself with that or not. But in going through your testimony, if you want to refer to that, or the big map up there, don't hesitate to do so.

Colonel LUPER. They were to fire an artillery preparation for the combat assault, the helicopter assault to go in. And then any normal direct support unit to answer any other request for fire that the ground troops might require.

Mr. REDDAN. Do you know where the artillery was supposed to place its rounds for that operation?

Colonel LUPER. I don't recall exactly, sir. Based on things I had been told in the Peers Committee and so forth—

Mr. REDDAN. No, I mean from your recollection.

Colonel LUPER. I do not recall the exact location of the prep, sir.

Mr. REDDAN. Do you know whether or not any of it was to be put on the hamlet of My Lai 4 itself?

Colonel LUPER. There was some talk by Colonel Barker that he might have to fire on the village. The LZ, as I recall, was quite close to the village, the landing zone. This is a village that he expected to have fire coming from, had had fire from this village. He indicated that he might have to fire at least onto the edge of the village.

Mr. REDDAN. Who was the one who made the final determination as to where the artillery would place its rounds?

Colonel LUPER. Colonel Barker would make the final determination. I have an artillery list on officers assigned to him, who would actually adjust the fire, based upon where Colonel Barker wanted it. And this adjustment would be made in the air the day of the assault.

Mr. REDDAN. Now, if Colonel Barker then made the determination that the artillery should be placed on certain parts of the village, this would be a matter for his determination, is that what I understand you to mean?

Colonel LUPER. This would be a matter of his determination, and falls within the purview of the MACV regulations of rules of engagement.

Mr. REDDAN. But, as I understand it, he could adjust the fire while he was airborne that morning, depending upon the circumstances on the ground, is that right?

Colonel LUPER. That is correct, sir.

Mr. REDDAN. And he would do that through your artillery liaison officer who would accompany him?

Colonel LUPER. That's correct, sir.

Mr. REDDAN. Did you ever discuss this matter with your artillery liaison officer? Who was he, by the way, sir?

Colonel LUPER. Captain Vazquez.

Mr. REDDAN. Did you ever talk to Captain Vazquez about this?

Colonel LUPER. I am sure I have. I do not recall the specific conversation with him. However, it was certainly normal. I don't recall any operation that I did not, after the conclusion of it, talk to my liaison officer to see if there were problems, if he had any problem getting the fire where the commander wanted it. As I say, I don't remember a specific conversation, but I'm sure I did.

Mr. REDDAN. Did it ever come to your attention, either officially or unofficially, that there may have been some civilian casualties in My Lai 4 on March 16, 1968, due to artillery prep?

Colonel LUPER. No, sir, not to the artillery prep, as such. It did come to my attention, sometime that day, and I don't recall exactly when, probably at the evening briefing, at the brigade, that possibly 15 to 20 civilians had been killed by either artillery, gunships, or small arms. I should reword that, inadvertently killed by one of those three.

Mr. REDDAN. You think that was the evening briefing at the brigade, is that right?

Colonel LUPER. I say it would probably have been no later than that. Sometime that day I became aware of it.

Mr. REDDAN. Do you have any recollection of who gave that portion of the briefing?

Colonel LUPER. I do not, sir.

Mr. REDDAN. Would it have made any difference to you whether they were intentional or inadvertently killed, if there were civilian casualties?

Colonel LUPER. Yes, sir, it would have made a difference. However, in firing an artillery prep, or a gunship prep, I don't see how it could be anything but inadvertently.

Mr. REDDAN. Well, if the prep was to be put on the village, naturally you mean you weren't going in there to kill civilians. But if it were reported that civilians were killed, would there be any difference as to how this report should have been handled, regardless of whether it was on purpose or inadvertent?

Colonel LUPER. No, sir. Had I received a report that the artillery had landed on civilians—and incidentally I would like to say at this time, I rather resent the use of the term civilian in this area. In fighting the Viet Cong and so forth, I am different from the rest of the Army, because how you determine the difference between a civilian and a guerrilla or VC or whatever you want to call them, I am not able

to do so. Had it come to me that artillery had killed, let's say, innocent people, it would have been my obligation to have reported this through artillery channels to the division artillery commander.

Mr. REDDAN. If the alleged incident at My Lai 4 were investigated, and it was determined as a result of that investigation that there had been civilian casualties, due to artillery and gunship fire, should that report have been brought to your attention?

Colonel LUPER. Yes, if artillery was involved, it should have been brought to my attention.

Mr. REDDAN. Did you ever see any such report?

Colonel LUPER. No, sir, not until the investigation started—

Mr. REDDAN. I meant while you were in-country.

Colonel LUPER. No, sir, I did not.

Mr. REDDAN. Are you referring now to the so-called Henderson report of April 24?

Colonel LUPER. Yes, sir.

Mr. REDDAN. Have you read that report?

Colonel LUPER. Yes, sir.

Mr. REDDAN. Having read it, do you feel that that should have been brought to your attention?

Colonel LUPER. Well, I will have to say that sometime during this initial day, I said that it came to my attention that some civilians or innocents had been killed by either artillery, gunships, and so forth. This probably is sufficient, as far as my attention. I don't think it was really a requirement for the brigade commander to show me a report that he was submitting to division, which said basically the same thing.

Mr. REDDAN. But didn't your command have an SOP which required certain action any time an artillery round killed or wounded a civilian? Didn't you have certain investigative procedures you had to go through?

Colonel LUPER. This is correct.

Mr. REDDAN. And you were part of the Americal Division, and my question is, Do you feel that a report, such as the Henderson report going to General Koster, should have been brought to your attention?

Colonel LUPER. No, because in my judgment this report or any other thing I heard did not justify me making an incident report, which would have been my requirement.

Mr. REDDAN. Well, now, I don't want to get into any charge involving you. But I have difficulty in understanding just what your SOP required, without asking you the question. And do you feel that you can be helpful to us in that area, without in any way jeopardizing your own case?

Colonel LUPER. If in my judgment I thought that I had casualties on friendlies to either side, I had a requirement to report this, not to my commander—I am one of the brigade commanders—but to the division artillery commander. Had I seen—

Mr. REDDAN. Excuse me. Who was the division artillery commander, sir?

Colonel LUPER. At this time it was Colonel Young. But again, I say, the report I read, the Henderson report would have made no difference one way or the other, in the decision I made.

Mr. REDDAN. Did you learn of any investigations or investigation being made of the My Lai incident while you were in country?

Colonel LUPER. Only to a somewhat limited extent. Sometime after the 16th, and I feel it was the 17th, 17th or 18th, I was accompanying Colonel Henderson again up to this particular area, and we landed out near My Lai, where Captain Medina's company was still in part of the operation, and Colonel Henderson and I got out of the helicopter, and it took off, because this area could be fired into. Colonel Henderson talked to Medina, and I overheard part of the conversation, which was the fact that evidently a woman had been reported shot by some helicopter pilot. The best I remember, Medina's answer was that he had received word from one of the helicopter pilots flying over him that there was a VC in his immediate area, with a weapon. Medina was moving up, somewhat up a road. He saw a movement to his left; he spun and he fired as a reaction. I assumed at that time that Colonel Henderson had gotten some type of report and was making some type of investigation. However, I felt that it was somewhat of an isolated incident, and Medina's explanation seemed quite valid to me. Natural reaction I or any soldier would have taken. So I really didn't think much more about it.

Mr. REDDAN. Well now, were you airborne with Colonel Henderson over the My Lai area on March 16?

Colonel LUPER. Yes, sir.

Mr. REDDAN. At what altitude or altitudes were you flying?

Colonel LUPER. As a general rule, I would say we were about 1,500 feet, because this is the normal altitude we fly. We did go down at least one time, because we went down and picked up a couple of VC suspects, trying to escape from the area. So at that time we were clear to the deck.

Mr. REDDAN. Yes?

Colonel LUPER. I don't recall any other time, changing our altitude drastically, but, as I say, I am only guessing at 1,500 feet because this was about the normal altitude we would fly in an area like this.

Mr. REDDAN. Were you out there on the morning of the 16th?

Colonel LUPER. Yes, sir.

Mr. REDDAN. Did you observe any dead, any bodies on the ground?

Colonel LUPER. Yes, sir. At the time we made the descent to pick up the two VC suspects, I did observe something in the neighborhood I would say of 15 to 20 bodies off to the side of this road here.

Mr. REDDAN. That's the little—are you pointing to the aerial—

Colonel LUPER. 521, Route 521.

Mr. REDDAN. You are pointing to the little road running south from My Lai 4, down to 521, is that right?

Colonel LUPER. That's correct, sir.

Mr. REDDAN. And you pointed to an area just south of the hamlet?

Colonel LUPER. That's correct.

Mr. REDDAN. And you saw 15 to 20 bodies there?

Colonel LUPER. Something like that. Some people lying there, just one flyover from the helicopter.

Mr. REDDAN. From your observation, were you able to tell whether they were women or children or old men or of military age?

Colonel LUPER. No, sir. I would say from just the glance, as I recall it, they were possibly some women and smaller children. Not real

small, but just from dress and size, I would have said I got a flash of it. As to age or anything like this, no, sir, I could not determine this.

Mr. REDDAN. Did you reach any conclusion as to whether they were VC, or as the Army says, civilians?

Colonel LUPER. No, sir.

Mr. REDDAN. You covered this, Colonel, but I am not sure that I understand it. Why is it you say you didn't feel that the civilian casualties mentioned in the evening briefing of Task Force Barker had to be reported to the division artillery commander?

Colonel LUPER. Two things led to my decision on this. One is that it was so inconclusive. It was one of three things which might have done this, or possibly they were killed by either artillery, gunships, or small arms. The other was my feeling, who is determining who is a civilian and who is a noncombatant in this area. And if I would have had one of my artillery people out in the field, my liaison officer or one of the company commanders make a report back that the artillery did this, certainly I would have felt obligated to report one, after I questioned the people to find out who they are talking about.

Another thing that gave me some doubt was the fact that my artillery, from all reports I had, went in exactly where it was requested.

Again, this could have possibly spilled over in the village, and somebody could have got hurt that maybe could be classified as a noncombatant. But I just felt, and still feel, that the reports I received, the circumstances, and my judgment I had no requirement.

Mr. HÉBERT. Let's elaborate on that Colonel. The village of My Lai, what was it—it was accepted as an armed camp of the Viet Cong?

Colonel LUPER. Yes, sir. That entire area, that peninsula had been under Viet Cong control for years.

Mr. HÉBERT. 25 years?

Colonel LUPER. I don't know how long the Viet Cong has been there, sir, but at least for the time the American troops have been in there, at least before I arrived. It was an area that any time we had patrols or platoons or companies in that area, they would run into booby traps, small arms fire, being mortared. It is just an area that you didn't go out and camp in. You were on a combat patrol when you went out in that particular area.

Mr. HÉBERT. Anybody in that area would be Viet Cong?

Colonel LUPER. I would say they were Viet Cong or what is classified as a Viet Cong sympathizer, and I hardly know how to distinguish the two, sir.

Mr. REDDAN. Colonel, do you recall in April 1968 visiting a battery with Col. Mason Young, and Colonel Young asking the captain about his battery, and asking him specifically whether he had been responsible for 69 VC killed during the My Lai operation?

Colonel LUPER. Sir, Colonel Young was not in-country in April. He left the country on April 1.

Mr. REDDAN. Well, maybe it was the latter part of March.

Colonel LUPER. I do not recall this.

Mr. REDDAN. You know the incident, the alleged incident I am referring to?

Colonel LUPER. I am familiar with the incident you are referring to.

Mr. REDDAN. Let me finish and then you can address yourself to the whole thing. Colonel Young asked Captain Gamble whether or not

they had been responsible for 69 VC killed during the My Lai operation. And then you are alleged to have said, "We are not sure that those were all enemy."

Do you have any recollection of any statement like that?

Colonel LUPER. I do not, sir. I am sure I didn't accompany Colonel Young to that battery. I am not sure that I wasn't up there at the time Colonel Young visited. I am sure this captain sincerely believes I used those words, and I sincerely believe I didn't use the words. I am sure he said this or someone has made a statement to him up there, but it was not me.

Mr. REDDAN. Did you know Major McKnight?

Colonel LUPER. Yes, sir.

Mr. REDDAN. Do you know of any investigation of this matter on which Major McKnight worked?

Colonel LUPER. No, sir.

Mr. REDDAN. Did you work with Major McKnight or collaborate in any way on the investigation of this matter?

Colonel LUPER. Sir, I made no investigation of this matter. As I have said earlier, I am sure I talked to my liaison people just as to how it would go, not as to any incident. As to any investigation, no, sir, I did not make any investigation of this matter.

Mr. REDDAN. And you don't know of any investigation that Major McKnight may have been involved in?

Colonel LUPER. No, sir, I do not.

Mr. REDDAN. Did Colonel Henderson ever talk to you about this incident?

Colonel LUPER. Not to my knowledge. I do not recall him talking about any incident. He may have questioned me about did the artillery go where it was requested. I don't recall. It would have been a natural thing for him to ask, but it is something he might have asked on any day's operation. And to this one, I do not recall specifically him questioning me on it?

Mr. REDDAN. Did Colonel Barker ever talk to you about it?

Colonel LUPER. No. I am almost sure Barker never did.

Mr. REDDAN. Witnesses have informed the committee that both Barker and Henderson made investigations of this, and they both came to the same conclusions, that these civilians were killed either by artillery prep or gunship or small arms fire, or both, or all three. And it is not clear to me why, since they are talking about people in your command, why none of them would have talked to you about that.

Colonel LUPER. As I say, very well, Colonel Henderson may have asked me did the prep go in where they requested it or did the prep land in the village or something like this.

Mr. REDDAN. Well then you would have to go back to Captain Vazquez to talk with him because he was your aerial observer?

Colonel LUPER. That's correct. As I say, I am sure I asked him about whether or not it went where it was requested. I don't believe I asked Captain Vazquez if any rounds fell into the village. I don't believe I did. It is just going back a heck of a long time, and my feeling at the time, it was a pretty normal operation, and I really was not particularly concerned at that time that there was anything unusual about it.

I think if you go into a hamlet after a VC battalion, a lot of people are going to get killed. And, frankly, after three wars, I just accept it as a normal operation.

Mr. HÉBERT. This conversation that you overheard between Captain Medina and Henderson, this, I understand, was on March 17 or the afternoon of the 16th, that you heard Captain Medina explain how he had shot this woman?

Colonel LUPER. Sir, I am sure it was not the 16th. It would have been the 17th, 18th, in that neighborhood, because it was after they had moved out of this area, out of the vicinity of My Lai and they were continuing the operation out on the peninsula.

Mr. HÉBERT. That would have been 24 hours?

Colonel LUPER. I would say within 24 hours, sir.

Mr. HÉBERT. Now, did you hear informally of any conversation or coffee cup chatter that there was a slaughter or a massacre at My Lai 4?

Colonel LUPER. Sir, I had never heard anything about a slaughter until it broke in the newspapers and TV this last fall. That's the first time that I had even any inkling of this.

Mr. HÉBERT. Would anything untoward have been the subject of conversation, drawing on your experience in three wars, of the GI talk and GI gossip, if anything like this had happened? Would it be a normal procedure, or normal rumor or normal chatter or anything of that nature, to have talked about these things?

Colonel LUPER. With that many people involved, sir, I don't see how it could have kept from being common gossip, at least.

Mr. HÉBERT. If it had been a massacre or a slaughter?

Colonel LUPER. I just—it is fantastic to me that it could be kept quiet.

Mr. HÉBERT. If it had not, then it was accepted as a normal procedure?

Colonel LUPER. Yes, sir.

Mr. HÉBERT. I mean, these people were just in the area, and what the area was, an armed camp, and fortified, as I understand it, tunnels, and it was just a Viet Cong stronghold?

Colonel LUPER. Yes, sir.

Mr. HÉBERT. Now, did you find in your experience there, that preparations would be made for a hot encounter and then go in and find that the enemy had left?

Colonel LUPER. Oh, quite often, sir.

Mr. HÉBERT. So that wouldn't have been unusual either?

Colonel LUPER. No, sir.

Mr. HÉBERT. That is all.

Mr. STRATTON. No questions, Mr. Chairman.

Mr. LALLY. Colonel, under the Americal procedures which existed, would it have been permissible to have directed the artillery fire on the village itself?

Colonel LUPER. Yes, sir. It is in the Americal artillery SOP, the same words are used in the rules of engagement by MACV, the same words are used in the 11th Brigade SOP.

Mr. LALLY. And if the fire had been laid on the village itself, and civilian casualties had resulted from that fire, would these have been a matter of concern?

Colonel LUPER. I'm certain they would have been a matter of concern. But it would have been considered, in my opinion, a military necessity.

Mr. LALLY. Resulting from the military operation?

Colonel LUPER. Yes, sir.

Mr. LALLY. Whereas, if the fire had been directed elsewhere and had landed on the village, then they would have been regarded as inadvertent casualties, is that right?

Colonel LUPER. Not only that, this, without any doubt, would have been considered an artillery incident or a gunship incident if they landed some place other than where they were requested. Because the only way that we can fire in a hamlet or a village without giving prior warning is if, in the judgment of the ground force commander, in his operation, it would jeopardize his mission to give warning. And certainly if he is trying to catch a VC battalion that he has been chasing for sometime, he is not going to go over loudspeaker and drop leaflets before he goes in or they are going to be gone.

Mr. LALLY. And this is within the discretion of the ground force commander, is that correct?

Colonel LUPER. That is correct, sir.

Mr. LALLY. Nothing further.

Mr. HÉBERT. Thank you very much, Colonel.

[Witness excused.]

[Whereupon, at 4:40 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 4:40 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Stratton, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. Identify yourself to the reporter, please.

TESTIMONY OF COL. JESMOND D. BALMER, JR.

Colonel BALMER. Yes, sir. I'm Col. Jesmond D. Balmer, Jr.

Mr. HÉBERT. What is your assignment?

Colonel BALMER. Sir, I'm currently assigned at the U.S. Army Primary Helicopter School at Fort Wolters, Tex.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel BALMER. Assistant Chief of Staff, G-3, Americal Division, Vietnam.

Mr. HÉBERT. Mr. Reddan has supplied you with a copy of the rules and regulations of the subcommittee?

Colonel BALMER. Yes, sir; he has.

Mr. HÉBERT. You have read them?

Colonel BALMER. Yes, sir; I have.

Mr. HÉBERT. You understand them?

Colonel BALMER. Yes, sir; I do.

Mr. HÉBERT. You understand that when sworn in you will be entitled to counsel?

Colonel BALMER. Yes, sir.

Mr. HÉBERT. You have chosen not to have counsel.

Colonel BALMER. Yes, sir.

Mr. HÉBERT. Now, the subcommittee wants to impress upon you that you're under its full protection while you're under the jurisdiction of this subcommittee. By that, I mean that we will protect any invasion of your privacy, or any attempt to embarrass you or to question you or take photographs to which you object. When you leave the room, you will leave by the door there, and you will be met by a uniformed officer; police, not military.

The news media are allowed to have one representative, if they so desire. That representative will be allowed to ask one question: Do you care to make a statement? If you reply in the negative, that's the end of it. The representative must leave, and you will be escorted out of the security area without molestation or any attempt to put a microphone in front of you, or anything of that nature.

Colonel BALMER. Yes, sir.

Mr. HÉBERT. Now, I will swear you in.

[Witness sworn.]

Have a seat, sir.

Mr. REDDAN. Colonel, as assistant G-3 of the Americal Division, what were your primary responsibilities?

Colonel BALMER. Responsibilities, sir, primarily for operations, training, and planning.

Mr. REDDAN. Did you have anything to do with the plans and operations at the brigade level?

Colonel BALMER. No, sir; other than the issuance of the orders under which they were acting themselves.

Mr. REDDAN. Were these orders general orders, or were they specific orders for each operation?

Colonel BALMER. In general, they were broad, mission-type orders, sir. Specifics were left to the brigade for their own planning.

Mr. REDDAN. Specifically, with respect to the operation of Task Force Barker, were they given general or specific orders for their operations?

Colonel BALMER. General mission-type orders, sir.

Mr. REDDAN. What knowledge did your office have, or did you have in your capacity as assistant G-3, of the operation which they were to embark on, on March 16, 1968?

Colonel BALMER. I had no advance knowledge of that operation, sir.

Mr. REDDAN. This was not cleared in advance with your office?

Colonel BALMER. Not with my office, sir. It's cleared with Division. Any operation certainly of battalion or higher or task force level would be cleared with Division, habitually. In this particular instance, I do not know that it was or was not cleared.

Mr. REDDAN. Did it ever come to your attention that there were allegations of civilian casualties connected with the Task Force Barker operation of March 16, 1968?

Colonel BALMER. No, sir; I cannot recall specifically being informed that there were any civilian casualties.

However, in all of these operations in this area, certainly fighting the Viet Cong, these intermingled with the civilians, and these civilians, allegations of civilian casualties, from time to time, would filter back and forth, that in the course of an operation against the Viet

Cong, in a village or wherever we were, that either through actions of the Viet Cong or through inadvertent actions on the part of U.S. forces, from time to time, there would be either inferences or reported cases of civilians being injured, or in fact killed.

Mr. REDDAN. Did you have a private office, or did you share an office with someone else?

Colonel BALMER. Private office, sir.

Mr. REDDAN. Did Chaplain Lewis ever come to you with any allegations of civilian casualties, as a result of this Task Force Barker operation we are discussing?

Colonel BALMER. Not that I recall, sir.

Mr. REDDAN. Well, had he told you of an operation which involved the killing of civilians of any magnitude, would you feel that you would have read that?

Colonel BALMER. I believe so, sir.

Mr. REDDAN. So that your lack of recollection with respect to this particular matter would suggest that to your best recollection, he never came to you, is that right?

Colonel BALMER. He came to me almost daily.

Mr. REDDAN. I mean on this.

Colonel BALMER. On this particular instance, no, sir.

Mr. REDDAN. Did Colonel Anistranski ever discuss with you the fact that civilians were alleged to have been killed in an operation in the Muscatine AO extension?

Colonel BALMER. No, sir; not to my recollection.

Mr. REDDAN. When is the first time that you ever heard that there may have been civilian casualties at My Lai 4 on March 16?

Colonel BALMER. As I say, I do not, sir, recall, while in Vietnam, any reference to specifically civilian casualties in that particular operation. It was not until last year when this matter became public, and just before it became public, that I had any knowledge that there were allegations of noncombatants being casualties.

Mr. REDDAN. Now, Colonel, you have already stated you have no recollection of Chaplain Lewis having come to you with information about civilian casualties as a result of Task Force Barker's operation on the 16th?

Colonel BALMER. Yes, sir.

Mr. REDDAN. But I will have to ask you this specific question: Did Chaplain Lewis, Colonel Lewis, ever come to you with such allegations, and you told Colonel Lewis, "I know, that is what I heard." And you promised Chaplain Lewis that you would look into the allegations?

Colonel BALMER. No, sir, I do not recall that conversation.

Mr. STRATTON. Is it possible it could have taken place and you've forgotten it?

Colonel BALMER. Yes, sir.

Mr. STRATTON. You wouldn't deny it had taken place?

Colonel BALMER. No, sir; by no means.

Mr. REDDAN. Now, did you receive the after action reports of Task Force Barker?

Colonel BALMER. No, sir; I did not.

Mr. REDDAN. Should they have come to your office?

Colonel BALMER. Normally, they would, yes, sir.

Mr. REDDAN. Did you receive any after action report which indicated that there had been any civilian casualties at My Lai 4?

Colonel BALMER. No, sir, I did not.

Mr. REDDAN. That's all the questions I have.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Thank you, Mr. Chairman.

Colonel, you were the G-3 of the division?

Colonel BALMER. Yes, sir, I was.

Mr. STRATTON. Well then, you were in charge of the postaction briefing, were you not, in connection with this Muscatine operation?

Colonel BALMER. Yes, sir.

Mr. STRATTON. And were you there at the time of the briefing, on the night of March 17, at Chu Lai?

Colonel BALMER. It was the evening of the 16th of March, sir, and I was not present.

Mr. STRATTON. The evening of the 16th. You were not present?

Colonel BALMER. No, sir. I was not.

Mr. STRATTON. Who was the G-3 briefer, at that time?

Colonel BALMER. The acting G-3 in my absence, at that time, was Col. Bill Kelley.

Mr. STRATTON. Col. William Kelley?

Colonel BALMER. Yes, sir.

However, he did not conduct the evening briefing. This is normally done, and was done, at that time, by two captains working under the G-3's supervision.

Mr. STRATTON. And who were they?

Colonel BALMER. I can't recall their names, sir. I'll have to dig back a little bit. I could run those down quite readily.

The immediate responsible officer was Maj. Clark Benn, now Lt. Col. Clark Benn, who supervised the two captains who run the briefings in the evenings. We had just had a changeover that week, and I don't recall their names.

Mr. STRATTON. Where were you at that time?

Colonel BALMER. En route back from Hong Kong, sir.

Mr. STRATTON. And when did you get back?

Colonel BALMER. That evening, after the briefing.

Mr. STRATTON. You got back after the briefing?

Colonel BALMER. Yes, sir.

Mr. STRATTON. So, when you got back, you assumed your role as G-3; is that correct?

Colonel BALMER. Yes, sir.

Mr. STRATTON. Well now, any instructions that General Koster gave to the G-3 representative of that briefing, you would have picked up, would you not, and have been responsible for carrying out?

Colonel BALMER. Yes, sir.

Mr. STRATTON. Well now, we have had testimony that at that briefing General Koster was disturbed by the fact that there were Viet Cong reported killed, and only three weapons captured, and he instructed the G-3 to find out what gave in that situation.

So, you must have been responsible for responding to that request. What did you do in response to that request?

Colonel BALMER. I don't recall receiving that request, sir. If Colonel Kelley had those instructions, he did not pass those on to me. I do not recall. I was briefed upon my return as to what had transpired in my absence, and I do recall being briefed on this particular operation. I

do not recall being instructed to determine why the dispute between the number of casualties and the number of weapons captured.

Mr. STRATTON. Well, if that instruction had been laid on, you would have known about it, would you not?

Colonel BALMER. I would certainly think so, sir.

Mr. STRATTON. Wouldn't that be recorded somewhere in a log?

Colonel BALMER. Probably, yes, sir, but not necessarily. There are so many verbal instructions which are issued, that in all cases, each was not recorded.

Mr. STRATTON. Well then, if we have had testimony to this effect, is it your position that this testimony is probably incorrect?

Colonel BALMER. No, sir, not at all. It's quite conceivable that General Koster asked a determination be made as to this dispute between casualties reported and weapons captured.

Mr. STRATTON. Well, there was, in fact, considerable concern about this particular aspect of the operation, was there not?

Colonel BALMER. Yes, sir, I challenged it myself.

Mr. STRATTON. And this continued after the 16th of March. What did you do with respect to that continuing concern?

Colonel BALMER. I did nothing personally, sir. It was not a responsibility, to my knowledge, of the G-3. If the G-3, in my absence, was instructed to run this down and determine what had taken place, and why the dispute, those instructions certainly never reached me.

Mr. STRATTON. You wouldn't have anything to do with it then, if somebody killed too many civilians in an operation? This would be somebody else's area of responsibility, is that what you're saying?

Colonel BALMER. That's correct, sir.

Mr. STRATTON. Whose responsibility would it be?

Colonel BALMER. Command responsibility. Entirely up and down the line.

Mr. STRATTON. Command responsibility?

Colonel BALMER. Yes, sir, not a staff responsibility.

Mr. STRATTON. Well, you are advising the commander, aren't you?

Colonel BALMER. Yes, sir.

Mr. STRATTON. Well, if it's his responsibility, then responsibility has to be handled by one of his staff?

Colonel BALMER. Yes, sir. Not his G-3, though, sir.

Mr. STRATTON. Which G would it be?

Colonel BALMER. It would be the inspector general who is the proper one to run down any investigative matters.

Mr. STRATTON. Now, if it has to do with the conduct of an operation, it has to do with G-3?

Colonel BALMER. That's correct.

Mr. STRATTON. It's not an inspector general's responsibility?

Colonel BALMER. Yes, sir, if it's still operational, the G-3 would inquire to his counterpart—in this case, his S-3 of the brigade—to furnish an explanation.

Mr. STRATTON. Well, if these inquiries were going on, I don't see how you can claim to have had nothing to do with it or not know anything about it. This was in your area.

Colonel BALMER. Yes, sir, it was indeed. I do not recall any G-3 inquiry going down the G-3 channel.

Mr. STRATTON. Then we have to conclude that General Koster really didn't follow through on this, is that correct?

Colonel BALMER. It's conceivable, sir.

Mr. STRATTON. What instructions did you issue from your headquarters, with respect to operations in which there were going to be civilians involved, and the treatment of civilians?

Colonel BALMER. Many, sir. Rules of engagement would apply, the normal rules of engagement.

Mr. STRATTON. What were they?

Colonel BALMER. Well, we start with a new man coming into the country. In the case of a replacement coming into the Americal Division, during this timeframe, he went through the Americal combat course, conducted right at Chu Lai, in which part of his indoctrination during this 4- or 5-day period was the proper treatment of prisoners of war, proper means of handling any civilians, noncombatants who fell into the hands of our forces.

Mr. STRATTON. After that, when does one hear about it again? You get a lot of stuff in your initial training?

Mr. STRATTON. Pretty hard to remember that.

What did General Koster do to keep the troops informed of what the rules and regulations were?

Colonel BALMER. Constant reiteration, emphasis on the importance of the proper handling of prisoners.

Mr. STRATTON. How did he reiterate?

Colonel BALMER. Through his command channels, sir.

Mr. STRATTON. How was it done?

Colonel BALMER. I can't recall it ever being done in writing during this time, but it was done in the normal course of our operations, each day, this was such an important aspect, the handling of the civilians, and their involvement in our operations particularly in that section, that this was a matter which all commanders were concerned on a daily basis.

Mr. STRATTON. How was it done, then, if you were so concerned about it? How did you do it?

Colonel BALMER. Face to face, sir, commander to commander.

Mr. STRATTON. Face to face? Commander to commander?

Colonel BALMER. Yes, sir.

Mr. STRATTON. Well, when was General Koster face to face with Colonel Barker in this operation?

Colonel BALMER. During the operation, I do not know, sir; but on his daily field visits to his subordinate commanders—

Mr. STRATTON. He wasn't in on the initial briefing of the operation, was he?

Colonel BALMER. I don't know, sir.

Mr. STRATTON. Well, I'm wondering whether there was any face to face—we haven't found much face-to-face confrontation between the commanding general and his subordinate commanders.

When did this take place?

Colonel BALMER. I cannot, sir, pinpoint times and places.

Mr. STRATTON. Were you there when it took place?

Colonel BALMER. No, sir, but I was around General Koster—

Mr. STRATTON. Then you're not talking from your own knowledge, are you?

Colonel BALMER. I was around General Koster enough to know that this was very important part of his entire philosophy, for all the operations.

Mr. STRATTON. Were you there, at any time, when he directed one of his subordinate commanders on this particular point?

Colonel BALMER. Not that I can recall, sir.

Mr. STRATTON. You can't recall a single instance when this so-called face-to-face instruction ever occurred?

Colonel BALMER. Instructions to properly handle civilians and prisoners?

Mr. STRATTON. That's right.

Colonel BALMER. No, sir, I cannot. But having daily contact with him, this is certainly a matter of utmost concern to each commander.

Mr. STRATTON. You just testified, Colonel, that you can't recall, in all your experience, a single incident when this occurred?

Colonel BALMER. I could not, sir.

Mr. STRATTON. I think that statement stands by itself.

Colonel BALMER. Yes, sir.

Mr. STRATTON. I have no further questions.

Mr. LALLY. Colonel, going back to the statement of Colonel Lewis—

Colonel BALMER. Yes, sir.

Mr. LALLY. Do you remember being in the presence of Colonel Trexler when Colonel Lewis came to him with these allegations?

Colonel BALMER. No, sir, I do not recall that specific conversation. But I should say this: Inasmuch as this question has been asked of me previously, and I had not seen Chaplain Lewis until this morning, I asked him when this conversation took place, in his recollection. He said that:

I came in your office, and you were talking with Colonel Trexler, and I made mention to you of some civilian casualties in this particular operation, and you said something to the effect that it would be looked into.

And I said:

I do not remember that specific conversation, Chaplain Lewis, but if I did say it, it was in the context that this was a matter, if it is a matter of concern to the command, either brigade or the task force, that it would be properly looked into by the command channel.

And had he pressed the point, I'm sure I would have said: "If you have any information of this nature, you should probably report it to the chief of staff." It's not a matter which would normally come to the G-3. But Chaplain Lewis was a frequent visitor in my office, and in my tactical operations center. He had a great interest in the ongoing operations. He was in there daily. I had conversations with him daily about various aspects of the ongoing operations. And I certainly cannot recall this conversation which he has alluded to.

Mr. LALLY. Now, Colonel, you were G-3 up until April 15, is that correct, sir?

Colonel BALMER. Yes, sir.

Mr. LALLY. And did you remain at Chu Lai after leaving the G-3 position?

Colonel BALMER. No, sir.

Mr. LALLY. What was your new assignment, then?

Colonel BALMER. I came to the United States for a leave, and then returned to the Second Field Force area to command the 52d Artillery group in Pleiku.

Mr. LALLY. Now, in that month intervening between the operation and the time you left the position of G-3, did you learn of any Viet Cong propaganda which stated that certain atrocities had occurred during this operation?

Colonel BALMER. Not specifically in this operation, no, sir; but Viet Cong propaganda of this nature was a very frequent matter. I recall seeing various documents, from time to time, where the Viet Cong alleged that the U.S. Forces were mistreating and massacring the innocent civilians.

Mr. LALLY. But you don't recall a Viet Cong document which specified the date of March 16, and the Son My village area?

Colonel BALMER. I certainly do not, no, sir.

Mr. LALLY. Did the American staff officers, Colonel, have any liaison with the advisory staff with the Second ARVN Division?

Colonel BALMER. Yes, sir.

Mr. LALLY. Now, who would your counterpart be on the advisory staff with Second ARVN Division?

Colonel BALMER. That would be Colonel Ulsacker, the senior adviser, at that time, as usual, and we had a liaison officer there, Captain Johnson. The senior adviser to the Second ARVN Division would be the point of contact for the Americal Division, either a member of the command group or a member of the division staff.

I had infrequent occasion to visit there, at Quang Ngai.

Mr. LALLY. If that advisory staff, Colonel, had learned of Viet Cong propaganda, identifying a date on a particular operation, how would they refer it on to Americal Division? Would it come to you, or to somebody else in the division staff?

Colonel BALMER. Not necessarily through the G-3 channel, sir. It would be forwarded to the division, most likely to the attention of the chief of staff. If they had a significant piece of information, in a written form, which they would forward to the division. But because of the communication back and forth daily, either by telephone or by personal visits in each direction, it would be hand carried.

Mr. LALLY. Were you familiar with either Major Hancock or Major Earl on the advisory staff of the Second ARVN Division?

Colonel BALMER. I do not recall either name, sir.

Mr. LALLY. No further questions.

Mr. HÉBERT. Thank you very much, Colonel.

[Witness excused.]

[Whereupon, at 5 p.m., the subcommittee recessed.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Tuesday, April 28, 1970.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert, presiding.

Present: Mr. Hébert and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

TESTIMONY OF MAJ. ROBERT W. McKNIGHT

Mr. HÉBERT. Major, have a seat. And you, Counsel. Major, will you identify yourself to the reporter?

Major McKNIGHT. I am Maj. Robert W. McKnight.

Mr. HÉBERT. What is your assignment at the moment?

Major McKNIGHT. I am assigned as a student to the Commander General Staff College at Fort Leavenworth, Kans.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Major McKNIGHT. I was the S-3 of the 11th Infantry Brigade in South Vietnam.

Mr. HÉBERT. You have been handed a copy of the rules and regulations of the subcommittee by Mr. Reddan, haven't you?

Major McKNIGHT. Yes, sir, I have.

Mr. HÉBERT. You have read them?

Major McKNIGHT. Yes, sir.

Mr. HÉBERT. You understand them?

Major McKNIGHT. Yes, sir.

Mr. HÉBERT. You know you can be represented by counsel after having been placed under oath?

Major McKNIGHT. Yes, sir, I do.

Mr. HÉBERT. Obviously, you have elected to be represented by counsel.

Major McKNIGHT. Yes, sir.

Mr. HÉBERT. Counsel, will you identify yourself?

Colonel MUNDT. Yes, sir. I'm Lt. Col. James A. Mundt. I'm the same counsel that represented Colonel Luper yesterday. I'm a member of the Colorado bar and also a member of the bar of the Supreme Court of the United States. I am stationed at Fort Leavenworth, Kans.

Mr. HÉBERT. Now, Major, the Chair will give you the same instruction that it gives every witness that appears before these hearings.

The committee will protect you in the fullest, while you are under its jurisdiction. You are not compelled to answer any questions of anybody outside of this room. By that, I means the news media. You are not forced to give interviews nor have your picture taken if you do not desire to have them.

When you leave the room, you will leave by the rear door. An officer will meet you there. Not a military officer, a police officer. And if the news media desire to have a representative there, they have been given permission to have only one representative for the entire media, and this representative will be allowed to ask you one question, and that is: Do you care to make a statement? If you reply in the negative, that's the end of it. If you reply in the affirmative, you're on your own. But the subcommittee impresses upon you that you do nothing at all that you do not want to, and you have the full protection of the committee.

Now, as related to the appearances of counsel here, counsel knows your rights, that he must and will protect, and the counsel also knows that he will not be allowed to prompt you or suggest to you what you reply to any question asked by the subcommittee. He is only here to protect your legal rights, and he may advise you not to answer, or stand on your constitutional rights, which answers will be respected by the subcommittee.

Any questions?

Major McKNIGHT. Yes, sir, I do. I would like to address the committee, if I may.

Mr. HÉBERT. Do what?

Major McKNIGHT. I would like to address the subcommittee.

Mr. HÉBERT. Not yet. That's not a question.

Are there any questions?

Major McKNIGHT. No, sir, I have no questions.

Mr. HÉBERT. All right, stand.

Colonel MUNDT. Sir, could he make a short statement to the subcommittee before he is sworn?

Mr. HÉBERT. No, sir. After he is sworn. Because until he is sworn, he does not have benefit of counsel.

[Witness sworn.]

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. You have a statement, Major?

Major McKNIGHT. Yes, sir, I do.

Mr. HÉBERT. You may read it.

Major McKNIGHT. On the advice of my counsel, I must, at this time, respectfully decline to answer any questions and invoke my privilege under the fifth and sixth amendments to the U.S. Constitution.

Mr. REDDAN. Mr. Chairman, in view of the fact that the Major is presently under charge, in view of the facts that he has already appeared before the staff and has testified—

Mr. HÉBERT. May I interrupt?

What is the Major under charge of?

Colonel MUNDT. Sir, I will hand the subcommittee a copy of the charge.

Mr. REDDAN. He is presently charged in his testimony before the Peers inquiry, of wrongfully and unlawfully, under lawful oath, making a false statement in substance as follows: That he had not heard of a body count as a result of the artillery preparation, placed during the combat operations conducted by Task Force Barker on March 16, 1968, which statement he did not then believe to be true.

Mr. HÉBERT. All right.

Mr. REDDAN. As I say, in view of the fact that the Major has already testified before the staff, and in view of the fact that he has been charged, I suggest that in the interest of saving time we waive the regular requirement that he can only raise his constitutional right to each question as it's directed to him, and accept, at this time, his blanket refusal to answer on constitutional grounds.

Mr. HÉBERT. The Chair will accommodate the suggestion of counsel.

Thank you, gentlemen, very much.

Colonel MUNDT. Thank you, sir.

[Witness excused.]

[Whereupon, at 10:15 a.m., the subcommittee was recessed.]

The subcommittee met, pursuant to recess, at 10:20 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: John T. M. Reddan, counsel, and John F. Lally, assistant counsel.

Mr. HÉBERT. Colonel, will you identify yourself to the reporter?

TESTIMONY OF COL. NELS A. PARSON

Colonel PARSON. Yes, sir. I am Col. Nels A. Parson, colonel, U.S. Army.

Mr. HÉBERT. What is your present assignment?

Colonel PARSON. I'm the Chief of the Long Range Division, Concepts and Plans, Directorate, Headquarters, Combat Developments Command, Fort Belvoir.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Colonel PARSON. I believe I have an opening statement, sir.

Mr. HÉBERT. Just tell me what your assignment was.

Colonel PARSON. I would prefer to make my opening statement, if I may, sir.

Mr. HÉBERT. Well, off the record.

[Discussion off the record.]

Colonel PARSON. I was in Vietnam on that date, sir. You want more detail?

Mr. HÉBERT. No. We want to know what your job was.

Colonel PARSON. I was Chief of Staff of the Americal Division, sir, on that day.

Mr. HÉBERT. All right.

Now, Colonel, you have been handed a copy of the regulations and the rules of the subcommittee by Mr. Reddan.

Mr. DICKINSON. You do have a copy of our rules?

Colonel PARSON. Yes, sir.

Mr. HÉBERT. Have you read them?

Colonel PARSON. No, sir.

Mr. DICKINSON. Has counsel read them?

Colonel CASEY. Yes.

Mr. HÉBERT. Have you instructed him also of his rights, counsel?

Colonel CASEY. Yes, sir, sure have.

Mr. HÉBERT. You're allowed to have counsel of your choice, Colonel. Obviously you do have counsel.

This counsel will now identify himself.

Colonel CASEY. Lt. Col. Joe P. Casey, C-a-s-e-y, 075162. I am assigned to the Office of the Judge Advocate General in the Pentagon.

Captain GING. And I'm Capt. Thomas F. Ging, and I'm the Post Judge Advocate, Fort Meyer, Va.

Mr. HÉBERT. Now, Colonel, the counsel is here through your choice, as I understand?

Colonel PARSON. Yes, sir.

Mr. HÉBERT. Counsel understands, or will, I'm sure, understand that he is here to protect your legal rights at all times. The committee will recognize that. The counsel is not here to prompt you in any statement. Not here to suggest how you shall answer questions. He's here to instruct you whenever you feel that you must stand on your constitutional rights. That's perfectly all right.

Now, the subcommittee will give full protection to you personally and to your privacy while you are under the jurisdiction of this subcommittee. By that, I mean this: That you are not obligated, in any manner, shape or form, to give interviews, to answer questions of the news media, to have your picture taken against your will. You are not subject to your picture being stolen, in the sense of the word used in photography, to steal pictures. You are not subject to having microphones put under your nose and asked questions that you don't want to answer.

In other words, in general, you're not to be harassed in any way at all. When you leave the committee room, you will leave by the rear door there. As you leave the room, a policeman will be there in uniform to protect you and to be with you. The news media is allowed to have one individual representing the entire media—radio, newspapers, and television. And that news media representative, if he is present, can ask you only one question and that is, do you care to make a statement. Replying in the negative, the matter is closed. You will be given full protection to leave the area, which is secured. You will notice there is nothing around this area here. It's all secured. And you will be escorted from the building under the protection of this subcommittee so you will not be harassed in any way at all.

Now, any questions you want to ask?

Colonel PARSON. No, sir.

Mr. HÉBERT. All right.

Now, I will swear you in.

[Witness sworn.]

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. You have a statement, Colonel?

Colonel PARSON. Yes, sir. May I read it, at this time, sir?

Mr. REDDAN. Yes.

Colonel PARSON. Mr. Chairman?

Mr. HÉBERT. Yes.

Colonel PARSON. It's a matter of public record that on March 17, 1970, I was informed that I was charged with various offenses in violation of the Uniform Code of Military Justice. The charges apparently stemmed from the investigation conducted by Lt. Gen. William R. Peers, concerning the alleged incident at My Lai, Republic of Vietnam, on March 16, 1968.

It's also a matter of public record—

Mr. HÉBERT. Take your time. There's no hurry.
Do you want counsel to read it?

The record will show counsel is reading the colonel's statement.
Colonel CASEY. It is also a matter of public record that the charges which have been preferred against me, and which were served upon me on March 17, 1970, consist of dereliction of duty and failure to obey regulations in violation of article 92, Uniform Code of Military Justice.

Counsel has advised me that the charges are now pending review and consideration as to disposition by the commanding general, 1st U.S. Army at Fort George G. Meade, Md.

In view of the criminal proceeding pending against me, and upon advice of counsel, I must exercise my rights under the fifth amendment to the Constitution of the United States, and respectfully decline to answer any questions which may be posed to me, at this time, concerning the subject being investigated by this subcommittee.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Mr. Chairman, in view of the fact that the Colonel has appeared before the subcommittee staff and testified on the record, and in view of the fact that he has been charged; and further in view of the fact that we are on a tight time schedule, I suggest that we accept the Colonel's blanket invoking of his constitutional rights, and that we not go through the formality of asking him individual questions, which we would normally do.

Mr. HÉBERT. The subcommittee will accept the statement by the witness, and dismiss you, at this time.

Thank you.

Colonel PARSON. Thank you, sir.

[Witness excused.]

[Whereupon, at 10:25 a.m., the subcommittee was recessed.]

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Gubser, and Mr. Dickinson, members of the subcommittee. Also present: Mr. John T. M. Reddan, counsel, and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. The Chair reminds you, Mr. Haeberle, you are under the continuing oath rendered the other day.

CONTINUED TESTIMONY OF RONALD L. HAEBERLE

Mr. HAEBERLE. All right.

Mr. HÉBERT. As noted yesterday, you have counsel, the same counsel as you had the other day.

Mr. HAEBERLE. Correct.

Mr. HÉBERT. All right, Mr. Reddan.

Mr. REDDAN. Mr. Haeberle, I have before me the documents which you submitted to the subcommittee in response to its request on Friday, relative to moneys which you received from the sale of the My Lai photographs. I would like to ask you some questions about each one of these.

In your 1969 tax data, there is a receipt, a document which reads "Received from the Chase Manhattan Bank, No. 38, Rockefeller Center

Branch, \$799 and 0/100, for account of notice, and pay Ronald L. Haerberle, care of Mr. Richard Pollard, Life Magazine, Time Building Rockefeller Center, New York, International Magazine Service, by order of, from Stockholm and Silka Bank, Box 16067S, 103, 22 Stockholm, 16th Suite, \$799."

Can you tell me what this receipt is for, sir?

Mr. HAEBERLE. That's I believe for a magazine sale.

Mr. REDDAN. Yes. Is this payment in full?

Mr. HAEBERLE. Yes; it is.

Mr. REDDAN. What did you sell the magazine?

Mr. HAEBERLE. It would just be my own personal color photographs. I believe text accompanied that.

Mr. REDDAN. Do you have a copy of the text which you sold to the magazine?

Mr. HAEBERLE. No, I do not. I didn't write the text.

Mr. REDDAN. Who wrote the text?

Mr. HAEBERLE. Joe Eszterhas.

Mr. REDDAN. Do you know whether Joe Eszterhas has a copy of the text?

Could you tell us Mr. Eszterhas' address at this time?

Mr. HAEBERLE. It would be in care of the Cleveland Plain Dealer.

Mr. REDDAN. To which magazine in Stockholm did you sell this?

Mr. HAEBERLE. I am not sure what magazine in Stockholm. It was more or less represented by—by that one company on there.

Mr. REDDAN. International Magazine Service?

Mr. HAEBERLE. I believe so, yes.

Mr. REDDAN. Did you ever receive a copy of the magazine?

Mr. HAEBERLE. No; I did not.

Mr. REDDAN. Did you dictate the article which was submitted by Mr. Eszterhas?

Mr. HAEBERLE. I told him my story, and he put it together, but there could have been stories combined in it at that time, from West and a few of the other G.I.'s on this operation.

Mr. REDDAN. It differed from the story?

Mr. HAEBERLE. I would say mainly it would be the same, just about the same story that appeared in Life magazine.

Mr. REDDAN. Did you submit any different pictures than you had given to Life?

Mr. HAEBERLE. No, just my own personal color photographs.

Mr. REDDAN. The same as you submitted to Life magazine?

Mr. HAEBERLE. Yes; they are.

Mr. REDDAN. There is another document that you submitted to us in your 1969 tax data file. It is signed by the Toronto Telegram News Service, and it says "Toronto Telegram, \$500," then under that, "Commission at 100 percent, \$500."

What does that mean?

Mr. HAEBERLE. That means I get the full commission. I couldn't understand that myself.

Mr. REDDAN. And then the next item under that is CTV, \$500, Commission 40 percent, \$200." What does that mean?

Mr. HAEBERLE. I don't understand it either. Just means what it says, I believe.

Mr. REDDAN. Well, let's go back. What is CTV?

Mr. HAEBERLE. It must be—I really don't know what that is.

Mr. REDDAN. What sort of an arrangement did you have with the Toronto Telegram News Service?

Mr. HAEBERLE. More or less the arrangements were made through Life magazine, one time use only in that area.

Mr. REDDAN. Who made these arrangements for you?

Mr. HAEBERLE. It would be someone in Dick Pollard's office.

Mr. REDDAN. And Dick Pollard is who?

Mr. HAEBERLE. He is the person in charge of all the photo area.

Mr. REDDAN. For Life magazine?

Mr. HAEBERLE. For Life magazine; correct.

Mr. REDDAN. Did you authorize him to make contracts for you?

Mr. HAEBERLE. Yes, I did.

Mr. REDDAN. Did you do that in writing?

Mr. HAEBERLE. No, not in writing. It is all verbal. Some of the places that wanted to have the photographs and text sent me telegrams, and I referred them to Life magazine for the information, plus the photographs.

Mr. REDDAN. Why did you do that?

Mr. HAEBERLE. They were more experienced in this than I am. Plus—

Mr. REDDAN. Well, that's true. But were they doing this gratuitously? Were they acting as your agents, in other words?

Mr. HAEBERLE. More or less, I'd say, as the middleman. They were trying to sell it. The people were coming to them and asking them, and they checked them out, you know, make sure they are OK. They know the business, and they are reputable; they sold to them.

Mr. REDDAN. Now, did you refer to the Life magazine any propositions which you got from any publication?

Mr. HAEBERLE. There were no propositions.

Mr. REDDAN. No—

Mr. HAEBERLE. In other words, Life magazine on these sales made nothing off this.

Mr. REDDAN. Well, let's back up. Didn't anybody come to you and want to buy your pictures or stories?

Mr. HAEBERLE. Yes; they did.

Mr. REDDAN. Did you make your decisions on those propositions, or did you refer them to Life magazine?

Mr. HAEBERLE. I checked it out with Life magazine first to find out if they were reputable.

Mr. REDDAN. You referred them to Life magazine?

Mr. HAEBERLE. They would have to go to Life magazine to pick up the photographs and text.

Mr. REDDAN. Let's see if we can get an answer to the question, Mr. Haerberle. If you received an offer to buy your pictures or to buy your story—

Mr. HAEBERLE. Yes.

Mr. REDDAN [continuing]. From any publication or from any agent—

Mr. HAEBERLE. Yes.

Mr. REDDAN [continuing]. Did you automatically refer that offer to Life magazine?

Mr. HAEBERLE. On the telegrams that I received, I said OK, it would have to be done through Life magazine. I did not have any of the material with me.

Mr. REDDAN. Why did it have to be done through Life magazine?

Mr. HAEBERLE. Because they have more experience than I do in this.

Mr. REDDAN. And did they also have an agreement with you?

Mr. HAEBERLE. There was no real agreement.

Mr. REDDAN. Did they have a make believe agreement with you? I am trying to find out, Mr. Haerberle, what your arrangement was with Life magazine.

Mr. HAEBERLE. Anything they sold, I'd receive the benefits from that.

Mr. HÉBERT. Mr. Reddan is asking you a direct question. Now you just don't go around willy-nilly giving people pictures and letting them sell pictures that you claim that you own yourself. Now, business is not done that way. It may be done by you that way. I could understand that. But not by Life magazine.

Now let's cut out all the attempts to be evasive and cute about the answers.

Mr. HAEBERLE. I am not trying to be.

Mr. HÉBERT. Well, you are not going to be cute, because you are going to sit here until you give us direct answers, until we find out the truth.

Now, Mr. Reddan is trying to find out what the facts are. Now we are not children. We are not babes in the wood on this side of the table. We know what business is, and we know what business practices are. And you can't sit up here and insult our intelligence by indicating to us that you just walked into Life magazine, got some \$17,500 from them for pictures that you sold them, and under what terms did you sell them, did you sell them on one usage?

Mr. HAEBERLE. That is what I said.

Mr. HÉBERT. Where is the paper to prove you sold it under one usage?

Mr. HAEBERLE. I don't have those papers with me.

Mr. HÉBERT. Where are those papers?

Mr. HAEBERLE. Those papers are—Life has their copy in New York; I have my copy back home.

Mr. HÉBERT. Now we are finally getting it. A little while ago there was no formal arrangement.

Mr. HAEBERLE. The sale to Life magazine; there was a formal arrangement.

Mr. HÉBERT. I want you to produce here, and I will put a subpoena on you to do it, every piece of paper in connection with every rental or sale that you made of these pictures. We are going to get to the truth of it.

Mr. HAEBERLE. I will send you the contracts.

Mr. HÉBERT. And we are not going to be blocked.

Mr. HAEBERLE. I will send you the contracts.

Mr. HÉBERT. We are going to follow this through, and I am not trying to deceive you in any way. I am telling you that any name that you use here, that man's going to sit in that witness chair.

Mr. HAEBERLE. OK.

Mr. HÉBERT. And we are going to find out what he says. But certainly business is not done this way.

Now, this man on the Cleveland Plain Dealer, this reporter, what is his name?

Mr. HAEBERLE. Joe Eszterhas.

Mr. HÉBERT. Did you ever give him any money for selling any of your pictures?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. You never paid him any commission for getting any money for you?

Mr. HAEBERLE. I never paid him commission for the sale of my photographs.

Mr. HÉBERT. Did you ever give him any gratuity for the sale of your photographs?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. Did you ever make him a present of money for the sale of your photographs?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. Everything he did, he did for nothing in love of you?

Mr. HAEBERLE. I don't know if it was love of me, but he did receive money; it wasn't from me.

Mr. HÉBERT. Any gift from you?

Mr. HAEBERLE. No gift whatsoever from me.

Mr. HÉBERT. And this is the man that came to you and told you that you had something going? I am not trying to put words in your mouth.

Mr. HAEBERLE. I went to him.

Mr. HÉBERT. You now are making these speeches all around the Cleveland area?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. About these horrible atrocities, these terrible things that are going on in Vietnam, how American soldiers were killing innocent people, isn't that true?

Mr. HAEBERLE. The way I explained it——

Mr. HÉBERT. You tell me your words.

Mr. HAEBERLE. That is what I am going to do. In my words, I explained it. I also told what was going on at the same time around the Tet offensive and I let the people come to their conclusion, if it was wrong or right. I didn't put words into their mouths.

Mr. HÉBERT. How did you describe these pictures?

Mr. HAEBERLE. I described them more or less what had actually happened with each slide, then I explained sometimes the children were boobytrapped, the little kid would walk toward you with hand grenades, things that would happen over there.

Mr. HÉBERT. Boobytrapped by whom?

Mr. HAEBERLE. It would be by the Viet Cong.

Mr. HÉBERT. By their own people.

Mr. HAEBERLE. Their own people, the Viet Cong.

They were supposed to be Viet Cong sympathizers and at the time I made my first statement I heard throughout that leaflets were dropped warning the people to get out, and anyone left there would be considered Viet Cong sympathizers. That was under my impression. I was going along with the soldiers.

Mr. HÉBERT. And these were not the only colored pictures you showed?

Mr. HAEBERLE. I showed other colored pictures.

Mr. HÉBERT. Of other areas?

Mr. HAEBERLE. Of Hawaii, of other areas in Vietnam.

Mr. HÉBERT. And how did you identify those?

Mr. HAEBERLE. In what way?

Mr. HÉBERT. How did you say you showed—you said these pictures were Hawaii?

Mr. HAEBERLE. Just described them. When I was stationed in Hawaii.

Mr. HÉBERT. Then you took others and you said "This is Chu Lai"?

Mr. HAEBERLE. "Here is where we left for Vietnam," showed us boarding the ship, where we landed at Chu Lai, and our progress up toward Duc Pho, showing some of the people, what they are like, the medical programs.

Mr. HÉBERT. How did you describe these at My Lai 4?

Mr. HAEBERLE. Just exactly what happened.

Mr. HÉBERT. Well, what did happen? What did you tell them happened?

Mr. HAEBERLE. You want me to go through the whole story?

Mr. HÉBERT. No. You know I don't want you to go through the whole story. I just want you to say—

Mr. HAEBERLE. I told them what happened.

Mr. HÉBERT. What happened where?

Mr. HAEBERLE. I didn't know the location.

Mr. HÉBERT. You said "I don't know where this happened"?

Mr. HAEBERLE. I just said it happened more or less if I remember right, in Vietnam. I did not know this was My Lai 4. I did not know it. I didn't even remember the name of the operation.

Mr. HÉBERT. You didn't even remember the name of the operation?

Mr. HAEBERLE. No.

Mr. HÉBERT. Yet you asked to go on the operation.

Mr. HAEBERLE. Yes, I did, because I heard it was going to be a hot one.

Mr. HÉBERT. Well, a hot one where?

Mr. HAEBERLE. Wherever we were going.

Mr. HÉBERT. Where did you think you were going?

Mr. HAEBERLE. At the time I knew, but I forgot the name of it. When I started giving these slide lectures, I didn't know the name.

Mr. HÉBERT. You had forgotten?

Mr. HAEBERLE. I had forgotten the name My Lai.

Mr. HÉBERT. Though there were pictures of atrocities, you forgot where they were taken?

Mr. HAEBERLE. That is right, I couldn't recall the name.

Mr. HÉBERT. Did you have any other pictures of other atrocities in other areas?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. But getting back on this particular day, you made the request to go on this mission as a combat photographer, at this particular place?

Mr. HAEBERLE. I volunteered.

Mr. HÉBERT. You volunteered. This was the only place where you saw or took pictures of alleged atrocities?

Mr. HAEBERLE. It is the only place where I have seen anything like this happen.

Mr. HÉBERT. And having seen that and taken pictures in this area, you wiped from your mind—you didn't even inquire where it was or what the action was?

Mr. HAEBERLE. A lot of people like to wipe from their mind—

Mr. HÉBERT. I don't care about a lot of people.

Mr. HAEBERLE. I tried to wipe it from my mind.

Mr. HÉBERT. You wiped it from your mind, by talking about it, by lecturing?

Mr. HAEBERLE. I couldn't wipe the slides from my mind, because I had the slides right there.

Mr. HÉBERT. And then you couldn't identify where they were from?

Mr. HAEBERLE. I didn't remember the name of the location.

Mr. HÉBERT. Nobody asked you in all these groups of people you talked to where it was from?

Mr. HAEBERLE. No; they did not.

Mr. HÉBERT. No questions were asked you about this situation?

Mr. HAEBERLE. There were some questions. Why didn't I turn it over to the newspaper? I said, well, I didn't know that much about it. All I know is what I saw happen there.

Mr. HÉBERT. "There." Where is "there"?

Mr. HAEBERLE. Wherever the location was in Vietnam.

Mr. HÉBERT. In Vietnam.

Mr. HAEBERLE. Some place near Task Force Barker.

Mr. HÉBERT. And after you returned back after your mission, you never mentioned this in headquarters, about seeing these atrocities, alleged atrocities?

Mr. HAEBERLE. More or less. I remember Jay Roberts and me talked about it ourselves. We might have mentioned something about it in the office, but we didn't really say that much.

Mr. HÉBERT. Who had been your super in that office at that time?

Mr. HAEBERLE. Lieutenant Moody.

Mr. HÉBERT. Nobody else would be there?

Mr. HAEBERLE. Sergeant Stonich might be there, Lieutenant Dunn.

Mr. HÉBERT. What is his name?

Mr. HAEBERLE. Sergeant Stonich.

Mr. HÉBERT. What was his duty?

Mr. HAEBERLE. He was an NCO, more or less all over us other enlisted men. He was on the news section.

Mr. HÉBERT. Did Sergeant Stonich ever give you any orders about taking combat pictures?

Mr. HAEBERLE. No; he didn't, that I can recall.

Mr. HÉBERT. Not that you recall.

Mr. HAEBERLE. Not that I recall.

Mr. HÉBERT. Did he ever give you any written order telling specifically about pictures being taken personally when you were on a combat mission?

Mr. HAEBERLE. No; there were no written orders, as I remember.

Mr. HÉBERT. If I were to tell you that he said that he did, what would you say?

Mr. HAEBERLE. I will say he didn't, unless he can produce a piece of paper, because I can't remember or recall anything about written orders.

Mr. HÉBERT. Well, did you ever discuss this matter with him again?

Mr. HAEBERLE. About this atrocity?

Mr. HÉBERT. About the atrocities at My Lai.

Mr. HAEBERLE. I don't believe so. I cannot recall.

Mr. HÉBERT. Did you discuss it with Jay Roberts?

Mr. HAEPPERLE. Jay Roberts and I talked about it a little bit. We tried to forget it.

Mr. HÉBERT. You talked about it, but tried to forget it?

Mr. HAEPPERLE. Yes; we figured, who would believe us? There were officers in the field, they reported it. If they would have reported it, they would come back to us. They knew a photographer was on the mission. I turned over every piece of film I had.

Mr. HÉBERT. You never did turn over every piece of film you had. You kept film.

Mr. HAEPPERLE. My personal film.

Mr. HÉBERT. Which you assumed to be your personal film.

Mr. HAEPPERLE. My personal film.

Mr. HÉBERT. In your judgment, your personal film.

Mr. DICKINSON. In any of the black-and-white photographs that you took, were there any pictures that could be interpreted as war crime or murder or killing of innocent civilians or atrocities?

Mr. HAEPPERLE. The black-and-white photographs I have seen, there may be just one frame in there. It really doesn't say that much. But I just asked the question, is all the black and white there?

Mr. DICKINSON. Of whom did you ask the question?

Mr. HAEPPERLE. Of anyone who is giving the black and white photographs, are all the black-and-white photographs there that I have taken?

Mr. DICKINSON. Well, who would know that better than you?

Mr. HAEPPERLE. I have no idea. I don't believe I processed these films.

Mr. HÉBERT. Well, now, you took two sets of photographs?

Mr. HAEPPERLE. Correct.

Mr. DICKINSON. You have just made the statement that you turned in all of the pictures that you had?

Mr. HAEPPERLE. All my black and whites.

Mr. DICKINSON. You didn't make that clear.

Mr. HAEPPERLE. OK.

Mr. DICKINSON. But I understand that to be so. And that no one asked you anything about them, and if they wanted to ask you about the atrocities, if they had the photographs to ask about, the fact is, if I understand you, from your previous statements, you didn't take any black-and-white pictures that would show anything unusual or out of the ordinary, did you?

Mr. HAEPPERLE. I don't really know. I am asking the question, are all the black-and-white photographs there? Just leaving a doubt in my mind that these may not be all the black-and-white photographs that were taken.

Mr. DICKINSON. Well—

Mr. HAEPPERLE. There may be some missing. I don't know. I can't recall. I can't recall the black-and-white photographs that vividly like I can my own personal color photographs.

Mr. DICKINSON. Is it your opinion that you took the same type of photographs in black and white that you took in color, of the bodies lying in the road?

Mr. HAEPPERLE. I cannot say for sure. I cannot recall.

Mr. DICKINSON. Have you seen the black-and-white photographs that the Army says are the ones that you turned in?

Mr. HAEBERLE. Yes; I have seen the black-and-white photographs.

Mr. DICKINSON. Well, let me ask you, are they all there?

Mr. HAEBERLE. I don't know. I can't recall.

Mr. DICKINSON. Do you have any idea how many you had taken and turned in—

Mr. HAEBERLE. Not in terms—

Mr. DICKINSON. Two rolls, three rolls?

Mr. HAEBERLE. It could be, two, three rolls. I am not sure, I cannot recall.

Mr. DICKINSON. Were you shooting 36 on a roll?

Mr. HAEBERLE. I cannot recall whether it was 36—it could be, you could check that by the edge numbering on the film for an exact answer.

Mr. REDDAN. What was the normal number that you carried on your films?

Mr. HAEBERLE. It would have been either a 20-exposure roll or a 36-roll black and white.

Mr. GUBSER. Black and white is usually 36, isn't it?

Mr. HAEBERLE. It can be either.

Mr. REDDAN. Did the Army supply 20-frame film?

Mr. HAEBERLE. I am not sure whether they did or not.

Mr. REDDAN. If they didn't, they would all be 36?

Mr. HAEBERLE. Well, it depends on the edge numbering on the contact sheets.

Mr. DICKINSON. Mr. Chairman, I didn't want to interrupt, but I did want to clear up a point that you made earlier in talking about Joe Eszterhas. He was asking about the financial arrangement between you and Joe Eszterhas.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. And it is your statement to this committee that there was no financial arrangement between you and Joe Eszterhas; is this correct?

Mr. HAEBERLE. Financial arrangement, that I did not pay him anything out of the money that I received.

Mr. DICKINSON. I think we are dealing in semantics here. Tell us what your arrangement with Joe Eszterhas was or is?

Mr. HAEBERLE. Well, I really had no real arrangement with him. The money that he did receive was from actually Life magazine for the text. I didn't pay him anything.

Mr. DICKINSON. You had an arrangement with him; didn't you?

Mr. HAEBERLE. Well, not for money, no.

Mr. DICKINSON. Everything that he did was not nonprofit, was it, in connection with you and the photographs and the text? He was working with you.

Mr. HAEBERLE. He was working with me on the text, writing the text.

Mr. DICKINSON. All right. He was also assisting you in finding a buyer; wasn't he?

Mr. HAEBERLE. It was done through the Plain Dealer; yes.

Mr. DICKINSON. I didn't ask you that. I am talking about you and Joe Eszterhas and your arrangement with him.

Mr. HAEBERLE. My arrangement with him was not anything to do with me paying him any fee. What he could get from Life or—

Mr. DICKINSON. I didn't ask you that, Mr. Haerberle. I asked you what was your arrangement with him. Now, you can tell us that.

Mr. HAEBERLE. I'll tell you. At the Plain Dealer, when it first started, the arrangement was, he just would do the story. There was no fee involved, no money.

We went to Life magazine, and he would charge Life magazine for the text, which was OK with me. That's the form of the arrangement. He would charge Life. He would get money from Life magazine, not from me.

Mr. DICKINSON. You would tell him what they were, identify the photographs?

Mr. HAEBERLE. I would just tell him my story.

Mr. DICKINSON. And say what the subject matter was?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. Then he would write the text, based on what you told him; is this correct?

Mr. HAEBERLE. That is for the Plain Dealer.

Mr. DICKINSON. Is this also true for Life magazine?

Mr. HAEBERLE. More was added to Life magazine, from other statements by other witnesses.

Mr. DICKINSON. Well, would you just, without me having to pull it out of you like getting teeth, would you just tell us what the arrangement was?

Mr. HAEBERLE. That Joe Eszterhas, the way I understand it, if I am correct, that he would receive payment from Life magazine for his text.

Mr. DICKINSON. For his text. He got the text from you and from other sources, too?

Mr. HAEBERLE. From other sources; yes.

Mr. DICKINSON. All right. And he assisted you in bringing about the purchase of the photographs by Life from you?

Mr. HAEBERLE. Correct.

Mr. DICKINSON. And then he also assisted you in selling to other sources; did he not?

Mr. HAEBERLE. To other—when we were in New York, yes, we—

Mr. DICKINSON. There had to be some agreement or arrangement between the two of you as to the handling of all of these transactions, even if they varied from transaction to transaction.

Mr. HAEBERLE. I would receive the money—

Mr. DICKINSON. I want you to tell us what it was.

Mr. HAEBERLE. That I would receive the money for the photographs, and he would receive his money for the text. That's just a simple arrangement.

Mr. DICKINSON. Well, it sure took us a long time to get it all out, if that is all it was.

Thank you, Mr. Chairman.

Mr. HEBERT. When did you first know that these photographs of this alleged indiscriminate killing were at My Lai?

Mr. HAEBERLE. I believe it was August 25, 1969. Sometime during the latter part of August.

Mr. HEBERT. Sometime during the latter part of August 1969?

Mr. HAEBERLE. Right.

Mr. HÉBERT. You learned for the first time that these photographs were taken at My Lai?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. You had been lecturing all the time and didn't know at any time. How did you come to know they were My Lai?

Mr. HAEBERLE. I was being questioned by the CID at the time on these photographs, and I supplied them with copies of my personal color photographs, and just through general conversation the area was mentioned, and some of the things that actually went on there, whether I recognized people's names or not, and I couldn't really recognize any names. And just, I just got the general scope of what went on.

Mr. HÉBERT. You testified the other day, Mr. Haerberle, that you were taking pictures for hometown consumption.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And the way they would be identified for this home town, the reporter in this instance, Jay Roberts, was along with you?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And then you stop and tell him, give him the number of the photograph and tell him what it was?

Mr. HAEBERLE. We tried to get the names when we could.

Mr. HÉBERT. Did you get any names that day at all?

Mr. HAEBERLE. I don't go after names. That is not my job.

Mr. HÉBERT. Well, the other day you qualified yourself as a good news reporter.

Mr. HAEBERLE. I didn't say I was a good news reporter.

Mr. HÉBERT. That was my comment to you. I will withdraw the comment and say you identified yourself as a news reporter.

Mr. HAEBERLE. Not as a reporter. As a photographer.

Mr. HÉBERT. A news photographer.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. What is the first requisite of any newsman in covering a story?

Mr. HAEBERLE. As far as I knew, it is just the photograph and the writer was with me would get the name.

Mr. HÉBERT. The first requisite is to get the name and the correct name. So you didn't do that?

Mr. HAEBERLE. No, I didn't do that.

Mr. HÉBERT. Well, then, I will ask to change my description of you as a good newsman to a bad newsman.

Mr. HAEBERLE. Fine.

Mr. HÉBERT. And a very inadequate one.

Now, the first time you heard of this My Lai was in August of 1969?

Mr. HAEBERLE. The name "My Lai," yes.

Mr. HÉBERT. Joe Eszterhas, or whatever his name is, didn't tell you it was My Lai when he came to you and talked to you?

Mr. HAEBERLE. Joe Eszterhas was not in the picture at that time.

Mr. HÉBERT. He was not in the picture at that time?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. Are you familiar with the daily bulletin put out by the group, the report?

Mr. DICKINSON. I didn't ask you that, Mr. Haeberle. I asked you what was your arrangement with him. Now, you can tell us that.

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Mr. HAEBERLE. Yes.

Mr. HÉBERT. You had been lecturing all the time and didn't know at any time. How did you come to know they were My Lai?

Mr. HAEBERLE. I was being questioned by the CID at the time on these photographs, and I supplied them with copies of my personal color photographs, and just through general conversation the area was mentioned, and some of the things that actually went on there, whether I recognized people's names or not, and I couldn't really recognize any names. And just, I just got the general scope of what went on.

Mr. HÉBERT. You testified the other day, Mr. Haerberle, that you were taking pictures for hometown consumption.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And the way they would be identified for this home town, the reporter in this instance, Jay Roberts, was along with you?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And then you stop and tell him, give him the number of the photograph and tell him what it was?

Mr. HAEBERLE. We tried to get the names when we could.

Mr. HÉBERT. Did you get any names that day at all?

Mr. HAEBERLE. I don't go after names. That is not my job.

Mr. HÉBERT. Well, the other day you qualified yourself as a good news reporter.

Mr. HAEBERLE. I didn't say I was a good news reporter.

Mr. HÉBERT. That was my comment to you. I will withdraw the comment and say you identified yourself as a news reporter.

Mr. HAEBERLE. Not as a reporter. As a photographer.

Mr. HÉBERT. A news photographer.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. What is the first requisite of any newsman in covering a story?

Mr. HAEBERLE. As far as I knew, it is just the photograph and the writer was with me would get the name.

Mr. HÉBERT. The first requisite is to get the name and the correct name. So you didn't do that?

Mr. HAEBERLE. No, I didn't do that.

Mr. HÉBERT. Well, then, I will ask to change my description of you as a good newsman to a bad newsman.

Mr. HAEBERLE. Fine.

Mr. HÉBERT. And a very inadequate one.

Now, the first time you heard of this My Lai was in August of 1969?

Mr. HAEBERLE. The name "My Lai," yes.

Mr. HÉBERT. Joe Eszterhas, or whatever his name is, didn't tell you it was My Lai when he came to you and talked to you?

Mr. HAEBERLE. Joe Eszterhas was not in the picture at that time.

Mr. HÉBERT. He was not in the picture at that time?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. Are you familiar with the daily bulletin put out by the group, the report?

Mr. HAEBERLE. No, I am not.

Mr. HÉBERT. Americal division?

Mr. HAEBERLE. Oh, I am sorry. The Americal division. There is a daily bulletin put out that I can recall.

There is also I believe a little newspaper, too.

Mr. HÉBERT. Well, do you ever read them?

Mr. HAEBERLE. No.

Mr. HÉBERT. You never did read them?

Mr. HAEBERLE. I can't recall specifically.

Mr. HÉBERT. They were of not enough interest to you to read?

Mr. HAEBERLE. I imagine they were interesting, but I can't really recall specifically—

Mr. HÉBERT. Well, this day after you saw this alleged indiscriminate killing and took your personal pictures, which were so vivid, you had no curiosity aroused as to where this took place?

Mr. HAEBERLE. No, I really didn't.

Mr. HÉBERT. A good news photographer, a good news reporter would have his curiosity very much aroused to find out what the valuable pictures he had in his hands were, but you didn't?

Mr. HAEBERLE. No.

Mr. HÉBERT. Mr. Reddan, read this to the witness.

Mr. Reddan will describe the document he is reading, and if you want to look at it so you can remember you saw a written document, you are privileged to look at it.

Mr. REDDAN. I show you a copy of the Americal News Sheet, volume 1, No. 332, Sunday, March 17, 1968, and ask you if you ever saw the original of that?

Mr. HAEBERLE. I am sorry, but I can't recall that.

Mr. HÉBERT. You can't recall having seen it?

Mr. HAEBERLE. I recall one thing which was, I believe, later on, that I remember. It was the last thing—it was showing a photograph of American G.I.'s charging ahead, and it stated just a little bit what happened there. That's all I can recall, really, reading about it.

Mr. HÉBERT. What did it say happened?

Mr. HAEBERLE. Overwhelming victory, or something like that.

Mr. HÉBERT. At My Lai?

Mr. HAEBERLE. I can't even recall.

Mr. HÉBERT. Was it a photograph that you took?

Mr. HAEBERLE. No. None that I took.

Mr. HÉBERT. Well, now, let's go back again. You knew it was going to be a hot mission. Here you are a very eager young man to get personal pictures.

Mr. HAEBERLE. Not really.

Mr. HÉBERT. What?

Mr. HAEBERLE. I wasn't really eager.

Mr. HÉBERT. What did you carry your camera for if you weren't eager to get them?

Mr. HAEBERLE. I always get personal pictures.

Mr. HÉBERT. It didn't make any difference whether you got them or not?

Mr. HAEBERLE. Well, I would like to get them. But I wasn't really jumping up and down. I was a little scared.

Mr. HÉBERT. This was a very unusual thing that you were photographing. You hadn't photographed what was in your mind atrocities before, had you?

Mr. HAEBERLE. Well, according to the way I understand it, they were supposed to be VC sympathizers left in the village.

Mr. HÉBERT. I didn't ask you that. I said you had not photographed for your personal use in color alleged atrocities before the killing, and indiscriminate killing of women and children, had you?

Mr. HAEBERLE. I never photographed stuff like that before, no.

Mr. HÉBERT. This was unusual?

Mr. HAEBERLE. It was unusual.

Mr. HÉBERT. And it was so unusual that it made such an impression upon you that you didn't even find out where it was or what was involved or anything?

Mr. HAEBERLE. No.

Mr. HÉBERT. Did you see an American soldier kill any innocent person?

Mr. HAEBERLE. Yes, I did.

Mr. HÉBERT. You did see an American soldier shoot an innocent person?

Mr. HAEBERLE. If the person was—I don't know if the person was innocent or not.

Mr. HÉBERT. You are going to see an American soldier pull plenty triggers in battle. Did you take a picture of any American soldier shooting any individual which you photographed in these pictures that you turned in?

Mr. HAEBERLE. In my color, no. In my black and white, I can't recall, or I don't know.

Mr. HÉBERT. So you don't know.

Mr. HAEBERLE. I don't know; on the black and white.

Mr. HÉBERT. You were on the ground that day, and don't know whether there was indiscriminate firing or not?

Mr. HAEBERLE. I am talking about taking photographs. Are we clear on this?

Mr. HÉBERT. I will ask it any way you want to answer it.

Mr. HAEBERLE. All right.

Mr. HÉBERT. All right, you ask the question the way you want to answer it.

Mr. HAEBERLE. We are talking about the black and white photographs.

Mr. HÉBERT. All right, black and white. Did you take any pictures of American soldiers indiscriminately firing into civilians, in black and white?

Mr. HAEBERLE. I cannot recall that.

Mr. HÉBERT. You cannot recall. That was your suggestion. Now, you want me to ask you of the colors?

Mr. HAEBERLE. You go ahead. I will just answer that.

Mr. HÉBERT. All right.

Mr. HAEBERLE. The color—

Mr. HÉBERT. Did you take any in color of American soldiers indiscriminately firing into women and children on March 16, 1968, at My Lai 4 in Vietnam?

Mr. HAEBERLE. No, they did not. Just one photograph of a G.I. with his rifle. That was the only one. But not showing him shooting any certain person.

Mr. HÉBERT. He was shooting at a certain person?

Mr. HAEBERLE. Not shooting.

Mr. HÉBERT. He was just shooting.

Mr. HAEBERLE. He was shooting at people, down on the road.

Mr. HÉBERT. He was shooting.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. At whom was he shooting, you don't know?

Mr. HAEBERLE. There were so many there, quite a few people.

Mr. HÉBERT. There were quite a few people. But that is all you saw?

Mr. HAEBERLE. I have seen more than that, but that is the only photograph I have in color of an American GI just aiming his rifle.

Mr. HÉBERT. That is all you saw that day?

Mr. HAEBERLE. I witnessed a lot more that day.

Mr. HÉBERT. That is the only color picture you took that day?

Mr. HAEBERLE. Of an American GI?

Mr. HÉBERT. Of an American GI.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. You are positive?

Mr. HAEBERLE. I am very positive.

Mr. HÉBERT. But you are not positive how many black and whites you took?

Mr. HAEBERLE. No; I am not positive.

Mr. REDDAN. Mr. Haerberle, I will show you a color photograph marked at the bottom No. 5, and ask you if that's the photograph you have just been talking to the chairman about?

Mr. HAEBERLE. Yes; it is.

Mr. HÉBERT. So you don't know where he is firing, do you?

Mr. HAEBERLE. Not specifically. I know it is down in the general direction—

Mr. HÉBERT. All you know is a GI with a rifle up and he is firing.

Mr. HAEBERLE. In the general direction of the road.

Mr. HÉBERT. That picture does not prove anything, does it?

Mr. HAEBERLE. No; it does not.

Mr. HÉBERT. And for you to say that would be firing at innocent women and children—

Mr. HAEBERLE. I am not saying he is firing at innocent women and children.

Mr. HÉBERT. I didn't say you said it. I said if you said it. You did not say it. That is what I want you to tell me. If you said it. But you say you did not say it. That's all right.

Mr. HAEBERLE. I am just saying that he was firing in the general direction of the road.

Mr. HÉBERT. Now, then, let's go—I think this record stands. I just want to go back now to his very, very illuminating laissez-faire way of operating with Life magazine and selling pictures, and Joe Eszterhas.

Now, what happened at the first proposition that was made to you to sell these color pictures?

Mr. HAEBERLE. That's with Life magazine, correct?

Mr. HÉBERT. What is that?

Mr. HAEBERLE. That is with Life magazine, correct?

Mr. HÉBERT. Life magazine approached you?

Mr. HAEBERLE. No. Life magazine did not approach me. Through Joe Eszterhas and the Plain Dealer, we approached, we would like to have these published in Life.

Mr. HÉBERT. You told Joe Eszterhas—

Mr. HAEBERLE. Said there is some possibility these could be published in Life magazine.

Mr. HÉBERT. You made the suggestion?

Mr. HAEBERLE. If I recall correctly I might have. Maybe he made the suggestion. I don't know which way it is.

Mr. HÉBERT. Then what did he say?

Mr. HAEBERLE. I believe it would be just "We will see what we can do."

Mr. HÉBERT. Then what did he do?

Mr. HAEBERLE. Somehow, some way, there was arrangements made that Joe would leave for Life magazine the next day, and I called him in New York and then I came up the next day.

Mr. HÉBERT. Who paid the way for this journey?

Mr. HAEBERLE. Life magazine paid the way, expenses.

Mr. HÉBERT. They paid Joe Eszterhas' fare up there before they knew what he wanted to talk to them about?

Mr. HAEBERLE. I am not sure how they worked Joe Eszterhas' fare.

Mr. HÉBERT. When you got there, you and Mr. Eszterhas were there together. With whom did you talk?

Mr. HAEBERLE. Gerald Moore.

Mr. HÉBERT. Who?

Mr. HAEBERLE. Gerald Moore.

Mr. HÉBERT. Gerald Moore?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Who is Gerald Moore?

Mr. HAEBERLE. I believe he's an associate or assistant editor.

Mr. HÉBERT. Just the two of you were present?

Mr. HAEBERLE. The three of us at the time, in the office, if I remember right, were present.

Mr. HÉBERT. When was the first proposal made to buy the pictures?

Mr. HAEBERLE. I believe that would be in Dick Pollard's office.

Mr. HÉBERT. Then you left, you didn't discuss the sale of the pictures at all with Gerald Moore?

Mr. HAEBERLE. Gee, he was sitting in on it too.

Mr. HÉBERT. When was the first proposition to buy the pictures made?

Mr. HAEBERLE. I can't recall when the actual first proposition was made. It was during that time period.

Mr. HÉBERT. Who made an offer of a price, and what was the price?

Mr. HAEBERLE. I believe both Joe and I made an offer, if I remember correctly, I'm not sure.

Mr. HÉBERT. You simultaneously made an offer?

Mr. HAEBERLE. We were both together at the same time, yes.

Mr. HÉBERT. You were together. Who was the spokesman? From whose mouth did the words flow?

Mr. HAEBERLE. Both of us were speaking.

Mr. HÉBERT. Both speaking at the same time?

Mr. HAEBERLE. Yes. Yes.

Mr. HÉBERT. Had you rehearsed it that you would be in good voice and together when you both spoke at the same time?

Mr. HAEBERLE. Well, we just talked, that's all.

Mr. HÉBERT. And you both at the same time talked and made—and the same price came out together?

Mr. HAEBERLE. I can't really recall how that was.

Mr. HÉBERT. But you recall that both of you talked at the same time?

Mr. HAEBERLE. Well, we didn't both yack at the same time. One said something and another said something.

Mr. HÉBERT. I didn't say it. You said it. Who made the offer and who asked for a price? That is what I am asking. Did you ask for a price?

Mr. HAEBERLE. I believe I asked what I wanted first.

Mr. HÉBERT. What did you say you wanted?

Mr. HAEBERLE. About \$10,000.

Mr. HÉBERT. You said about \$10,000?

Mr. HAEBERLE. \$5,000, \$10,000. I had no idea.

Mr. HÉBERT. You have no idea at all what you first asked for?

Mr. HAEBERLE. I have the idea. If they went to Life magazine, about that price.

Mr. HÉBERT. About \$5,000 or \$10,000?

Mr. HAEBERLE. Yes. I had no idea what a magazine would offer for those.

Mr. HÉBERT. You never asked for \$120,000?

Mr. HAEBERLE. I believe when Joe left that day, that through some sort of finagling up there or talking up there—

Mr. HÉBERT. Finagling. What is your definition of finagling?

Mr. HAEBERLE. Strike that word. Talking could be used the same—up there, I am not sure what actually transpired, but bids could have been coming through for higher prices, trying to outbid the other person on the photographs. I knew nothing of that until I got up there.

Mr. HÉBERT. Bids were coming through from whom?

Mr. HAEBERLE. They would have. Well, the European news media.

Mr. HÉBERT. Then you were not only dealing with Life magazine, but throwing this in the open market?

Mr. HAEBERLE. It was with Life first. I didn't know what really transpired that day up there.

Mr. HÉBERT. Well, then, while you were dealing with Life, you were dealing with other people?

Mr. HAEBERLE. After we talked to Life, we started dealing with other people.

Mr. HÉBERT. I am talking about that first day, now.

Mr. HAEBERLE. I wasn't there that first day. I was there the second day.

Mr. HÉBERT. Well, the second day, then.

Mr. HAEBERLE. All right. More or less it was just talking to Life magazine, \$125,000 was the going price.

Mr. HÉBERT. Was the going price.

You just a few minutes ago said 10.

Mr. HAEBERLE. That is before Joe left, what I am trying to tell you for New York that I told you that I thought the pictures were worth

that but whatever transpired up there in New York that day Joe was there, if they went up to \$125,000, \$100,000.

Mr. HÉBERT. Read from the record. This is ridiculous.

Mr. REDDAN. Mr. Haeberle, I want to refer to your testimony before the subcommittee on April 23, last Thursday, page 669, where Mr. Hébert asked you—I will go back here, I will start on 668.

How much did you receive from Life for those pictures?

Mr. HAEBERLE. Life, \$17,500.

Mr. HÉBERT. They gave you \$17,500?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. Did you ask for more or was this a compromise?

Mr. HAEBERLE. I could have had more. I could have had a hundred—

Mr. HÉBERT. I didn't ask you what you could have had. I asked you did you ask for more.

Mr. HAEBERLE. I settled for that. I was satisfied with that.

Mr. HÉBERT. Did you ask for more and compromise at \$17,500?

Mr. HAEBERLE. At first, yes.

Mr. HÉBERT. What did you ask for?

Mr. HAEBERLE. We asked for \$125,000.

Mr. HÉBERT. You asked, now, not we.

What did you ask Life for, \$125,000?

Mr. HAEBERLE. That is right.

Mr. HÉBERT. And you finally came down and settled for \$17,500?

Mr. HAEBERLE. With Life Magazine.

Mr. HÉBERT. With Life Magazine.

Now, is that your testimony here today, that you asked Life for \$125,000?

Mr. HAEBERLE. That is what it was on the second day.

Mr. HÉBERT. Well, I don't want to use any more time of the other members of the subcommittee who want to ask questions, but Mr. Reddan, I want all the contracts that this man entered into, before the subcommittee. If he fails to bring them in here, we will issue a subpoena duces tecum for those records.

Mr. HAEBERLE. I will be glad to send you the contracts. No problem.

Mr. HÉBERT. How many contracts are there, about?

Mr. HAEBERLE. I really can't say. I really don't know.

Mr. HÉBERT. How many would you guess?

Mr. HAEBERLE. Oh, gee, I'd say about three.

Mr. HÉBERT. About three?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. And with whom would they be?

Mr. HAEBERLE. Stern magazine, the London Sunday Times, and Life magazine.

Mr. HÉBERT. So there was some written arrangement?

Mr. HAEBERLE. The contracts, yes.

Mr. HÉBERT. Well, just a little while ago you said there was nothing written.

Mr. HAEBERLE. On these other ones that we were talking about. There are no written ones.

Mr. HÉBERT. I have no further questions.

Mr. REDDAN. Mr. Chairman, before we leave there, in order to avoid confusion, I think it would be well before Mr. Haeberle leaves to give him a subpoena duces tecum which defines, so there will be no mistake, precisely what the subcommittee wants him to produce.

Mr. HÉBERT. Prepare that and I will issue it.

Mr. REDDAN. All right.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. You stated that when you and Mr. Eszterhas went up to New York, Life magazine paid the expenses. Did they reimburse you for your out-of-pocket expenses, or did they—

Mr. HAEBERLE. They reimbursed us for our out-of-pocket expenses.

Mr. HÉBERT. Does that appear in your income tax form?

Mr. HAEBERLE. No, because it came out of my own pocket. It is my own money.

Mr. GUBSER. But it was expenses which you were reimbursed for?

Mr. HAEBERLE. Yes.

Mr. GUBSER. Aren't you required to report that as a reimbursement?

Mr. HAEBERLE. I haven't got a form on that. I haven't completed my income tax yet.

Mr. GUBSER. Do you have any idea what the expenses were?

Mr. HAEBERLE. Yes, I do. I received a check from Life-Time, one for \$354, I believe, and one for \$119.

Mr. GUBSER. This is for reimbursement of out-of-pocket expenses, right?

Mr. HAEBERLE. That is right.

Mr. GUBSER. Did you bill them for that?

Mr. HAEBERLE. I gave them an expense account.

Mr. REDDAN. Do you have your receipts for your expenditures?

Mr. HAEBERLE. I don't believe so, not any more.

Mr. REDDAN. How are you going to support it in your tax return?

Mr. HAEBERLE. Just by—I believe I have the forms left. I hope I have, showing my expenses.

Mr. REDDAN. Did you fly or drive? How did you go?

Mr. HAEBERLE. Fly.

Mr. REDDAN. Do you have your airline ticket receipt?

Mr. HAEBERLE. I have my airline tickets, yes, and I believe I still have my hotel receipts.

Mr. GUBSER. Have you ever seen MACV Directive 20-4?

Mr. HAEBERLE. No, I haven't.

Mr. GUBSER. Do you know what it is, then?

Mr. HAEBERLE. No, I don't.

Mr. GUBSER. Didn't you testify someplace that you had never seen it?

Mr. HAEBERLE. I believe—I can't recall seeing a MACV regulation.

Mr. GUBSER. You have never had this brought to your attention?

Mr. HAEBERLE. No; not that I can recall.

Mr. GUBSER. Are you familiar with one section of that MACV Directive 20-4, which says that photographic evidence, previously taken at the scene of discovery—and this is referring to an alleged war crime—photographic evidence previously taken at the scene of discovery and properly identified as to time, place, subject, witnesses and photographers, shall be—I am paraphrasing now—shall be the subject of an inquiry by an investigating officer?

Mr. HAEBERLE. I am sorry, but I cannot recall reading anything like that.

Mr. GUBSER. Well, do you doubt the fact that this MACV Directive 20-4 was issued April 27, 1967?

Mr. HAEBERLE. I don't know anything about that.

Mr. GUBSER. Well, just for your information, it did in fact exist, and we have a copy of it here, and that being the case, do you realize

that that was photographic evidence, these slides that you took, and this was properly something that the investigating officer should have, and in that respect you had Government property in your possession?

Mr. HAEPPERLE. I don't know anything about it.

Mr. GUBSER. Did you see anybody shoot anybody on this March 16?

Mr. HAEPPERLE. Yes, I did.

Mr. GUBSER. You saw Medina shoot that girl, is that the idea?

Mr. HAEPPERLE. I did not see Medina shoot anyone.

Mr. GUBSER. Well, just give us a description, without using names, if you please.

Mr. HAEPPERLE. I know no names.

Mr. GUBSER. Of what you saw in the shooting.

Mr. HAEPPERLE. OK. May I go through the whole story, getting off the helicopter, start there?

OK. Getting off the helicopter, we fanned out, came back together after the helicopters left, started moving on down toward the highway. I believe it is 521, to the south.

OK; there were people walking along the road. It was quite a distance, and it looked to me to be like three miles along the road, and there were some people down by the trees, and there were some cows.

Mr. REDDAN. Mr. Haerberle, if you will refer to that photograph, which I believe is now right side up.

Mr. HAEPPERLE. I hope so.

Mr. REDDAN. And indicate on there where the areas that you are describing are.

Mr. HAEPPERLE. That is a photograph of My Lai 4, right?

Mr. REDDAN. That is right.

Mr. HAEPPERLE. All right. Somewhere—I believe we landed in this area.

Mr. REDDAN. Indicating an area west and immediately adjacent to the hamlet of My Lai 4?

Mr. HAEPPERLE. Correct. Where the helicopters came down. As I explained before, there were people walking along this road, if I remember right, in this area right in here.

Mr. REDDAN. Where were you when you saw the people on the road?

Mr. HAEPPERLE. I had to be—I believe it to be someplace in here. But there is one incident before that that I failed to mention, that I could mention now.

Mr. REDDAN. All right.

Mr. HAEPPERLE. The first killing would be a cow, in this area, someplace in here.

Mr. REDDAN. You are pointing to a rice paddy area?

Mr. HAEPPERLE. A rice paddy.

Mr. REDDAN. Southwest from My Lai 4, approximately how far from the tree line of the hamlet?

Mr. HAEPPERLE. I really can't say.

Mr. REDDAN. A hundred yards, 200 yards?

Mr. HAEPPERLE. I can't say in distance.

Anyway, there seemed to appear a figure which looked to me like a woman pop up out of the rice fields, and they shot her, and some of them just seem to keep shooting at her and you could see the bones flying in the air.

Mr. REDDAN. Where was this woman, and where were you?

Mr. HAEBERLE. I was more or less in back of the advancing G.I.'s, or a little bit behind them.

Mr. REDDAN. And where was this woman?

Mr. HAEBERLE. She was someplace in this area down in here.

Mr. REDDAN. How far away?

Mr. HAEBERLE. I have no idea in distance.

Mr. REDDAN. Well——

Mr. HAEBERLE. It was outside the village. It was outside the village area. Someplace in one of these rice paddies.

Mr. REDDAN. The length of a football field?

Mr. HAEBERLE. I am not sure.

Mr. REDDAN. Twice the length of a football field?

Mr. HAEBERLE. I am not sure.

Mr. REDDAN. Half the length of a football field?

Mr. HAEBERLE. I am not sure.

Mr. REDDAN. Within 10 feet?

Mr. HAEBERLE. Are you talking about the distance? I am sorry, maybe I don't understand this. How far the G.I.'s were away from the shooting?

Mr. REDDAN. That's right.

Mr. HAEBERLE. OK, fine.

Mr. REDDAN. You were behind the G.I.'s and——

Mr. HAEBERLE. I thought you were trying for the distance here.

Mr. REDDAN. No.

Mr. HAEBERLE. I'd say an estimate—it would be a rough estimate—I'd say maybe 30 yards, 40 yards.

Mr. GUBSER. How far were you behind the G.I.'s?

Mr. HAEBERLE. I can't recall. I was a little behind them or just sort of near them. They were in front of me.

Mr. GUBSER. You had an 80 millimeter lens on your camera?

Mr. HAEBERLE. No.

Mr. GUBSER. What did you have, your Nikon?

Mr. HAEBERLE. 55 Micronikon.

Mr. GUBSER. In other words, you were out of camera range with that lens to get any detail at all?

Mr. HAEBERLE. I never think about that at that time. That is the first time I have seen something like this and you just are stunned. OK. Then we moved on down.

Mr. REDDAN. What was this woman doing?

Mr. HAEBERLE. I really——

Mr. REDDAN. Did she have——

Mr. HAEBERLE. I think she was more or less hiding. She popped out like this after the cow went down.

Mr. REDDAN. Did she have any web gear, any weapons, any grenades?

Mr. HAEBERLE. Not that I know of, no.

Mr. REDDAN. Were you in a position to tell whether she did or not?

Mr. HAEBERLE. No; I was not in a position to tell.

Mr. REDDAN. So that you don't know.

Mr. HAEBERLE. I really don't know.

Mr. REDDAN. All you know is you saw a woman pop up out of hiding and she was shot, is that right?

Mr. HAEERLE. That is right.

Mr. REDDAN. All right. Go ahead.

Mr. DICKINSON. Did you take a photograph of that?

Mr. HAEERLE. No; I did not.

Mr. DICKINSON. Anything surrounding this particular incident?

Mr. HAEERLE. No; I did not.

Mr. DICKINSON. Thank you. Go ahead.

Mr. GUBSER. Either black and white or color?

Mr. HAEERLE. That is right.

OK. As we moved on down toward the road, the GI's were firing in that area, and also using the M-16. There was a couple of times they used an M-79 grenade launcher. And there were helicopters flying around, but as I can recall, I really don't remember any of them shooting. I could be wrong.

Mr. REDDAN. What were they shooting at?

Mr. HAEERLE. The GI's?

Mr. REDDAN. Yes.

Mr. HAEERLE. I would say these figures in that general area walking along the road. And by the time we got down there, if I can get the sequence correct, there were three bodies along the road.

Mr. REDDAN. You are pointing to the intersection of the small access road running south from the hamlet of My Lai, where it intersects the main highway from Quang Ngai running east and west?

Mr. HAEERLE. I would say someplace in between right here and right here.

Mr. REDDAN. Indicating a short distance west of the intersection I have just described?

Mr. HAEERLE. Yes.

OK. At the same time I also witnessed—

Mr. REDDAN. Those three bodies you saw there, what were they?

Mr. HAEERLE. They were males in black pajamas.

Mr. REDDAN. Military age?

Mr. HAEERLE. I would say yes, they could be military age.

Mr. REDDAN. Did you take photographs?

Mr. HAEERLE. Yes; I did. I took one color.

Mr. REDDAN. Did you take color photographs?

Mr. HAEERLE. I took one color photograph, yes.

Mr. REDDAN. Did you take any black and white?

Mr. HAEERLE. I can't recall.

Mr. REDDAN. I will show you a book containing what is supposed to be all of the color photographs you took that day.

Mr. HAEERLE. All right.

Mr. REDDAN. And ask you if you can identify for us the picture that you are referring to?

Mr. HAEERLE. This photograph right here.

Mr. REDDAN. What is the number of that photograph?

Mr. HAEERLE. No. 6.

Mr. REDDAN. And that's the one that you took down near the intersection of the small access road and the main highway?

Mr. HAEERLE. Yes; down in this area right here.

Mr. REDDAN. All right.

Mr. HAEERLE. OK. At the same time, there was no photograph of this, I also witnessed, coming from what seemed to be like a little ditch or ravine down here—

Mr. REDDAN. And this is now just west of the spot you have just described to us, is that right?

Mr. HAEBERLE. It is in the same general area.

Mr. REDDAN. All right.

Mr. HAEBERLE. A man and a small child—two small children came walking up, seemed like the girl was pleading for her life, going “No, no.” in American tongue—

Mr. REDDAN. Let’s get this thing completely. They were alive?

Mr. HAEBERLE. They were alive.

Mr. REDDAN. Yes. All right. Now, and what were they doing?

Mr. HAEBERLE. They seemed to be walking, if I recall right, out from this ditch here.

Mr. REDDAN. They were coming out of a ditch onto the main road?

Mr. HAEBERLE. Onto the main road.

Mr. REDDAN. All right. Were there American soldiers in that area?

Mr. HAEBERLE. Yes; we were in that area.

Mr. REDDAN. How close?

Mr. HAEBERLE. I could say at the time they were shot—estimate 15, 20 yards.

Mr. REDDAN. And they were coming out of the ditch?

Mr. HAEBERLE. That is right.

Mr. REDDAN. And what were their ages, would you estimate?

Mr. HAEBERLE. I would say the male looked military age. The children were young.

Mr. REDDAN. There was one male and two children.

Mr. HAEBERLE. Right, if I recall correctly. They were shot.

Mr. REDDAN. You saw them shot?

Mr. DICKINSON. By young, you mean under 5 possibly?

Mr. HAEBERLE. It could be anywhere from—around age 5, 6, 7, I don’t believe they were any older than 10.

Mr. REDDAN. You saw them shot?

Mr. HAEBERLE. I saw—I heard the click of gunfire and I saw them fall.

Mr. REDDAN. How close were you to that?

Mr. HAEBERLE. I would say—maybe about 25 yards.

Mr. REDDAN. Did you photograph any of that action?

Mr. HAEBERLE. No; I did not. That I know of, in color, specifically. Black and white. I can’t recall.

Mr. REDDAN. You don’t know whether you photographed it in black and white, you say?

Mr. HAEBERLE. That is right.

Mr. REDDAN. Now, the last picture you had taken was over there at the ditch. I mean over there near the intersection, of the three people. How long after you took that picture did this other incident happen?

Mr. HAEBERLE. This one? I believe the one—I could be mistaken—that these people were shot—

Mr. REDDAN. Coming out of the ditch.

Mr. HAEBERLE [continuing]. Coming out of the ditch, and I walked over, probably shot this photograph here.

Mr. DICKINSON. Meaning which one, please?

Mr. HAEBERLE. Referring to No. 6.

Mr. REDDAN. You shot that picture after the man and the two children were shot?

Mr. HAEBERLE. I am not sure how I did.

Mr. REDDAN. I am just trying to get the sequence on this.

Mr. HAEBERLE. For me to state the exact sequence, it is hard, but I just remember generally in which areas I was in and what transpired in that area.

Mr. REDDAN. I am trying to understand how long a time elapsed, if you can tell us, between one incident and the next.

Mr. HAEBERLE. I really couldn't say that. That is almost impossible.

Referring to another color photograph, down in the ditch, I did not see this person shot, but it is the photograph of a woman with her brains lying beside her head.

Mr. REDDAN. What is the number of that?

Mr. HAEBERLE. Number 7.

Mr. REDDAN. That is No. 7, and that was another one?

Mr. HAEBERLE. Yes. That is another one down——

Mr. DICKINSON. In the same ravine or ditch?

Mr. HAEBERLE. In the same area; yes.

Mr. DICKINSON. In which the male and the two young children were shot?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. All right.

Mr. REDDAN. You didn't see her shot?

Mr. HAEBERLE. No; I did not.

Mr. REDDAN. All right.

Mr. HAEBERLE. All right. And the way I believe, we started back up this way, and a helicopter threw a red smoke bomb in some bushes down in this area and we went back, because I guess we are supposed to go back whenever there is a red smoke bomb dropped. And we really, I don't believe, found anything. At least I didn't see anything happen that time. So then we started back up again, and the way the photographs go, I sort of more or less was going parallel to this path here.

Mr. REDDAN. Parallel to the access road coming out of the village, south?

Mr. HAEBERLE. Yes; parallel to that. And the next color photograph I believe to be taken right around here. We sort of tried matching up because there is an S curve in the road, which goes with personal color photograph No. 13.

Mr. REDDAN. Now, what does that photograph show?

Mr. HAEBERLE. As we were going along the road here, if I recall right, they seemed, two children seemed to appear from nowhere, and I believe they fired——

Mr. REDDAN. Can you tell us approximately the ages of those children?

Mr. HAEBERLE. By looking at them, I would say the young one had to be maybe under 5. The older one maybe about 8.

Mr. REDDAN. And they came out from the side of the road somewhere?

Mr. HAEBERLE. I believe they must have been hiding in the rice field here.

Mr. REDDAN. And what happened?

Mr. HAEBERLE. OK. As we were going along, the GI's fired at them, and I believe it to be in an easterly direction, then we moved around

on the road, I just shot a photograph of them. Then as I turned to walk away, they fired at the children again, killing them.

Mr. REDDAN. Had you seen them shot initially?

Mr. HAEBERLE. Yes; I did.

Mr. REDDAN. Now, up to this point, how many black and white pictures had you taken?

Mr. HAEBERLE. I have no idea.

Mr. REDDAN. Had you taken any?

Mr. HAEBERLE. I believe I had taken black and white.

Mr. REDDAN. Had you taken black and white pictures of any of the casualties that you have mentioned here so far?

Mr. HAEBERLE. I can't recall that.

Mr. REDDAN. Well, now, you were up there——

Mr. DICKINSON. Did I understand you to say you took a color photograph of the two children you just described?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. What number is that, please?

Mr. HAEBERLE. That is No. 13.

Mr. DICKINSON. Thank you.

Mr. REDDAN. All right, go ahead. I will come back to these other questions in a minute.

What did you do then?

Mr. HAEBERLE. After that we were going a little farther——

Mr. REDDAN. Now indicating that you are moving up in the north-westerly direction?

Mr. HAEBERLE. Yes.

Mr. REDDAN. Just to the west of the hamlet again?

Mr. HAEBERLE. Right. And along the same time, bodies again appeared. They were living bodies. Appeared from nowhere.

Mr. REDDAN. Whereabouts now?

Mr. HAEBERLE. This had to be some place, I'd say, maybe up in this area some place. It could be the road, it could be a path along here. I am not sure.

Mr. REDDAN. Just south of the village? South of the hamlet?

Mr. HAEBERLE. Yes.

Mr. REDDAN. And you say individuals popped out? Where were they popping out of, holes or what?

Mr. HAEBERLE. Just I believe from the rice fields.

Mr. REDDAN. Can you describe the individuals, male, female, old, young?

Mr. HAEBERLE. They looked to be a male with two small children again.

Mr. REDDAN. You saw a male with two small children pop out of the rice paddy someplace just south of the hamlet; is that right?

Mr. HAEBERLE. Yes; with their belongings.

Mr. REDDAN. Was there a path there? Were they just in the paddies themselves?

Mr. HAEBERLE. It was the paddies, but there was a path there. When I turned to see, they were walking along, sort of running along a path there. But I didn't see them when I was looking that way before, so they probably were hiding in the rice fields and decided to make a run for it.

Mr. DICKINSON. Which way were they running?

Mr. HAEPPERLE. I believe they were running south.

Mr. DICKINSON. Toward you or from you?

Mr. HAEPPERLE. They were running south. It would be from us. It wouldn't be toward us.

Mr. GUBSER. Were you with troops all this time now?

Mr. HAEPPERLE. I was with troops; yes.

Mr. GUBSER. About how many?

Mr. HAEPPERLE. It is hard to recall, but it really didn't seem like too many.

Mr. GUBSER. Three or four, half a dozen?

Mr. HAEPPERLE. Maybe 10, 15.

Mr. GUBSER. Was Roberts with you all this time?

Mr. HAEPPERLE. Jay was, we were more or less in the same area but not shoulder to shoulder. He would separate and go off just to talk, and I would do my waiting and come back. We sort of circled around.

Mr. DICKINSON. Tell us what happened then, please.

Mr. HAEPPERLE. All right. Well, they fired, open fired on these people here. They weren't dead yet. I remember them moving around on the road, firing some more shots.

Mr. REDDAN. You saw this?

Mr. HAEPPERLE. I saw this; yes.

Mr. REDDAN. Did you take a photograph of this?

Mr. HAEPPERLE. I took a color photograph of the bodies.

Mr. REDDAN. Would you identify it in the booklet there?

Mr. HAEPPERLE. Booklet, No. 14.

Mr. REDDAN. All right. Then what did you do?

Mr. HAEPPERLE. OK. Then we moved up toward the outside area of the village, and I remember passing—

Mr. REDDAN. You are back now in the LZ; is that right?

Mr. HAEPPERLE. I am back in the LZ area. I remember passing an 81-millimeter mortar just before we turned in to go into the village. Now I can't recall at this point whether we turned in near a cornfield or else the cornfield was up in the village. I am not sure, but I know I turned in someplace in here.

Mr. REDDAN. Whose mortar was it? One of ours or was it VC?

Mr. HAEPPERLE. No; it was one of our mortars.

Mr. REDDAN. Was it being fired?

Mr. HAEPPERLE. I have no idea.

Mr. REDDAN. I mean did you see it fired?

Mr. HAEPPERLE. No; I did not see it fired.

Mr. REDDAN. All right, go ahead.

Mr. HAEPPERLE. And as I turned into the village, the time sequence here is a little vague.

Mr. REDDAN. Can you give us an idea how long it had been now since you landed, when you were up to the point now where you are starting into the village?

Mr. HAEPPERLE. I think it could be about 9 o'clock or after.

Mr. REDDAN. So you had been on the ground roughly an hour and a half?

Mr. HAEPPERLE. About an hour and a half, 15 minutes, sometime in there. And one other thing I failed to mention here, when I was walking up over here I noticed, it seemed quite a ways off, there is no

photograph of it, the people were huddled in a circle, looked like to be quite a large group and—

Mr. DICKINSON. Standing?

Mr. HAEBERLE. No; they were more or less squatting.

Mr. DICKINSON. Not lying?

Mr. HAEBERLE. No, no, they were squatting, and you could see some women there with their small children. That is what it looked like to me. And just kept on walking. And all of a sudden I heard gunfire. I just looked over and I could see, to me it seemed like a machine gunner, ammo barrier, could be wrong, but they were firing into this circle of people, and you could see some of them getting up, starting to run and just falling over.

Mr. REDDAN. Would you point to that spot that you saw that?

Mr. HAEBERLE. Some place in this area here.

Mr. REDDAN. Again you are pointing—

Mr. HAEBERLE. South of the village.

Mr. REDDAN. Were they on the road?

Mr. HAEBERLE. I couldn't say; I was too far away.

Mr. REDDAN. You were pointing to an area which is south of the village, and how close to the village was it?

Mr. HAEBERLE. It seemed fairly close. It didn't seem too far away.

Mr. REDDAN. All right.

Mr. DICKINSON. I am sorry, I didn't hear the last answer.

Mr. HAEBERLE. It wasn't really too far away from the village as far as I could see.

Mr. DICKINSON. It was not within the village, though?

Mr. HAEBERLE. It was outside of the village; yes.

Mr. DICKINSON. The hootch area?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. But a matter of what, 50 yards, maybe? A hundred?

Mr. HAEBERLE. I really couldn't say in distance. It wasn't that far out from the village.

Mr. DICKINSON. Were they in a rice paddy? Were they in a ravine? Were they on a knoll? Can you describe the terrain on which you saw them?

Mr. HAEBERLE. The terrain would be within the rice area some place. They could have been on the trail. I don't know exactly.

Mr. DICKINSON. What?

Mr. HAEBERLE. They could have been on the trail but I can't say for sure.

Mr. DICKINSON. They were not in a ravine that you recall?

Mr. HAEBERLE. No. Because they wouldn't be in a ravine because I could see them squatting. They were on a flat area.

Mr. DICKINSON. From which direction did the shooting come from where you were?

Mr. HAEBERLE. The way I remember the GI's shooting they would have to be shooting out in a southerly direction.

Mr. DICKINSON. From the village?

Mr. HAEBERLE. They weren't in the village. They were outside in front of these people.

Mr. DICKINSON. They were between the people and the village?

Mr. HAEBERLE. That is right.

Mr. DICKINSON. South of the village?

Mr. HAEBERLE. Right.

Mr. DICKINSON. Did you see them as they were shooting?

Mr. HAEBERLE. Yes, I did.

Mr. DICKINSON. Just the two?

Mr. HAEBERLE. To me it seemed like two people shooting, that I can recall.

Mr. DICKINSON. Were you close enough to tell whether they were black or white?

Mr. HAEBERLE. No, I am sorry, I was not.

Mr. REDDAN. Did you take any photographs of that incident?

Mr. HAEBERLE. No, I did not, that I can recall. Color, no.

Mr. DICKINSON. In this group you described what would you estimate the number to be, please?

Mr. HAEBERLE. It was large, to me, that is the way it seemed to me. Could have been 50, 75 people.

Mr. DICKINSON. Fifty to seventy-five?

Mr. HAEBERLE. Could be less, but it was a well-sized group.

Mr. DICKINSON. Give us your best judgment?

Mr. HAEBERLE. I really couldn't give an honest judgment. I know it was a fairly large group.

Mr. DICKINSON. In your best judgment it would be between 50 and 75?

Mr. HAEBERLE. About that, yes. I could be wrong.

Mr. DICKINSON. All right.

Mr. REDDAN. Did you stand and watch until they had all been shot?

Mr. HAEBERLE. No, I did not.

Mr. REDDAN. What was the situation as you moved away from it?

Mr. HAEBERLE. I just turned my head and the troops were just starting to move up.

Mr. REDDAN. All right, go ahead.

Mr. HAEBERLE. OK. We turned into the village. Now, my path through the village is generally, I would say, somewhere—

Mr. REDDAN. You were cut across the northwest corner, and then started to move down?

Mr. HAEBERLE. We started—I traveled, in this, sort of in this area in here in the village, didn't go into any of this area over here.

Mr. REDDAN. You just stayed in the western half of the village?

Mr. HAEBERLE. I would say yes.

Mr. REDDAN. All right. Up and down? Did you come through the area back and forth, or did you just make one sweep through?

Mr. HAEBERLE. I made, according to the photographs, we are trying to place the photographs with the CID and that, I made it through here once, but I made it down here once, then back up in here just a little ways. Then back out again.

Mr. DICKINSON. You indicated by your finger that you came out about in the center of the village, to the south border of the village?

Mr. HAEBERLE. Yes; I did.

Mr. DICKINSON. And exited and then went back in. From where you exited then, could you see the bodies that you saw shot earlier?

Mr. HAEBERLE. I am not sure those are the bodies. They could be.

Mr. DICKINSON. Did you see some bodies when you exited?

Mr. HAEBERLE. Yes; I did. It is in a color photograph.

Mr. DICKINSON. And you took a photograph there?

Mr. HAEBERLE. Yes; I did.

Mr. DICKINSON. Will you identify that, please?

Mr. HAEBERLE. That is photograph No. 16.

Mr. DICKINSON. Then you went back into the village?

Mr. HAEBERLE. Yes; I did. And the way I understand it, the way these color slides run, the next photograph would have to be the people just about before they were to be shot. Before they were shot.

Mr. DICKINSON. Well, I don't know that I understand that now.

Mr. HAEBERLE. Well, were we talking about the bodies here?

Mr. DICKINSON. Right.

Mr. HAEBERLE. And I said I went back into the village.

Mr. DICKINSON. Right.

Mr. HAEBERLE. That's when I photographed the people just about before they were to be shot.

Mr. REDDAN. What photograph are you referring to?

Mr. HAEBERLE. I am referring to photograph No. 15.

Mr. REDDAN. And that shows a group of women and children?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. Huddled together and a woman crying?

Mr. HAEBERLE. That is right.

Mr. REDDAN. Now, what happened there?

Mr. HAEBERLE. What happened there, as far as I can recollect, they must have brought the people—they found them hiding I believe some place, maybe in this area right around here.

Mr. REDDAN. When you came on the scene what did you see?

Mr. HAEBERLE. More or less tormenting these people, especially that woman in front. They were grabbing her, and kicking her around. And I believe it to be the girl behind her that they were trying to rip off her blouse, but I don't believe they succeeded. Sort of fondling her, yelling "VC," "Boom, boom," and that.

Mr. DICKINSON. I didn't get that last?

Mr. HAEBERLE. "VC," "Boom, boom," which means Vietnamese whore. I remember them kicking the old woman right in the ass. She was down on the ground a couple of times, slapping her around.

Mr. REDDAN. Did you take any photographs of that incident other than this one that you have there?

Mr. HAEBERLE. I can't recall if I did in black and white or not.

Mr. REDDAN. Did you take any other color photographs of them?

Mr. HAEBERLE. No; that's it.

Mr. REDDAN. How long did you witness this situation?

Mr. HAEBERLE. I would say maybe about 30.45 seconds, and I just started to turn to walk away to the outside of the village, well, all of a sudden I heard fire, out of the corner of my eyes I could see the people dropping, which started to make me sick. And I started walking out, and I remember the two GI's, after it was all over, with M-16's, automatic fire, you could see the smoke coming from the ends of the barrel.

Mr. REDDAN. Now, again, there were only two involved in this incident?

Mr. HAEBERLE. I believe so.

Mr. REDDAN. Do you have any way of knowing whether they were the same ones as were involved in the incident you have described a few minutes ago?

Mr. HAEBERLE. No; I have no way of knowing.

Mr. DICKINSON. Were they American GI's that did the shooting or maybe National Police?

Mr. HAEBERLE. They were American GI's.

Mr. DICKINSON. Black or white.

Mr. HAEBERLE. I am sorry, I can't recall whether they were black or white.

Mr. DICKINSON. You don't recall that? You don't recall the ones who were doing the tormenting of the women that you spoke about?

Mr. HAEBERLE. I just made a statement. I haven't got the CID. I believe there was a Negro in the group, sort of a husky fellow, but I don't know who it is.

Mr. DICKINSON. All right.

Mr. REDDAN. But there were only two involved, you say?

Mr. HAEBERLE. There were other people in the group. I remember two M-16's with the barrels smoking.

Mr. DICKINSON. This same group of people huddled together with the woman crying and the children seeking shelter with the old woman?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. Is this the same group that you saw shot down, that you just—

Mr. HAEBERLE. This is a completely different group of people. See, the one group, if I can get this straight. This group was up in here, up into the village.

Mr. DICKINSON. Which group?

Mr. HAEBERLE. Referring to slide No. 15.

Mr. DICKINSON. Slide No. 15?

Mr. HAEBERLE. Yes; that is the group right here.

Mr. DICKINSON. All right.

Mr. HAEBERLE. The other one we are referring to, the bodies on the road were shot before I shot this, were out here in this area.

Mr. DICKINSON. All right. Now, the group in 15, you did not see shot; is that correct? Or they were shot?

Mr. HAEBERLE. They were shot. I caught it out of the corner of my eye, the bodies falling, and I remember the GI's coming out behind me with the two M-16's. They reloaded the rifle and the smoke was still coming. This thing was hot; the rifle barrel.

Mr. REDDAN. Then what did you do?

Mr. HAEBERLE. OK. Now, at the same time there was a small child that came walking toward me. He was wounded in the leg.

Mr. REDDAN. Now, are you back out of the hamlet again?

Mr. HAEBERLE. Yes.

Mr. REDDAN. Headed south. All right.

Mr. HAEBERLE. And he was by himself. I just wanted to take a photograph of this child, you know, just wounded, maybe going to get medical help. I don't know, so I was getting ready to focus on him, and all of a sudden the GI just shot him. He put three slugs into him. I can remember, this is so vivid it is hard to forget. First shot him in the stomach, second shot lifted him up, third shot put him down on the ground and all the body fluid just came out from underneath him. This was done by an American GI because I remember him get-

ting up and just looked him in the face, and he had the coldest, hardest look. And just walked away.

Mr. REDDAN. Did you take a picture of that incident?

Mr. HAEBERLE. No; I didn't. OK. Now, another time, concerning this pile of dead bodies out here, another—

Mr. REDDAN. Is that the same group that you saw shot before you went into the village?

Mr. HAEBERLE. I didn't see this; I don't know if this was the group I witnessed over here being shot.

Mr. REDDAN. All right.

Mr. HAEBERLE. I don't know.

Mr. REDDAN. OK.

Mr. HAEBERLE. Anyway, a small child came out, must have been from the rice-field, and he was—looked like part of his foot was shot away, and he just came over feeling some of the bodies, just putting his hand on them. And again this GI just fired at him, the body flipped over and became one of the pile.

Mr. REDDAN. Now, is that the same GI as shot the other child?

Mr. HAEBERLE. I am not sure. I don't know.

Mr. REDDAN. And did you take any photograph at that point?

Mr. HAEBERLE. No; I did not.

Mr. REDDAN. All right. What did you do?

Mr. HAEBERLE. OK. After that I was more or less around in this area, and I moved over, I believe, into here, and there was an old man they found in a hut.

Mr. REDDAN. Again you are pointing to the southwest portion of the village, right near the edge of the village?

Mr. HAEBERLE. Yes.

Mr. REDDAN. All right.

Mr. HAEBERLE. And the interpreter was there, I believe, and they were pulling him out to question him. And his pants kept falling down; he kept trying to hold his pants up. They brought him out to the edge of his property here, I believe, and they were just questioning him, and I left after that. Then I heard a couple of shots, and I don't know what happened to him, but I imagine that he was killed.

Mr. REDDAN. Did you turn to see what happened?

Mr. HAEBERLE. No; I did not because I was out in this area right here.

Mr. REDDAN. All right. Did you take any photographs at that point?

Mr. HAEBERLE. I believe I have a color photograph of him just sitting there.

Mr. REDDAN. Is it in the book?

Mr. HAEBERLE. No; you don't have that color photograph. Just of him sitting on the ground. He was alive.

Mr. DICKINSON. Would this be the one?

Mr. HAEBERLE. Yes; that's the old man.

Mr. REDDAN. Was that color or black and white?

Mr. HAEBERLE. This is black and white, but I have a color photograph of him just looking at me. He's alive.

Mr. REDDAN. Can you tell us why the color photograph isn't included in that other booklet?

Mr. HAEBERLE. No; I cannot. Because every one—

Mr. REDDAN. Did you furnish it to CID?

Mr. HAEERLE. Yes; I did.

Mr. REDDAN. All right.

Mr. GUBSER. You did furnish that?

Mr. HAEERLE. I believe I did. I furnished all the photographs to them.

Mr. LALLY. Do you remember how many you furnished to CID?

Mr. REDDAN. What is the number of that photograph?

Mr. LALLY. These are not numbered.

Mr. REDDAN. Oh, they are not?

Mr. LALLY. No.

Mr. DICKINSON. Just for the record, you have two black-and-white photographs of the same man, one being extricated from the hootch and the other just sitting alone in the road; is that the one and the same man?

Mr. HAEERLE. Yes; it is.

Mr. DICKINSON. All right.

Mr. REDDAN. All right. Go ahead, sir.

Mr. HAEERLE. All right. I believe shortly after that——

Mr. DICKINSON. To clear up that one point, you don't know whether this man was killed or not?

Mr. HAEERLE. No; I do not. I heard some shots, but I don't know whether he was killed.

Mr. DICKINSON. You didn't look back?

Mr. HAEERLE. No; I didn't look back.

Mr. DICKINSON. Could you have seen him from——

Mr. HAEERLE. Is that it in Life magazine? That's the photograph of him there.

Mr. DICKINSON. Could you have seen from where you were when the shots were fired whether or not he was killed?

Mr. HAEERLE. I believe not, no, because I believe there were hedges right in here, and I couldn't see a thing. I was pretty well on my way out to here. I believe——

Mr. REDDAN. Tell me this before you go on. Were there any helicopters in this area that you have been describing to us now, where you saw these killings? When I say in the area, I mean down, low enough so that they could observe the same things that you were seeing.

Mr. HAEERLE. They were flying around there, all day, and they were low at times.

Mr. REDDAN. All right.

Mr. HAEERLE. I believe they were low enough to see what was going on. They'd have to be. OK. You want me to take these color photographs and describe what went on in here, what I witnessed?

Mr. REDDAN. Yes; if you will?

Mr. HAEERLE. All right. I believe in reference to this one it is printed backward. No. 4.

Mr. REDDAN. That's the helicopter?

Mr. HAEERLE. The landing is printed backward.

Mr. REDDAN. That's number what?

Mr. HAEERLE. That would be No. 4.

Mr. REDDAN. All right.

Mr. HAEERLE. OK. This scene here, photograph No. 8.

Mr. REDDAN. All right.

Mr. HAEPPERLE. Is just a shot of a burning hut. That's all it is. I didn't see these people shot.

Mr. REDDAN. Are there bodies in the photograph?

Mr. HAEPPERLE. Yes; there are. Well, that is not a good color print. You can see mainly only one body, but there are two other bodies in back of it, which there is a closeup of the bodies on No. 9.

Mr. REDDAN. You took two shots of that same situation one a close-up; is that right?

Mr. HAEPPERLE. Yes; I did.

Mr. REDDAN. All right.

Mr. HAEPPERLE. And No 10 is some place in the village, a GI just throwing baskets on a fire. No 11 is a photograph of I believe it to be now Carter. I didn't know his name at the time.

Mr. REDDAN. That is the one who shot himself in the foot or was shot in the foot?

Mr. HAEPPERLE. At the time I came I heard it was an accident, that his 45 jammed. That's the only way I've heard it. And I took a photograph of him there, and they bandaged his foot up and called in a helicopter and he was immediately evacuated out.

Mr. REDDAN. How many pictures of him did you take?

Mr. HAEPPERLE. Just one color, I believe.

Mr. REDDAN. How about black and white?

Mr. HAEPPERLE. After looking at the contacts, I have seen them before, there are some blacks and whites in there also.

Mr. DICKINSON. You took a whole series as a matter of fact of this fellow. Was there any particular reason for that?

Mr. HAEPPERLE. It is hard for me to recall now what the reason would be, but I really can't think of the reason.

Mr. DICKINSON. It was your understanding at the time that he had accidentally shot himself?

Mr. HAEPPERLE. That is right; accidentally shot himself in the foot.

No. 12 is a photograph of a man in a well, the reflection is me in the well taking the photograph. And what actually happened to this man, I don't know. I remember Jay calling me over here and saying, "Hey, look at this man in the well." I just shot a photograph of that. That's No. 12.

No. 17, I am not sure, I think that might be printed backward, also. I'm not sure. But this was a man just outside of his hootch, and I did see a man or a woman dead in her bed someplace in the village when I was going through. I just looked in the door.

Mr. REDDAN. Well, now, is that picture you are just describing there, does that show a body?

Mr. HAEPPERLE. That shows a body; yes.

Mr. REDDAN. Did you see him killed?

Mr. HAEPPERLE. No; I didn't see him killed.

Mr. REDDAN. All right.

Mr. HAEPPERLE. That's the color slides.

Mr. REDDAN. Now have you described all the photographs in the booklet, other than the helicopter landings?

Mr. HAEPPERLE. I believe so. Just in the air en route to My Lai. This one here is I believe the other village, No. 3, the other village we went to.

Mr. REDDAN. You went to another village that day?

Mr. HAEERLE. Yes, I did, in the afternoon. Or late morning or else early afternoon.

Mr. REDDAN. What village was that?

Mr. HAEERLE. I don't know the name of the village.

Mr. REDDAN. How did you get there?

Mr. HAEERLE. Helicopter.

Mr. REDDAN. How long a flight was that?

Mr. HAEERLE. I don't think it was really too long. Maybe about 10, 15 minutes. Could be wrong again.

Mr. REDDAN. Did you spend the night in the field?

Mr. HAEERLE. No. I did not.

Mr. REDDAN. The place that you went, was that the place where Bravo Company joined up with Charlie Company for the night?

Mr. HAEERLE. I believe so. I believe we left on the supply ship that was bringing in a hot meal.

Mr. REDDAN. For the evening meal?

Mr. HAEERLE. Yes; referring to Jay Roberts and myself.

Mr. REDDAN. Did you take any photographs in this other village?

Mr. HAEERLE. Yes; I believe I did.

Mr. REDDAN. Any color photographs?

Mr. HAEERLE. Yes.

Mr. REDDAN. Are they in that book?

Mr. HAEERLE. Pardon?

Mr. REDDAN. Are they in that book?

Mr. HAEERLE. No; they are not in that book.

Mr. REDDAN. Do you have copies of those photographs?

Mr. HAEERLE. I do not have copies of these photographs.

Mr. REDDAN. Where are the copies?

Mr. HAEERLE. There are no copies. I just have originals.

Mr. REDDAN. Where are the originals?

Mr. HAEERLE. I have the originals.

Mr. REDDAN. Do they show any atrocities?

Mr. HAEERLE. Just questioning people, that's about it.

Mr. REDDAN. But this is not, at My Lai 4?

Mr. HAEERLE. No. This is not at My Lai 4.

Mr. DICKINSON. Were they shown to the CID?

Mr. HAEERLE. These photographs? No; they are just mainly questioning people. They were not shown to the CID.

Mr. REDDAN. Did the CID ask you about photographs other than at My Lai 4?

Mr. HAEERLE. I believe they may have. I am not sure. But I think maybe I just told them about the same thing here.

Mr. REDDAN. Did you tell them that you took photographs in another village?

Mr. HAEERLE. I may have mentioned that. I'm not sure.

Mr. REDDAN. Is it your recollection that you did tell them about them but they didn't ask for them; is that it?

Mr. HAEERLE. That's mainly the way I feel it happened. I was showing that night, in August, when I was giving them my personal slides for use, they were loaded in the cassette. I may have run through some of these of the other village. I'm not sure.

Mr. REDDAN. Who were you showing these to in August?

Mr. HAEERLE. Andre Fahre, I believe.

Mr. REDDAN. CID?

Mr. HAEBERLE. CID, correct. And a Mr. Miller, CID.

Mr. REDDAN. Now, how many color photographs did you take during that day?

Mr. HAEBERLE. During that day, I would say one or one and a half rolls. I wasn't quite sure. But out of these, at My Lai, I think I have about 16 that actually came out. I can't—I have all my other slides back when I was home this past weekend I looked through them, and I can't find anything more on them.

Mr. REDDAN. It is your testimony then that the book that you have in front of you with color photographs contains all of the color photographs you took at My Lai 4 on March 16, 1968?

Mr. HAEBERLE. Yes; except this one here, I don't believe is part of My Lai, and we are missing one of the old man just looking at me.

Mr. REDDAN. Yes. The one of the old man. Now, did you take two color pictures of the old man that day? You took one color picture of him, squatting there. Did you take another?

Mr. HAEBERLE. Yes. I can't recall if I did or not because I don't have another photograph of him. I have all my slides together and I looked through them and I couldn't find anything.

Mr. GUBSER. How many color pictures do you have of the other village which was probably My Lai 3?

Mr. HAEBERLE. I couldn't—maybe three or four.

Mr. GUBSER. Could that have been the rest of the 20 roll? You have 17, plus one that's missing?

Mr. HAEBERLE. No; I don't believe so, because the way these slides are marked, I believe that one of these shots in here is photograph No. 20.

Mr. GUBSER. In other words, you changed film?

Mr. HAEBERLE. Yes; I could have changed film.

Mr. GUBSER. Do you remember changing film?

Mr. HAEBERLE. No; I am sorry, I can't really recall.

Mr. DICKINSON. Mr. Haerberle, I have listened with a great deal of interest to your account of what happened that day, and one thing that seems to be missing is anything that has to do with armed resistance. Was, in fact, there any armed resistance? Did you hear any hostile gunfire or was the only gunfire that you heard coming from the American troops?

Mr. HAEBERLE. When I landed I heard quite a bit of shooting. I thought this was really hot. Then we started regrouping together, I guess by word of mouth, they are just our arms, that is all I have heard throughout the day. Just at one time when I walked out, I walked out past these bodies. I said we had better not go out too far, there may be some sniper fire. Whether there was anyone actually shooting at our group or me, no.

Mr. DICKINSON. You never heard anything that you could identify as enemy fire?

Mr. HAEBERLE. No. Except for when we landed. You know it's kind of hard. You don't know what enemy fire really sounds like. You hear a bunch of bang, bang, bang, and think it is really hot. But it wasn't.

Mr. DICKINSON. Well, other than this one fellow that shot himself in the foot, was there anybody else wounded or injured that day that you saw?

Mr. HAEBERLE. Not that I know of; no.

Mr. DICKINSON. So no other casualties among American troops?

Mr. HAEBERLE. That is the only American casualty I believe that I witnessed, is that person who was shot in the foot.

Mr. DICKINSON. Did you have any knowledge of any other medical evacuation or evacuations?

Mr. HAEBERLE. No other knowledge; no.

Mr. DICKINSON. Is it your impression now that there was no enemy fire?

Mr. HAEBERLE. That's my impression; yes.

Mr. DICKINSON. And would this be true also of the second village?

Mr. HAEBERLE. There was no enemy fire in the second village when I was there.

Mr. DICKINSON. While you were there. Did you see any casualties or anyone being evacuated, that you know of?

Mr. HAEBERLE. No; I did not. Not that I can recall.

Mr. GUBSER. Where did you exit My Lai 4?

Mr. HAEBERLE. I believe I exited right in this area, some place in here.

Mr. GUBSER. Then where was the next village?

Mr. HAEBERLE. I know we flew out this way, but where we went from there, I couldn't say, to be honest with you.

Mr. GUBSER. Did you see any bodies or any firing in the area which is immediately to the east of the village?

Mr. HAEBERLE. You are talking about this ditch in here, right?

Mr. GUBSER. Yes.

Mr. HAEBERLE. No; I didn't. I didn't really recall anything in that area, looking down.

Mr. DICKINSON. I have a couple of questions.

Mr. GUBSER. I want to get a couple in, too.

Mr. DICKINSON. You came in the second chopper that morning, is that right?

Mr. HAEBERLE. Second lift.

Mr. DICKINSON. Second lift?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. How long after the first one? Ten minutes?

Mr. HAEBERLE. I believe what I have heard the first one landed 7:22, and I came in 7:47.

Mr. DICKINSON. Do you know where the LZ is?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. You didn't see any artillery?

Mr. HAEBERLE. No; I didn't see any artillery.

Mr. DICKINSON. But you are sure that the bodies that you've talked about, either those that you saw shot, or the bodies you saw south of the village, were nowhere near the LZ, or where the artillery was supposed to be?

Mr. HAEBERLE. These bodies here were nowhere near the LZ. The LZ was over in here.

Mr. DICKINSON. And was there any sign that artillery had impacted or exploded in this area where the bodies were? Or could you tell?

Mr. HAEBERLE. I really couldn't tell.

Mr. DICKINSON. No way of telling?

Mr. HAEBERLE. To be honest, no.

Mr. DICKINSON. But you saw no—after you got there, there were no artillery rounds coming in, is that right?

Mr. HAEBERLE. I hope not; no.

Mr. DICKINSON. Well, never mind what you hope. I am asking you what your recollection is.

Mr. HAEBERLE. No; there were no artillery rounds I know of when I was there.

Mr. DICKINSON. And you don't know—well, evidently, the bodies that you saw, you never had seen that area earlier when there were no bodies there, had you? I am trying to find out if they could have been killed by artillery before you got there.

Mr. HAEBERLE. No, I have no recollection of artillery when I arrived there, nor did I see any dead bodies there before when we were getting off. I didn't see anything.

Mr. DICKINSON. All right. That is all.

Mr. GUBSER. Mr. Haerberle, I am struck with the minute detail with which you were able to describe your experiences from the time you landed, through what you gave to us. Obviously, it made a very distinct impression upon your mind, is that correct?

Mr. HAEBERLE. Because I have my personal color slides.

Mr. GUBSER. Yes. But I mean, the whole affair made a very distinct impression on your mind?

Mr. HAEBERLE. Some of it, yes.

Mr. GUBSER. Otherwise, you couldn't remember it in such detail. You even are able to recall it in such detail that you are able now, from your memory, to separate the two villages, and know which one was which?

Mr. HAEBERLE. Yes. Well, I gathered this—go ahead.

Mr. GUBSER. Why is it that you couldn't remember more than a year afterward that this was My Lai 4?

Mr. HAEBERLE. I don't know why. I just couldn't remember. But the way I did was by in August, talking about it. I didn't know, I didn't, in my statement, I didn't know it was My Lai 4, I did not know the name of the operation. But now I do, from information gathered, until finally I'm here. But the facts are what happened, all this relates to these color photographs which I remember in detail, and it is hard to forget the damned things.

Mr. GUBSER. But you recall every move you made, the number of shots fired, the look on peoples faces, bones flying through the air, the exact intersections where you found an exact number of bodies?

Mr. HAEBERLE. I don't remember—

Mr. GUBSER. You knew exactly which village was which, and which pictures were taken in which village, and you were able to separate those to the point where you didn't even give them to CID. How come you couldn't remember and didn't remember until this hit the newspapers that you had seen an incident?

Mr. HAEBERLE. Repeat that again please?

Mr. GUBSER. You could remember in such detail?

Mr. HAEBERLE. Yes.

Mr. GUBSER. As to the looks on people's faces, the fact that when hit there would be bones from a head flying through the air. You remember how many bodies were at each specific intersection. Where they were and what path you followed, and you remembered with such clarity that you were able to separate the pictures which you took at My Lai 4

and which you took in the other village. And you were able to separate them so conclusively in your own mind that you didn't offer those other pictures to CID?

Mr. HAEBERLE. No.

Mr. GUBSER. Now, when you do all of this, with such detail, how can you tell me you didn't remember that this was My Lai 4?

Mr. HAEBERLE. Because I really didn't. The CID was the one that informed me. The newspapers weren't involved then back in August.

Mr. GUBSER. But this was an incident that you just passed off, like it happened every day and you forgot about it, is that right?

Mr. HAEBERLE. I didn't really forget about it, no. But I forgot names.

Mr. GUBSER. Did it ever occur to you that civilians were being actually wantonly shot according to the way you have described it?

Mr. HAEBERLE. I wouldn't say too much, because of what I have heard when I landed in that village, because who would be left there would be Viet Cong sympathizers, and throughout the lectures I would say these people were considered Viet Cong sympathizers, but we couldn't get the feeling of the children.

Mr. GUBSER. Did it ever enter your head that this was in fact or could possibly be a war crime?

Mr. HAEBERLE. No, not that I can recall.

Mr. GUBSER. Did you know what a war crime was?

Mr. HAEBERLE. Not specifically, no.

Mr. GUBSER. Did you know what the rules of engagement were insofar as civilians were concerned?

Mr. HAEBERLE. No, not really, because this was the first operation I have ever been on where something like this—

Mr. GUBSER. You never had any training to that effect?

Mr. HAEBERLE. I never had that much training to begin with. I was always shooting the photographs of different things going on in the brigade.

Mr. GUBSER. Insuring your future fortune?

Mr. HAEBERLE. There were no plans of future fortune in this.

Mr. GUBSER. Tell me this. How many slides do you estimate you have of your experience in the service, color slides, from Hawaii, through your tour in Vietnam?

Mr. HAEBERLE. That would be—I would say about one reel—I can't recall quite what they hold.

Mr. GUBSER. A hundred. The circular reels?

Mr. HAEBERLE. The circular slide projector. It would be about a hundred. Those weren't full at all times, either. I would have to guess, rough estimate, maybe about a hundred or less.

Mr. GUBSER. About a hundred?

Mr. HAEBERLE. Or less.

Mr. GUBSER. In other words, roughly about five rolls of film?

Mr. HAEBERLE. Yes.

Mr. GUBSER. Six, counting spoilage?

Mr. HAEBERLE. Well, there is more. I edit these, what I want to show, too. I have other photographs not in these reels that I didn't show.

Mr. GUBSER. What is your usual percentage of rejects?

Mr. HAEBERLE. There is really no percentage of rejects. Depends what I like and what I don't like.

Mr. GUBSER. What I am trying to get at, how many rolls of film would you estimate you shot, color film, during this period of time?

Mr. HAEBERLE. Starting at Hawaii?

Mr. GUBSER. Yes.

Mr. HAEBERLE. I would have to say maybe about 20 rolls.

Mr. GUBSER. And of that you have about a hundred slides left, right? Not counting these 17?

Mr. HAEBERLE. I have more than that but they are not in the reels. They are in boxes which I don't want to use. So it would have to be close to probably about maybe 200.

Mr. GUBSER. How many rolls of film did you take with you from Hawaii? Color film?

Mr. HAEBERLE. Gosh, I'm not really sure how many I've taken. I remember a last minute buy down in Hawaii some place. At the PX. I'm not sure.

Mr. GUBSER. When did you arrive in Vietnam again?

Mr. HAEBERLE. I would say it was the latter part of December sometime.

Mr. GUBSER. And then when did you go to Hong Kong?

Mr. HAEBERLE. I went to Hong Kong just, it was before this operation. I'm almost positive.

Mr. GUBSER. You bought film in Hong Kong?

Mr. HAEBERLE. I can't say for sure. I believe I did, because I bought quite a bit of camera equipment in Hong Kong. And I shot some photographs in Hong Kong.

Mr. GUBSER. You are not sure whether you bought film in Hong Kong or not?

Mr. HAEBERLE. I can't say for sure, no, to be honest.

Mr. GUBSER. If you shot your personal film on this operation, then it probably was film that you brought with you from Hawaii?

Mr. HAEBERLE. It could be, yes.

Mr. GUBSER. Well, what else could it be?

Mr. HAEBERLE. It would either be from Hong Kong or Hawaii.

Mr. GUBSER. You had no color film or PX facilities that you could buy in-country?

Mr. HAEBERLE. There was a PX there; it was just started, I am not sure whether they had Ektachrome or not.

Mr. GUBSER. Well, in other words, your statement is, though, that it had to be film that you brought with you from Hawaii—or film you bought in Hong Kong and you don't remember buying film in Hong Kong?

Mr. HAEBERLE. I could have, but I am trying to be honest. It is hard to recollect.

Mr. GUBSER. Where did you buy your camera equipment in Hong Kong?

Mr. HAEBERLE. Woods Photo Supply, 60 Nathan Road, in Hong Kong. Coloane, Hong Kong.

Mr. GUBSER. They are the contractor for the China Fleet Store, aren't they?

Mr. HAEBERLE. I believe—I thought China—there is a bigger one.

Mr. GUBSER. You didn't go over to the China Fleet Store?

Mr. HAEBERLE. I went to the China Fleet Store because I mailed it to Vietnam to the friends that I bought this for. I mailed it back. Brought some back myself.

Mr. GUBSER. What?

Mr. HAEBERLE. Camera equipment.

Mr. GUBSER. You don't remember buying any film?

Mr. HAEBERLE. To be honest, I can't really say no, and I can't say yes.

Mr. GUBSER. You stored your film that you brought with you from Hawaii in a cool place in your hootch?

Mr. HAEBERLE. Yes.

Mr. GUBSER. Why didn't you put it in the refrigerator, with the GI film?

Mr. HAEBERLE. Because it takes warmup time for film. I might be called on a mission, I can grab my film and go. I had silica jel enclosed in it, because once what happened, say there was a mission, I go in the refrigerator and grab some film, put it in my camera, moisture would be all over the film, it would be ruined.

Mr. GUBSER. What did you do with your GI film?

Mr. HAEBERLE. We kept certain rolls outside of the refrigerator, I believe just for us.

Mr. GUBSER. Could you have done the same thing with your color film? There was room in the refrigerator or wasn't there?

Mr. HAEBERLE. There might have been.

Mr. GUBSER. Some place I seem to recall in your testimony that you said that when you went into this My Lai operation you only had two rolls of film, of your own film left, is that correct?

Mr. HAEBERLE. That could be about it. I was running short on film. I was due to leave Vietnam. My last photographs, probably I think about the end of the color film, was going up toward Chu Lai.

Mr. GUBSER. And you still don't recall whether that film you used on this operation you purchased in Hong Kong or Hawaii?

Mr. HAEBERLE. But I know it was my own personal film, because I stored it down at the hootch. And the film, I recollect, in the icebox, it would be kind of hard for me to use in my camera, the color film they had.

Mr. GUBSER. What was it?

Mr. HAEBERLE. I believe it was Ektachrome, but it was in bulk, 100 feet in length.

Mr. GUBSER. In other words, there was Government issue color film in the icebox?

Mr. HAEBERLE. That film, we either bought from Hawaii or else it was Government issue. I am not sure. We brought a bunch of things from Hawaii Camera just before we left. And this was sealed.

Mr. GUBSER. Didn't you make the statement a couple of days ago, before us that you didn't—there was no Government issue of color film because you didn't have any processing facilities?

Mr. HAEBERLE. I said we didn't use color film because there were no processing facilities.

Mr. GUBSER. What was that 100 feet of Ektachrome doing in there then?

Mr. HAEBERLE. It was just sitting there, that's all.

Mr. GUBSER. It was never used?

Mr. HAEBERLE. If it was used it would have to be brought up to room temperature; it would have to be used in a certain amount of time, because it didn't have that protective seal around it.

Mr. GUBSER. Do you own any of your own cassettes?

Mr. HAEBERLE. I do own some of my own cassettes, but they weren't with me in Vietnam.

Mr. GUBSER. In other words, you didn't ever load any cassettes in Vietnam?

Mr. HAEBERLE. No; not that I can recall.

Mr. GUBSER. It was all stock film, right out of the factory container, right?

Mr. HAEBERLE. I believe so, yes.

Mr. GUBSER. You believe so or you know so?

Mr. HAEBERLE. Well, the black and white film, I remember, was that way. I remember the 200-foot bulk rolls of color film. Best I can recollect on the color film, that I know specifically.

Mr. GUBSER. I have no more questions.

Mr. REDDAN. I have some more. Do you want to break for lunch now?

Mr. GUBSER. Let's break for lunch.

We will stand adjourned until 2 o'clock then.

[Whereupon, at 12:15 p.m., the subcommittee was recessed.]

[Whereupon, at 3:20 p.m., further proceedings were had as follows:]

Mr. DICKINSON. Mr. Haerberle, this is a continuation of your previous testimony, and you of course understand you are still continuing under oath.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. I only have a couple of short questions, and I think Mr. Reddan has some questions about the identification.

This morning during your testimony you testified to seeing some civilians shot, and some firing by GI's, some children killed, some grown people. What group were you with then, do you know?

Mr. HAEBERLE. I believe it to be through talking, you know, CID and everyone else, I was with the 3d Platoon.

Mr. DICKINSON. Well, now, 3d Platoon of what?

Mr. HAEBERLE. Charlie Company.

Mr. DICKINSON. Of Charlie Company. But you have no independent recollection that would tie it to any particular platoon or any particular company?

Mr. HAEBERLE. The recollection—we found out, we went out, the 3d Platoon went out toward the road, while the other two, I believe, went into the village. That is how I tied myself with the 3d Platoon.

Mr. DICKINSON. Is this something that you recall or is this something you have been told since the investigation?

Mr. HAEBERLE. It has come up since the investigation started. At first I didn't know what platoon I was with.

Mr. DICKINSON. You didn't know which platoon?

Mr. HAEBERLE. Right.

Mr. DICKINSON. Didn't know any of the individuals in the platoon?

Mr. HAEBERLE. No, I did not.

Mr. DICKINSON. And the only way that you are able to fix the identity of the platoon in which the members were doing the shooting you described this morning was something that you have learned since you have been a civilian, since you have been out of the military?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. And by being briefed more or less through your interrogation by the CID and others in connection with the investigation?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. Would that be substantially correct?

Mr. HAEBERLE. That is right.

Mr. DICKINSON. You have no independent knowledge or recollection that would tie this 3d Platoon of Charlie Company to the shooting, any more than any other platoon, except just what you described?

Mr. HAEBERLE. Just what I described, yes.

Mr. DICKINSON. All right, Mr. Reddan.

Mr. REDDAN. I would like to go back to these documents that we were trying to identify this morning, Mr. Haeberle.

Mr. HAEBERLE. Yes.

Mr. REDDAN. And this one, Toronto Telegram News Service, shows a commission of \$700.

Mr. HAEBERLE. Yes.

Mr. REDDAN. That was a \$700 commission paid to you?

Mr. HAEBERLE. I received what was on that, the total amount. That is all I received.

Mr. REDDAN. But it says "commission, \$700." And that is what you received?

Mr. HAEBERLE. That is what I received, correct.

Mr. REDDAN. Do you know what name is on the bottom of that document?

Mr. HAEBERLE. No, sir, I don't.

Mr. REDDAN. It is undated. Can you tell us when you received this?

Mr. HAEBERLE. That would be in my tax record there. Look over on that. Would it be 1969 or 1970?

Mr. REDDAN. Well, this is in the folder for your 1969 tax records. Could you tell us by the month when you received this?

Mr. HAEBERLE. No; I am sorry, I can't. If it was 1969, it would have to be, say, in December.

Mr. REDDAN. Your best recollection is that this would be in December?

Mr. HAEBERLE. If it is 1969, it would be December, yes.

Mr. REDDAN. I asked you this question this morning. What is this CTV, \$500?

Mr. HAEBERLE. I have no idea what that is. I have no idea.

Mr. REDDAN. This looks as though the Toronto Telegram paid out \$1,000, and you got \$700 of the \$1,000. That is the way it looks to me. Is that right?

Mr. HAEBERLE. I don't know.

Mr. REDDAN. Where did you get this?

Mr. HAEBERLE. This came to me in the mail.

Mr. REDDAN. From whom?

Mr. HAEBERLE. With the check. I believe—I am not sure whether it came directly from them or directly from Life magazine.

Mr. REDDAN. Who would know what this meant, other than the Toronto Telegram News Service?

Mr. HAEBERLE. Life might know what it means.

Mr. DICKINSON. Just as a thought, could CTV be Canadian television?

Mr. HAEBERLE. It could be.

Mr. DICKINSON. Would it be likely to be Canadian television?

Mr. HAEBERLE. It could be. That is—but I am not sure.

Mr. REDDAN. Do you know whether or not your pictures did appear on Canadian television?

Mr. HAEERLE. No; I don't know.

Mr. REDDAN. Did you appear before any Canadian television cameras?

Mr. HAEERLE. No; I did not.

Mr. REDDAN. Now, there are two other undated documents, apparently one Time, Inc., invoice.

Mr. HAEERLE. Yes.

Mr. REDDAN. One is an invoice No. 595607, \$15,000. And the description is "per contract, dated 11-69, with live Vietnamese massacre pix."

Mr. HAEERLE. Yes. That was on the 1099 form that was handed to you this morning. That was just a voucher. You have the tax form. It had that \$2,250 into that \$17,250. You have those.

Mr. REDDAN. Fine. Well, this you received from Time-Life?

Mr. HAEERLE. Correct.

Mr. REDDAN. In November or December of 1969?

Mr. HAEERLE. I believe it would be December.

Mr. REDDAN. And it was accompanied by a check for \$15,000?

Mr. HAEERLE. That is correct.

Mr. REDDAN. And another statement from Time, Inc., No. 593083, in the amount of \$2,250?

Mr. HAEERLE. Yes.

Mr. REDDAN. "Guaranteed for option on world rights to Vietnamese massacre pix and text." Did you receive a check for \$2,250?

Mr. HAEERLE. Yes; I did.

Mr. REDDAN. Now, the information return for 1969, which Time, Inc., filed shows a payment to you of \$17,500. These two documents here, \$15,000 and \$2,250, come to \$17,250.

Mr. HAEERLE. We are missing \$250, correct?

Mr. REDDAN. Yes; we are missing \$250.

Mr. HAEERLE. I think that could be some spending money that they gave me while I was there. It wouldn't be for a sale, just spending money. I think they did give me some money while I was there.

Mr. REDDAN. Well, they charge it to income. Now, are you saying it was reimbursement of expenses?

Mr. HAEERLE. I think it was just money given to me while I was there at the time, if I can remember right. I was short on funds.

Mr. REDDAN. Do you have any receipt for cash disbursement?

Mr. HAEERLE. No; I don't.

Mr. REDDAN. Did you give them any receipt for it?

Mr. HAEERLE. I don't believe I did, for that.

Mr. REDDAN. On this form 1099, this information return, there is a written figure on there of \$11,009.66. Could you tell us what that is?

Mr. HAEERLE. I have no idea what that is.

Mr. REDDAN. You did not put that on there?

Mr. HAEERLE. No; I didn't.

Mr. REDDAN. Could this have been put on there by your tax accountant?

Mr. HAEERLE. Somebody could have scribbled something down sometime on there.

Mr. REDDAN. Is this the document that you received from the tax accountant in the mail today? This was delivered to the committee today. Is this what the tax accountant sent in?

Mr. HAEERLE. Yes.

Mr. REDDAN. But you don't know what that figure means?

Mr. HAEERLE. No; I am sorry, I don't.

Mr. REDDAN. Now, the voucher that I read you, 593083, which refers to a guarantee for option on world rights, does Life magazine or Time, Inc., have an option for additional use of your pictures, and the text which accompanied them?

Mr. HAEERLE. No; they cannot do anything without my permission. That is when we first went up there, it was just like, just for coming up to talk to them, they gave us that money there.

Mr. REDDAN. The \$2,250 was the first payment you received at that time?

Mr. HAEERLE. There was no sale. That was just given to us for coming up to New York. We didn't have to sell.

Mr. REDDAN. Well, it gave them an option. You couldn't sell to anybody else.

Mr. HAEERLE. Right; OK. We couldn't sell to anyone else, yet that was not considered for the sale.

Mr. REDDAN. No; this was their option, and this tied you up. You couldn't sell them to anybody else.

Mr. HAEERLE. For the period; yes.

Mr. REDDAN. That is right. What was the period of the option?

Mr. HAEERLE. I would say it wasn't more than a day; 2 days.

Mr. REDDAN. Now, this has a written legend on there, printed, not a sale.

Mr. HAEERLE. I put that on there.

Mr. REDDAN. When did you put that on?

Mr. HAEERLE. When I was home, going through my records and that, trying to figure out what was a sale, what wasn't a sale, I just jotted that on there.

Mr. REDDAN. The word "option" is circled.

Mr. HAEERLE. I circled that.

Mr. REDDAN. When did you do that?

Mr. HAEERLE. Same time.

Mr. REDDAN. Now, the typed statement which you say was typed over the weekend, listing—wasn't this typed over the weekend, when you were home?

Mr. HAEERLE. No; it was not.

Mr. REDDAN. When was that typed?

Mr. HAEERLE. That would be Monday morning. Monday morning.

Mr. REDDAN. Monday morning; here in Washington?

Mr. HAEERLE. Yes.

Mr. REDDAN. It shows \$799 from International Magazine Service, Sweden.

Mr. HAEERLE. Yes.

Mr. REDDAN. Now, that is the one that we identified this morning?

Mr. HAEERLE. I believe so; yes.

Mr. REDDAN. Now, there is also one from the London Sunday Times for \$5,400.

Mr. HAEERLE. Yes.

There is no—I don't believe I ever had a voucher. I am not sure I had a receipt on that. I couldn't find it.

Mr. REDDAN. From whom did you receive that payment?

Mr. HAEERLE. That would be from that newspaper that is listed there.

Mr. REDDAN. Did it come through Life magazine?

Mr. HAEERLE. I am not sure whether it was sent to me directly. They had my address.

Mr. REDDAN. Was it a check?

Mr. HAEERLE. Yes, it was a check.

Mr. REDDAN. Was there a covering letter?

Mr. HAEERLE. I can't recall, I am sorry. I think there might have been a receipt, but I don't have it.

Mr. REDDAN. Are you sure you don't have it?

Mr. HAEERLE. I am positive. I looked all over for it, just in case I did have one.

Mr. REDDAN. Now, you have under the sale of photographs, following that you have another one here, heading called "other," and under that you have the Time purchase option for \$2,250 which we have just covered.

Mr. HAEERLE. Yes.

Mr. REDDAN. Then you have the Cleveland Plain Dealer, honorarium of \$500.

Mr. HAEERLE. Yes.

Mr. REDDAN. Do you have any receipt for that?

Mr. HAEERLE. No.

Mr. REDDAN. Any voucher?

Mr. HAEERLE. Just a check on that.

Mr. REDDAN. Did they give you any letter or did you have any contract?

Mr. HAEERLE. No. There was no contract, no letter.

Mr. REDDAN. Then there is \$100 you have here from RIA Television, Italy, personal appearance.

Mr. HAEERLE. Right.

Mr. REDDAN. Who made that arrangement for you?

Mr. HAEERLE. RIA made Nona McDonald.

Mr. REDDAN. Who is Nona McDonald?

Mr. HAEERLE. She is more or less concerned with VIP-type personnel, for promotion.

Mr. REDDAN. Does she have an agency?

Mr. HAEERLE. She is right in the Time-Life Building.

Mr. REDDAN. Is she part of the Time-Life staff?

Mr. HAEERLE. I believe so.

Mr. REDDAN. Was this done with the approval of Time-Life?

Mr. HAEERLE. Yes, it was, I believe. It would have to be coming from the same office, inner workings.

Mr. REDDAN. What did your television appearance consist of?

Mr. HAEERLE. Well, it was just more or less a little talk on what had happened. I was quizzed by a TV man, and they filmed this. It was very short.

Mr. REDDAN. Do you have a copy of the transcript?

Mr. HAEERLE. No; I don't.

Mr. REDDAN. Do you know whether Time-Life has one?

Mr. HAEERLE. I don't believe so.

Mr. REDDAN. Why don't you think they have?

Mr. HAEERLE. The transcript of me talking?

Mr. REDDAN. Yes; that is right.

Mr. HAEBERLE. I don't think they have. That is my own opinion.

Mr. REDDAN. Now, this is all of the income—what you have listed here on this typewritten sheet that you have submitted is all of the income that you received in 1969 which relates either directly or indirectly to your My Lai photographs, or any appearances or any writings, anything of that sort; is that correct?

Mr. HAEBERLE. That is correct to the best of my knowledge.

Mr. REDDAN. Do you have any options, other than the one with Time, which might bring you future income in connection with this?

Mr. HAEBERLE. No.

Mr. REDDAN. That you executed during 1969?

Mr. HAEBERLE. Time, Inc., would be the only people.

Mr. REDDAN. Now, in 1970 you list income in 1970 related to My Lai photographs, Stern magazine, Germany, \$6,300.

Mr. HAEBERLE. Correct. And that is—I had to fill out an income tax form which had been sent to me probably at the end of the year for filing before I could receive a check.

Mr. REDDAN. Now, you have submitted a letter on the letterhead of Stern magazine, dated January 15, 1970, addressed to you, and that reads, "Dear Mr. Haerberle, thank you very much for returning to me the application for certificate of tax exemption form properly completed."

What application for certificate of tax exemption?

Mr. HAEBERLE. If I understand it correctly, I would have been charged tax by Germany for this if I hadn't completed this statement. And it is for filing for the income tax, United States.

Mr. REDDAN. The next paragraph reads, "I am enclosing herewith a check for \$6,300 in payment of the"—and then the next two words are crossed out—"massacre photos as per our written agreement of November 21, 1969."

Do you know what words are crossed out there?

Mr. HAEBERLE. No.

Mr. REDDAN. Did you cross those out?

Mr. HAEBERLE. No.

Mr. REDDAN. They were crossed out when they came to you?

Mr. HAEBERLE. Right.

Mr. REDDAN. The next paragraph, "I am sending you by separate mail one copy of Stern of November 30, 1969, in which your story appeared. Kindest regards, I am sincerely yours," signed Nick Hauser.

Mr. HAEBERLE. Right.

Mr. REDDAN. Do you have that copy of Stern?

Mr. HAEBERLE. Yes, I do.

Mr. REDDAN. Did you receive any other payments from Stern magazine?

Mr. HAEBERLE. No, I did not.

Mr. REDDAN. Now, you have one here for \$750 for Vokkskas, Ltd., Durban, \$750.

Will you tell us about that, please?

Mr. HAEBERLE. Durban, is that South Africa, might I ask?

Mr. REDDAN. That is all it says here.

Mr. HAEBERLE. What does it say on there?

Mr. REDDAN. Now, here is a duplicate document from the Morgan Guaranty Trust Co., dated 2-11-70, apparently a document which

accompanies money transfers. It is addressed to you, in care of Richard O. Pollard, Life Magazine, Time-Life Building, Rockefeller Center, New York, N.Y., by order of Vokkskas, Ltd., Durban, Republic of South Africa.

Mr. HAEPPERLE. OK.

Mr. REDDAN. And so forth. And on the right it says L/O Republican Publications, PUT, Ltd., Durban, and so forth.

Mr. HAEPPERLE. Yes.

Mr. REDDAN. Now, can you tell us what this is?

Mr. HAEPPERLE. That would either be a newspaper sales or a magazine. More or less be a magazine sale.

Mr. REDDAN. Did you get a copy of that publication?

Mr. HAEPPERLE. No; I did not.

Mr. REDDAN. This again is something which was arranged for you by Life magazine?

Mr. HAEPPERLE. That would be it.

Mr. REDDAN. Did they get any commission, do you know, for arranging this?

Mr. HAEPPERLE. I don't believe so.

Mr. REDDAN. Was the \$750 the full amount paid by the Durban Co.?

Mr. HAEPPERLE. Full amount.

Mr. REDDAN. Now, you have another statement from Time, Inc., a Time, Inc. statement, for \$200,000.

This is a statement No. 610463?

Mr. HAEPPERLE. Yes.

Mr. REDDAN. It's for reuse, Life?

Mr. HAEPPERLE. International.

Mr. REDDAN. 1-19-70, My Lai massacre.

Mr. HAEPPERLE. Yes.

Mr. REDDAN. What was that?

Mr. HAEPPERLE. That's for international release by Life.

Mr. REDDAN. What use was made of that, do you know?

Mr. HAEPPERLE. I have no idea what use was made of that. It was in their international edition, which is a small edition.

Mr. REDDAN. This was carried in their international edition?

Mr. HAEPPERLE. I believe so.

Mr. REDDAN. Did you ever receive a copy of that?

Mr. HAEPPERLE. No; I did not.

Mr. REDDAN. And this was the full amount?

Mr. HAEPPERLE. Full amount, which you will read in the contract when I send it to you.

Mr. REDDAN. Was this reissue based on the option that Life had? I mean, the contract which they entered into with you?

Mr. HAEPPERLE. The option? No.

Mr. REDDAN. Not the option, the contract. But this is reuse based on the contract?

Mr. HAEPPERLE. I believe so, yes.

Mr. REDDAN. And you have another statement here from Time, Inc., No. 641813, \$300.

What is that for?

Mr. HAEPPERLE. That was for use, I believe, in the Time Life year-book that comes out once a year, hard bound edition.

Mr. REDDAN. What's that?

Mr. HAEERLE. The Time Life yearbook that comes out, hard bound edition.

Mr. REDDAN. Well, this has written on the bottom again, not a sale. What is that?

Mr. HAEERLE. I just received the check in the mail saying they were going to use it in their hard bound edition. I didn't say you want to buy something for your hard bound edition or anything like that.

Mr. REDDAN. I don't quite follow you. What do you mean? Did you put that on the bottom, not a sale?

Mr. HAEERLE. Right.

Mr. REDDAN. What did you mean by that?

Mr. HAEERLE. That I did not make any correspondence with Life magazine for use in their 1969 yearbook. They just sent that through the mail, said we would like to use your photographs; here's a check. There was no checking with me beforehand.

Mr. REDDAN. Were they required to pay you under their contract with you for their use of your material?

Mr. HAEERLE. I don't believe so.

Mr. REDDAN. You mean this was a gratuity?

Mr. HAEERLE. More or less. I don't believe there was anything in the contract saying they would have to—

Mr. REDDAN. I never knew Time-Life went around just handing out gratuities unless they had some obligation to do so. Now, did you receive this under your contract?

Mr. HAEERLE. I don't believe so. I cannot say for sure, until we get the contract and interpret it from the contract.

Mr. REDDAN. Did a letter accompany this?

Mr. HAEERLE. No; there was no letter. Just an attached sheet that said, for yearbook, I believe.

Mr. REDDAN. Do you have the sheet which accompanied this?

Mr. HAEERLE. I will have to check. I believe I do.

Mr. REDDAN. Now, you have another item on your typewritten statement for your income of 1970, which says a publication in Melbourne, Australia, \$1,000?

Mr. HAEERLE. Correct.

Mr. REDDAN. What publication was that?

Mr. HAEERLE. I don't know. I just received the check on that.

Mr. REDDAN. Did you know you were going to receive this check?

Mr. HAEERLE. Yes.

Mr. REDDAN. Who told you that?

Mr. HAEERLE. Life magazine.

Mr. REDDAN. This was another sale arrangement by Life magazine?

Mr. HAEERLE. Yes.

Mr. REDDAN. And you don't recall what publication in Melbourne?

Mr. HAEERLE. I don't recall, I'm sorry.

Mr. REDDAN. Was it a newspaper?

Mr. HAEERLE. That I cannot say for sure.

Mr. REDDAN. Did this check that you received—was there a covering letter or any invoice?

Mr. HAEERLE. No; I don't believe there was. Not that I know of. Just a check.

Mr. REDDAN. Was it a check of the Melbourne Co., or was it a Life check?

Mr. HAEBERLE. It was not a Life check. What bank it was, it could have come through one of the New York banks. I don't quite remember. But it was not a Life check.

Mr. REDDAN. Was it a check drawn on an Australian bank?

Mr. HAEBERLE. I don't think so.

Mr. REDDAN. In any event, you got it from—do you know who in Life sent it to you?

Mr. HAEBERLE. It would come—I don't know who sent it to me. It would come from that office, up in that area.

Mr. REDDAN. What office was that?

Mr. HAEBERLE. Dick Pollard's office, around that area.

Mr. REDDAN. All right.

Now, we have made copies of these documents that you have delivered here, and that we have just been reading to you.

So, let the record show that I'm now returning to you all of these documents, including your information return for 1969, which you received from Time, Inc.

Mr. HAEBERLE. All right, fine.

Mr. DICKINSON. Give them to Mr. Haeberle to look at and see if they are complete, please.

Mr. LALLY. Yes.

Will you examine them?

Mr. REDDAN. I have now returned to you all of the documents you furnished the committee.

Mr. HAEBERLE. Yes.

Mr. REDDAN. In front of you, Mr. Haeberle, is another three-ring binder which contains a number of black and white photographs.

I would like you to examine that.

Have you examined those photographs?

Mr. HAEBERLE. I've seen—not in this book, but I've seen black and white photographs.

Mr. REDDAN. If you will take a look at those, please.

Mr. DICKINSON. Well now, you were asked this morning, and we want to refresh your recollection. Look through there. You were asked if there were any black and white pictures that you took that are not contained in this book.

Now, would you look at them now, and see what the answer to that question is?

Mr. HAEBERLE. These photographs, the black and white, as I recollect, back in—I don't believe I've ever seen these until we started this investigation, back working with—I believe it was CID and General Peers, back in my office, back in Vietnam. I didn't process these. To the best of my recollection. But these photographs—

Mr. DICKINSON. Did you take them?

Mr. HAEBERLE. Yes.

Mr. DICKINSON. All right.

Mr. HAEBERLE. Yes.

Mr. DICKINSON. If I understand you correctly, these are the photographs you took on the mission, going to My Lai; but when you returned from the mission, you never processed them, never saw them printed, until you got discharged, or were back in this country as a civilian and CID contacted you and showed you the photographs.

Mr. HAEBERLE. The start of the CID. It was not the first interview. I think it came later on we started putting these things together; or it was with General Peers who had all the black and whites, supposedly all the black and whites.

Mr. DICKINSON. Getting back to the question now, in your opinion, is that all of the black and whites that you took?

Mr. HAEBERLE. I really don't know, but if this is all—I have a feeling, it's my own feeling, that these are not all the black and whites. It's my own feeling.

Mr. REDDAN. How many pictures are there?

There are two pages with contact prints on them?

Mr. HAEBERLE. Yes.

Mr. REDDAN. Could you tell us whether or not there are any contact prints of which we do not have blowups, or conversely, are there any blowups for which we do not have contact prints?

Mr. HAEBERLE. I think, really, if I'm not mistaken, I think there should be another set of contacts.

Here we are. This would have to be the end of one roll. Some of this here is not My Lai—No. 4. It's of the other village.

Mr. REDDAN. What are you referring to, contact prints?

Mr. HAEBERLE. Yes. Some of the blowups, too.

Mr. REDDAN. All right.

Would you identify the contact print by number, that you say is not part of My Lai—No. 4?

Mr. HAEBERLE. OK.

Mr. REDDAN. Just put it into the record.

Mr. HAEBERLE. For the record, it would be 21, 22, 23. There are no numbers on these frames here.

Mr. REDDAN. Describe them.

Mr. HAEBERLE. Describe the first one?

Mr. REDDAN. After the numbers.

Mr. DICKINSON. You identified them by number. Those you cannot identify by number.

Mr. HAEBERLE. That is what I'm going to do.

All right. The first contact is showing a GI, another GI, looks like they are doing—one is holding a strong bar or something, and the one below it, just about the same thing.

The next one would show Captain Michles, I believe, one of the interpreters, looking over some papers.

And the last one would show a GI standing around some Vietnamese.

Mr. DICKINSON. They are in jeans?

Mr. HAEBERLE. That's the jeans; yes.

Mr. REDDAN. Where were they taken?

Mr. HAEBERLE. They were taken at the other area which we flew off to, wherever Captain Michles was located.

Mr. REDDAN. The balance of them were taken at My Lai 4?

Mr. HAEBERLE. On this; yes.

The second contact sheet, this was taken at My Lai 4, the second contact sheet.

Mr. REDDAN. Now, are the blow ups all taken from those contact prints?

Mr. HAEBERLE. I believe so.

Let me check. Handgrenade being thrown——

Mr. DICKINSON. Incidentally, the handgrenade seems to be thrown toward the camera.

Mr. HAEBERLE. It sure was.

Mr. DICKINSON. Well, where was the handgrenade being thrown?

Mr. HAEBERLE. The handgrenade was being thrown into a hole, which looked to be like a fortified bunker area, and he didn't quite make it to the hole with the handgrenade.

Mr. DICKINSON. Did he make it to the photographer?

Mr. HAEBERLE. He came close. I just made it out of there in time. I believe most of them to be here, as far as just turning the pages.

Let me check on this other contact sheet.

Troops in field. Helicopter arriving. There was one I remember. I believe it was General Peers' committee. There was one in his book that wasn't printed yet, so I'm trying to find out if it's in this one.

Mr. REDDAN. You mean you have a contact print that had not been blown up yet, is that what you mean?

Mr. HAEBERLE. That's right. I believe most of these are here.

Mr. REDDAN. What is your best recollection as to the number of black and white photographs that you took at My Lai 4 that day?

Mr. HAEBERLE. I cannot do it by number of photographs. I can probably do it best by saying two to three rolls of film. Black and white.

Mr. REDDAN. Would have been how many pictures?

Mr. HAEBERLE. Well, these show to be 36, but it says here missing. Could be the finish of another roll of film, something prior before that, before My Lai. Thirty-six; three rolls. Be about 108.

Mr. REDDAN. How many pictures do we have here?

Mr. HAEBERLE. About 39.

Mr. REDDAN. Is it your testimony that you took approximately 108 that day, on black and white film, at My Lai 4?

Mr. HAEBERLE. It's my testimony, I prefer to use it in rolls. The way I can recall it, I have used about two or three rolls, because I remember one time changing in the field, trying to change a camera, change the film.

Mr. REDDAN. Now, did you use more than one Army camera?

Mr. HAEBERLE. Yes; I had two Army cameras.

Mr. REDDAN. Did you have them both loaded when you went out?

Mr. HAEBERLE. Yes; they were both loaded.

Mr. REDDAN. How much extra film did you carry with you?

Mr. HAEBERLE. Oh, gee, I have no idea; but I usually carried about four or five rolls of film.

Mr. REDDAN. How many rolls of film did you change in the field that day?

Mr. HAEBERLE. I believe I changed the film once.

Mr. REDDAN. In both cameras?

Mr. HAEBERLE. I can't recall if it was both cameras. I know one specifically, because I had trouble.

Mr. REDDAN. Did you shoot up all the film on both cameras, and also another roll that you put on there?

Mr. HAEBERLE. I could have; yes. Or else there could have been some shots left, and what we do is turn the camera back in, put on there the film's still good film, and by looking at the dial you can figure out how many shots he has left on there.

Mr. REDDAN. How many rolls of color film did you shoot that day?

Mr. HAEBERLE. That day, it would have to be about 1 to 1½ rolls.

Mr. REDDAN. Which would be—again, you're shooting 36?

Mr. HAEBERLE. I'm not sure what I shot.

Mr. REDDAN. No; I mean, were you using 36 frames to the roll?

Mr. HAEBERLE. It may have been 20 frames. I might have changed that.

Mr. REDDAN. If you're using 20 frames, then did you shoot two full rolls of color film?

Mr. HAEBERLE. I cannot recall if I shot two full rolls.

Mr. REDDAN. You shot one full roll?

Mr. HAEBERLE. I believe, to the best of my recollection, I would have shot one full roll.

Mr. REDDAN. And any more than that?

Mr. HAEBERLE. There may have been some more. If I did, I would put another roll in.

Mr. REDDAN. Now, you have alongside of you there a book with color photographs in it, right there.

Now, how many color photographs are there there?

Mr. HAEBERLE. Seventeen color photographs.

And we are missing the one of the old man.

Mr. REDDAN. Now, did you shoot more than 18 color pictures of My Lai 4 that day?

Mr. HAEBERLE. This is about all I have. I went to the other area and I shot; I know I have more color film on that.

Mr. REDDAN. This is the total number of color films that you shot at My Lai 4; is that right?

Mr. HAEBERLE. I would say this is; yes.

Mr. REDDAN. And the balance of your two rolls would have been shot over at the next place you went to that afternoon?

Mr. HAEBERLE. It would be the balance maybe of this roll and another roll started.

Mr. REDDAN. Yes.

Mr. HAEBERLE. Or else just one roll continuous.

Mr. REDDAN. What is the total number of pictures that you shot during March 14, 1968?

Mr. HAEBERLE. Total?

Mr. REDDAN. Of color.

Mr. HAEBERLE. Of color?

Mr. REDDAN. Yes.

Mr. HAEBERLE. It would be either one full roll, or one and one-half rolls.

Mr. REDDAN. Were you shooting 20 or 36 to the roll?

Mr. HAEBERLE. I can't recall whether I was or not.

Mr. REDDAN. How many color photos do you have, or transparencies do you have, that you took on March 16, 1968, which are not represented by pictures in that book in front of you?

Mr. HAEBERLE. Just the one transparency of the old man. That's the only one we don't have in here. The rest, I could not find them.

Mr. REDDAN. I'm talking now about photographs taken throughout that whole day, not only those taken at My Lai 4, but elsewhere in the field that day.

Now, you took additional color photographs somewhere else, you said?

Mr. HAEBERLE. Yes, I have those of the other areas.

Mr. REDDAN. How many of those?

Mr. HAEBERLE. I would really have to—I couldn't say, offhand. Maybe up to 10. I'm not sure.

Mr. REDDAN. You have 17 there, and the one of the old man is missing, that's 18; then you have 10. That's a total of 28 pictures you have as a result of your color photographic work that day; is that right?

Mr. HAEBERLE. I assume that to be true; yes.

Mr. REDDAN. So that if you changed rolls that day, you must have been shooting 20?

Mr. HAEBERLE. Twenty exposures, if I changed rolls. If not, that would be—

Mr. REDDAN. Would the same have held true with respect to the black and white? Could you have been shooting 20 frame rolls in black and white?

Mr. HAEBERLE. No. By looking at the contact sheets, you can see on the ones here, they go up to 36.

Mr. REDDAN. I see.

Who normally processed your black and white when they came in?

Mr. HAEBERLE. Somebody, just any one of the photographers in the office that liked to do this. Looking for something to do.

Mr. REDDAN. Did you ever develop your own?

Mr. HAEBERLE. Yes, I did, every once in a while.

Mr. REDDAN. Is it your testimony you did not develop any of these black and whites?

Mr. HAEBERLE. I'm almost positive I did not process this.

Mr. REDDAN. What is your recollection with respect to any black and white pictures that you may have taken that day, showing possible atrocities?

Mr. HAEBERLE. I cannot recall that.

Mr. REDDAN. Well now, what were you supposed to take pictures of?

You were out there as a combat photographer. What were you supposed to take pictures of?

Mr. HAEBERLE. Hometown news releases and newsworthy events.

Mr. REDDAN. All right. Were there any newsworthy events that you photographed with your color camera?

Mr. HAEBERLE. No. To me, just personal remembrances.

Mr. REDDAN. Now, there's quite a few dollars here that says you're wrong, isn't that right? Your tax returns show that actually you had quite a bit of newsworthy material there.

Mr. HAEBERLE. But at the time, to me, for a year and a half, it wasn't. Because I didn't know the real facts. People put that together. The facts.

Mr. REDDAN. Are there any of the black and white photographs that you have just looked at there that show any atrocities?

Mr. HAEBERLE. Well, depends on what you consider—the one of the house burning, with the bodies out front. The one—this one here. Just about the same as the color.

Then there is one—

Mr. REDDAN. Now, you took two pictures of the same event there, didn't you; one in color and one in black and white?

Mr. HAEERLE. Correct.

Mr. REDDAN. Was that your normal habit, one for me, one for you, business? You take one for the Army and one for yourself?

Mr. HAEERLE. No. It's not a regular business.

Mr. REDDAN. Did you try to keep things in balance, in taking your photographs?

Mr. HAEERLE. No. When I started, I don't know what really happened to me that day, but I can't recall what really, you know, how you shoot, just grab a camera and shoot.

Mr. REDDAN. Are you telling us now that you didn't know what camera you were using?

Mr. HAEERLE. Well, when I look at the photographs, I can tell.

Mr. REDDAN. No, not now.

Are you telling us that back then in the field, you didn't know what camera you were using?

Mr. HAEERLE. Yes, I knew. OK. I would really have to know a camera I was using, but just—kept on shooting.

Mr. REDDAN. Did you shoot any pictures in black and white which showed the same type of civilian casualties as you did in your color film?

Mr. HAEERLE. I can't recall that now.

Mr. REDDAN. I can't accept that answer, Mr. Haeberle, because you have given us a photographic description of your travels through the village, what you saw and what you did, foot by foot, as you went along.

You were sent out there for the purpose of taking combat photographs. You had two Army cameras with you. And now you're trying to tell us, or your testimony is, that you don't recall whether you took the same kind of pictures for the Army as you took for yourself. Is that right?

Mr. HAEERLE. I just can't recall. I can see the ones in front of me. I can tell you exactly on the color, they're vivid. The black and white—

Mr. REDDAN. This thing made you pretty sick, didn't it, when you saw what was happening out there? I believe that was your testimony.

Mr. HAEERLE. It made me fairly sick, yes, some of the things.

Mr. REDDAN. Did you ever see anything like that before?

Mr. HAEERLE. Not like this, no.

Mr. REDDAN. Had your ever seen people shot with their heads blown open, and bones flying around; had you ever seen that before?

Mr. HAEERLE. No, I never saw that before.

Mr. REDDAN. Had you ever seen them shoot little children with their guts hanging out and their brains coming out?

Mr. HAEERLE. No.

Mr. REDDAN. Had you ever seen anybody killed before?

Mr. HAEERLE. They brought some—I've seen dead people before.

Mr. REDDAN. No, I mean seen people being killed?

Mr. HAEERLE. No, not like this.

Mr. REDDAN. This was your baptism of fire and baptism of blood?

Mr. HAEERLE. Right.

Mr. REDDAN. This was the first time you had ever seen it?

Mr. HAEERLE. Right.

Mr. REDDAN. And I gather from your testimony this morning that you—

Mr. HAEBERLE. I'm sorry, it's not, because I was sent on one other mission where somebody, GI, went berserk and shot about four South Vietnamese civilians out in the field, and I had to take photographs of that.

Mr. REDDAN. Were you there when it happened?

Mr. HAEBERLE. I was not there when it happened. I saw the aftermath.

Mr. REDDAN. Well, this is what I mean. You were there when this happened?

Mr. HAEBERLE. Yes.

Mr. REDDAN. You told us about it. And this was your first experience with this sort of action, isn't that correct?

Mr. HAEBERLE. Correct.

Mr. REDDAN. When you returned to headquarters that night, you returned to Duc Pho.

Did you tell anybody what took place in the field?

Mr. HAEBERLE. The best I can recall, I might have mentioned a few words around the hootch, but Jay Roberts and myself mainly kept to ourselves.

Mr. REDDAN. Why did you keep to yourselves?

Mr. HAEBERLE. Because really, just mainly just fear of the Army, afraid; who'd really believe us.

Mr. REDDAN. You had pictures to prove it. Nobody had to believe you. You were shooting hell out of the place there with your camera. You had photographic evidence.

What do you mean, nobody would believe you?

Mr. HAEBERLE. Well, there is the black and whites. I turned them in. I turned the black and whites over.

Mr. REDDAN. Wait a minute. Are you saying—

Mr. HAEBERLE. Just more or less fear, you know, when you're in the Army. I don't know, just scared.

Mr. REDDAN. What were you scared of?

Mr. HAEBERLE. Afraid of my—

Mr. REDDAN. This is important testimony, Mr. Haeberle. I want you to be very, very careful how you answer these questions, and I want your answers in full.

Mr. HAEBERLE. Well, I'm trying to make the best of my recollection just trying to help.

Mr. REDDAN. This is what we are asking for, and we expect no less than that.

Mr. HAEBERLE. We just really didn't want to even think about it, both of us. It was really funny. We both talked about it a little bit, but not that much.

Mr. REDDAN. I don't understand you. You were ready to get sick out there in the field, and you get back and you just don't talk about it. I don't quite understand your mental process on this. Maybe you can explain it for me.

Mr. HAEBERLE. I don't really understand it fully myself, either.

Mr. REDDAN. But you came back in. You were disgusted with the whole operation. This was not your outfit there. This was another outfit.

Mr. HAEERLE. We were told the people, when we were going through there, were Viet Cong sympathizers. We talked about the kids and that. The men out there on the road, well, black pajamas, military age.

Mr. REDDAN. Little kids that you saw shot, they weren't military age?

Mr. HAEERLE. No; they weren't.

Mr. REDDAN. No question about Viet Cong sympathizers there, as far as you were concerned, was there, with the little children?

Mr. HAEERLE. We thought—I thought about that later.

Mr. REDDAN. How much later?

I mean, when you were out there in the field, you saw a little child 5 year old, could you think that was a Viet Cong?

Mr. HAEERLE. No, but you hear about them booby trapping the little kids and stuff like that. It's a combination of things out there in the field.

Mr. DICKINSON. I think what counsel is getting at, and the thing bothering me, too, this was certainly something unique in your experience.

Mr. HAEERLE. It was different.

Mr. DICKINSON. This was certainly something unmilitary, I would assume. you would feel it was unmilitary. You were not attached to this unit.

You had a Sergeant Stonich who was more or less the man to whom you reported, right?

Mr. HAEERLE. Indirectly. One of the men.

Mr. DICKINSON. Well, to whom would you report directly? Normally?

Mr. HAEERLE. Sometimes Lieutenant Moody. It just varied.

Mr. DICKINSON. All right.

But what we're trying to understand and get a feeling for is something of this enormity, when you say you saw them bunched together and then just mowed down, and running to escape and shot down, and a little kid, crippled kid, with his leg shot, or foot shot off, some hobbling out, and then a rifleman just shoots him three times like that.

Now, this is something that I'm sure you can never forget, and I can never forget. And as a result of all of these things that you saw, which were unique, you had never seen anything like this before, did you ever make a report to anyone? Did you ever tell anybody, any official about it, to your commanding officer? Did you every do anything as a result of this?

Mr. HAEERLE. The only thing I can recollect was small-talk around the office, public information office. But not that much.

Mr. DICKINSON. Small talk around the public information office. And this is just you and Jay Roberts talking?

Mr. HAEERLE. That's about it.

Mr. DICKINSON. Just you and Jay sat there and discussed it, and you never—

Mr. HAEERLE. Not that much.

Mr. DICKINSON. And not that much

And you never discussed it with anyone else, never reported it to anyone?

Mr. HAEERLE. I made no formal report on it.

Mr. REDDAN. Did you make any informal report?

Mr. HAEPPERLE. No; I did not.

Mr. REDDAN. You made no report, then?

Mr. HAEPPERLE. No report. Just—I might have said something to a few of the people in the office, but—

Mr. REDDAN. Who might you have said something to?

Mr. HAEPPERLE. Whoever was in the office.

Mr. REDDAN. Who would that have been?

Mr. HAEPPERLE. That could be any number of our public information office.

Mr. REDDAN. It wasn't a big staff. Who was there?

Mr. HAEPPERLE. Well, it could be Lieutenant Moody.

Mr. REDDAN. Do you think you may have told Lieutenant Moody about it?

Mr. HAEPPERLE. I'm not sure.

Mr. REDDAN. Do you think you may have? You're telling us who you may have talked to.

Mr. HAEPPERLE. Well, it could be Sergeant Stonich, Lieutenant Moody, some of the other photographers in the office, Lieutenant Dunn.

Mr. REDDAN. But you have no recollection of having talked to anyone?

Mr. HAEPPERLE. No recollection.

Mr. REDDAN. Did you consider this to be normal warfare? Is this why you didn't report it?

Mr. HAEPPERLE. At the time, when we were out there hearing Viet Cong sympathizers and they were told to get out of there, that they were warned. They were—we felt these Viet Cong sympathizers, but really, the kids, that's the only thing that got me.

Mr. REDDAN. You felt that what the American troops were doing in the field that day was perfectly proper, is that right?

Mr. HAEPPERLE. Not at all real proper. I still asked why. One general comment in the field that I more or less remember is, we had to.

Mr. REDDAN. You asked someone in the field why they were doing this?

Mr. HAEPPERLE. I said, "Why?" And they said, "We had to." That's all that was said. Just a general comment. I picked up in the field.

Mr. REDDAN. Wait a minute. Are you the one who asked the question. "Why?" I don't understand your testimony.

Mr. HAEPPERLE. I believe it was around the section where the kids were shot.

Mr. REDDAN. Who asked. "Why?"

Mr. HAEPPERLE. I said, "Why?"

Mr. REDDAN. Who were you directing your question to?

Mr. HAEPPERLE. Some GI.

Mr. REDDAN. And is that all you said? "Why?"

Mr. HAEPPERLE. I said, "Why?" He said, "We had to."

Mr. REDDAN. Did you say, "Why are you killing these people?"

Mr. HAEPPERLE. I just said, "Why?" if I can remember.

Mr. REDDAN. You remember saying, "Why?"

Mr. HAEPPERLE. Just about it, yes. "Why?" I remember making other statements before "Why?" Then just the general answer from somebody in the field.

Mr. DICKINSON. One final question for me, Mr. Haeberle.

Could you give me an estimate of how many noncombatants and the bodies you saw that day, or how many you saw killed?

Mr. HAEERLE. My estimate would be, the biggest percentage, what I base my view on seeing that, as I mentioned before, over in this area being shot, I'd say about maybe 75 to 100. With the majority coming from this area right here, which was a distance off.

Mr. REDDAN. Now, you testified yesterday, or on the 23d, that you shot over 50 black and white photographs.

Were you trying to indicate that it was somewhere in the neighborhood of 50?

Mr. HAEERLE. Black and white? No—I really don't think I indicated—I more or less was talking in terms of rolls. That's the only thing I can go by.

Mr. REDDAN. You said you shot over 50 black and white photographs. Now, you used the figure 50, and I'm trying to find out from you whether or not—

Mr. HAEERLE. In terms of rolls.

Mr. REDDAN. In terms of pictures; are you suggesting that it was somewhere in the neighborhood of 50 pictures that you had shot?

Mr. HAEERLE. Somewhere in the neighborhood—now, on here, it shows 36-exposure rolls. Could have had a 20-exposure roll. It's so variable. But I remember, as I said before, having to change the camera once. And just my own theorization, two to three rolls of film that I photographed, whether 20- or 36-exposure rolls.

Mr. REDDAN. Of course, if you start talking about three rolls of film, at 36 frames to the roll—

Mr. HAEERLE. Yes.

Mr. REDDAN [continuing]. And then comparing it with the number of black and whites there, that you have before you, there are a lot of missing pictures?

Mr. HAEERLE. There are; but see this one here has a total of 12 on this. This is missing.

Mr. REDDAN. Total of 12?

Mr. HAEERLE. Total of 12 photographs on this one contact sheet. That's it.

Mr. REDDAN. Well, are you suggesting that there were more than that on that roll of My Lai 4?

Mr. HAEERLE. I'm not sure if there was more on that roll or not. I don't know what's missing.

Mr. REDDAN. Well, maybe we are pretty close to the number that you actually shot that day. Ordinarily, maybe there are a lot of them missing, and this is the thing that we want to find out.

Mr. HAEERLE. Yes.

Mr. REDDAN. Your testimony suggests that either you took some rather poor film that didn't come out, or—

Mr. HAEERLE. I could have, very easily, or lost the film in the field.

Mr. REDDAN. You have no recollection of how many rolls you turned in when you came back?

Mr. HAEERLE. No. No.

Mr. REDDAN. I'm trying to find out if possibly the Army is at fault here; is somebody holding out on pictures. This is what I'm trying to find out.

Mr. HAEERLE. I know what you're driving at, but you really can't say if they are or they aren't. That's the whole thing.

Mr. REDDAN. So maybe what the Army has supplied us is all that you took that day.

Mr. HAEBERLE. That could be true, yes. And yet it could not be true.

Mr. LALLY. Do you have a specific recollection, Mr. Haeberle, of any black and white pictures you took that day which is not among the ones in this book?

Mr. HAEBERLE. No, I don't. I can't recall it.

Mr. REDDAN. Now, can you account, in any way, for the fact that in the black and white photographs which are before you, there are none that depict brutality of civilian casualties in the same way that your color photographs do?

Mr. HAEBERLE. No; I cannot.

Mr. REDDAN. Is it possible that you did not take black and white pictures of those same things that you took color photographs of?

Mr. HAEBERLE. It could be possible, and yet it could not be possible.

Mr. REDDAN. Well——

Mr. HAEBERLE. It could go either way.

Mr. REDDAN. No; it just can't go either way that easily.

Mr. HAEBERLE. I know it can.

Mr. REDDAN. Because if you took the pictures, then a lot of other factors come into it, as to why they are not here now. If you didn't take the pictures, of course, then the thing becomes very easy. They are not there, because they were never taken.

Mr. HAEBERLE. That could be. I will agree, that could be true.

Mr. REDDAN. Now, you say when you talked to CID, that was the first time that you realized that these pictures were of My Lai 4, is that right?

Mr. HAEBERLE. That's right.

Mr. REDDAN. Did they show you these black and white photographs?

Mr. HAEBERLE. What they showed me was Xerox copies, maybe of about 18 or less black and white photographs that I had to initial, if I could recognize them. Sometimes, I couldn't recognize them from a Xerox copy of a photograph.

Mr. REDDAN. Could you identify them as photographs that you took at My Lai 4 that day?

Mr. HAEBERLE. Some of them, yes. Some of them not.

Mr. REDDAN. Now, when you realized that this is the action that they were talking about, did you tell them that you had taken color photographs?

Mr. HAEBERLE. Yes, I did.

Mr. REDDAN. Did they ask to see them?

Mr. HAEBERLE. They asked if we could see them. I said yes, I will cooperate with you in any way possible.

Mr. REDDAN. And did you show them to them?

Mr. HAEBERLE. Yes, I did.

Mr. REDDAN. Did they ask for copies?

Mr. HAEBERLE. They asked for the originals. I said no, I will be glad to make up copies of them. And I made copies for them. I had them made.

Then we also photographed Polaroid shots. I projected the slides on a drape, and they photographed them with the Polaroid camera, and I helped them out with that, for continuing investigation.

Mr. REDDAN. Now, at that time, had you talked with your friend at the Cleveland Plain Dealer?

Mr. HAEERLE. No, I did not.

Mr. REDDAN. It was after the CID was there that you talked with him?

Mr. HAEERLE. Months after.

Mr. REDDAN. What?

Mr. HAEERLE. Months after.

Mr. REDDAN. Months after?

Mr. HAEERLE. Yes.

Mr. REDDAN. When did the CID talk to you?

Mr. HAEERLE. The latter part of August, the first time.

Mr. REDDAN. And when did you talk to your friend at the Cleveland Plain Dealer?

Mr. HAEERLE. November, about mid-November.

Mr. REDDAN. Now, did you tell the CID that you were going to have these pictures published?

Mr. HAEERLE. No, I did not.

Mr. REDDAN. Had they asked you not to publish them?

Mr. HAEERLE. No, they didn't. They were my personal property. They didn't say anything to that effect, that I can recall.

Mr. REDDAN. Now, your testimony again, on April 23, you say:

I was questioned by the CID, in August, the latter part of August, on this. I knew nothing about it. I didn't even know this was My Lai. I was informed through my testimony with them exactly—found out what had happened, and after that, I did nothing. I started reading about Calley in the newspaper, and I called a friend who was a newspaper writer down at school, Joe Eszterhas. I told him, "Joe, I have some photographs which might be this—what they are talking about—this massacre in Vietnam." He said, "OK, let's see them." And I gave them to him. He checked everything out, and I believe it was Captain Daniels called me that day and he wanted to see me. I said, "fine". And not to publish these. I said "OK, fine".

Now, did Captain Daniels come to see you?

Mr. HAEERLE. No, he did not.

Mr. REDDAN. What does this testimony mean, then? What are you talking about?

Mr. HAEERLE. It means that for authenticity of the photographs, Captain Daniels called me, and we just had a chit chat. I told him I was considering publishing the photographs.

Mr. REDDAN. Yes.

Mr. HAEERLE. And he says, "No, wait, I'd like to see", and all these other things, "Don't do it." I said, "Well, OK, I'll consider it."

So I asked him if I was there at My Lai 4. He says, "Yes, you were there at My Lai 4." I said, "OK, thank you." So I hung up. I talked to Joe about it, and he confirmed that I was at My Lai 4.

Mr. REDDAN. How could Joe confirm this?

Mr. HAEERLE. He called Captain Daniels and Captain Daniels confirmed that I was there at My Lai 4.

Mr. REDDAN. I see.

And Captain Daniels had asked you not to publish the photographs?

Mr. HAEERLE. He said not to, but he said, really, there is nothing he can do to stop me if I wanted to.

Mr. REDDAN. Did he actually use those words?

Mr. HAEBERLE. I'm not sure of the exact words that he did use.

Mr. REDDAN. Did he actually tell you there wasn't anything he could do to stop you, if you wanted to publish them?

Mr. HAEBERLE. I'm sorry, I can't recall. I can't recall if he did say that.

Mr. REDDAN. That was your testimony now. If he didn't say it, why, we don't want to clutter up the record with something, because I'm going to ask Captain Daniels about this, and I just want your best recollection on it.

Mr. HAEBERLE. There was a phone call from Captain Daniels to me, and one from Joe Eszterhas to Captain Daniels.

Mr. REDDAN. What did he tell you about publishing them? What did Captain Daniels say to you about publishing the photographs?

Mr. HAEBERLE. He said, I believe he said, I really wish you wouldn't publish them, at this time. To my best recollection.

Mr. REDDAN. And how soon thereafter were they published?

Mr. HAEBERLE. I believe fairly soon after.

Mr. REDDAN. The next day?

Mr. HAEBERLE. It could have been the next day, or the following day.

Mr. REDDAN. Now, with these black and white prints were your color transparencies that were published?

Mr. HAEBERLE. Yes.

Mr. REDDAN. Did the Cleveland Plain Dealer obtain any rights for the publication?

Mr. HAEBERLE. Copyrighted in my name.

Mr. REDDAN. Did they receive any? Did you give them any contractual rights?

Mr. HAEBERLE. No; I did not.

Mr. REDDAN. Did you have any written contract with them?

Mr. HAEBERLE. No; I did not.

Mr. LALLY. Mr. Haerberle, prior to November 1969, had you ever attempted to sell these photographs taken at My Lai 4, to anybody or any entity?

Mr. HAEBERLE. No; I did not.

Mr. LALLY. You made no efforts at all prior to this November 1969?

Mr. HAEBERLE. No efforts at all.

Mr. REDDAN. Why did you decide to publish them in the Cleveland Plain Dealer?

Mr. HAEBERLE. Because Joe Eszterhas was an editor at the time I was at school, at Ohio University, editor of the Post, a student newspaper.

Mr. REDDAN. You wanted to do him a favor; is that it?

Mr. HAEBERLE. No, no; not a favor, no.

Mr. REDDAN. Well, I asked you why did you decide to publish them in the Plain Dealer after the Army had asked you not to?

Mr. HAEBERLE. I just felt the public should know what actually happened, what actually went on, transpired.

Mr. REDDAN. You say you wanted the public to know?

Mr. HAEBERLE. Yes.

Mr. REDDAN. Had anything been published in the press, at that time?

Mr. HAEBERLE. The Cleveland Press?

Mr. REDDAN. Any press?

Mr. HAEBERLE. I'm sorry, there is a Cleveland Press.

Mr. REDDAN. No; any papers.

Mr. HAEBERLE. No. Cleveland Plain Dealer was the first paper.

Mr. REDDAN. And you testified the other day that you did it because you just wanted to get it off your chest, let the people know exactly what happened. Now, is that how you felt about it?

Mr. HAEBERLE. That's how I felt about it.

Mr. LALLY. When did that feeling come upon you, Mr. Haeberle?

Mr. HAEBERLE. I don't really—it's been—I guess more when I found out a little bit more about what happened there.

Mr. LALLY. It hadn't been on you in March 1968, had it?

Mr. HAEBERLE. About the children?

Mr. LALLY. The feeling to let the public know what happened?

Mr. HAEBERLE. I really didn't know that much about it, to actually go to a newspaper and say, "Here's something, look."

Mr. LALLY. Well, you had been in the publicity business. You certainly knew how to approach a situation like this, didn't you?

Mr. HAEBERLE. Not that effectively.

Mr. LALLY. You were in the public information business and you didn't know that?

Mr. HAEBERLE. Restate your question.

Mr. REDDAN. How long did it take you to reach the conclusion that somebody should know about this?

Mr. HAEBERLE. When I found out a little bit more about it, after being interviewed by CID, some of the other things that went on there.

Mr. REDDAN. What the CID was trying to find out about? You were there.

Mr. HAEBERLE. Yes.

Mr. REDDAN. What did the CID tell you that you didn't already know?

Mr. HAEBERLE. About the ditch.

Mr. REDDAN. Well for heavens sake, what was in the ditch that was any worse than what you had been seeing?

Mr. HAEBERLE. The way I understand it, just a lot more bodies.

Mr. REDDAN. How many bodies do you have to have before you decide the public ought to know about it?

Mr. HAEBERLE. I don't know.

Mr. REDDAN. Well, you didn't think there was any reason why the public should know about the things that you saw there; is that what you're saying?

Mr. HAEBERLE. No; because of the circumstances surrounding it at the time, when I was picked up, I had a feeling about it, but it wasn't strong till after the investigation.

Mr. REDDAN. This is what I'm trying to understand, your mental process.

Mr. HAEBERLE. It is hard to follow my mental process dealing with this.

Mr. REDDAN. We will follow them, though, until we can reach some understandable conclusion here.

Did the CID tell you why they were investigating this matter?

Mr. HAEBERLE. I believe they mentioned something about that.

Mr. REDDAN. And it was your understanding that they were investigating this from the standpoint of determining any culpability of those involved in this operation?

Mr. HAEBERLE. Any war crimes or anything?

Mr. REDDAN. That is right, and if there were, the guilty would be punished, was that your understanding? Is that why they were investigating?

Mr. HAEBERLE. To prefer charges, not say anything about punishment.

Mr. REDDAN. And the public would know about it when this happened?

Mr. HAEBERLE. Yes; it was already in the papers about people starting to be tried for this, or else charges being put against them.

Mr. REDDAN. So you knew the public was going to find out about this, and I am trying to understand why, in view of that, you felt it incumbent upon you to go to the Cleveland Plain Dealer and publish your pictures in advance. You knew the public was going to find out. You say you published it so the public could find out. I am suggesting to you you published it for a buck.

Mr. HAEBERLE. You're wrong, because I never asked for money from the Plain Dealer.

Mr. REDDAN. Tell me what in your testimony is inconsistent with that conclusion? I will be very happy to hear you.

Mr. HAEBERLE. All right. I never—I shouldn't say never—when I went to the Plain Dealer, I said, I never asked for money from the Plain Dealer.

Mr. REDDAN. I am trying to understand why you went to the Plain Dealer. Was it for publicity?

Mr. HAEBERLE. I don't want any publicity on this.

Mr. REDDAN. You didn't want money, you didn't want publicity?

Mr. HAEBERLE. Not at the time; no. When I went to the Plain Dealer.

Mr. REDDAN. So you went to the Plain Dealer for what purpose?

Mr. HAEBERLE. To get it off my chest.

Mr. REDDAN. You had been getting it off your chest at various meetings around in the area for a year and a half.

Mr. HAEBERLE. But then as I said before—

Mr. REDDAN. Isn't that so? Isn't that so? You had been addressing groups for a year and a half, getting this off your chest?

Mr. HAEBERLE. Yes; to an extent.

Mr. REDDAN. Isn't that so?

Mr. HAEBERLE. To an extent.

Mr. REDDAN. All right. Now, I am trying to understand why you went to the Cleveland Plain Dealer in view of that fact?

Mr. HAEBERLE. Because I felt I learned more about it from talking to the CID people. I became more disgusted. So finally I had a friend who I knew that was a good writer. I said "Joe, I have something here. Will you check it out?" I told him my story. I told him how I felt. And I said "I don't want any money. Just print it."

Mr. LALLY. How long had you known Mr. Eszterhas?

Mr. HAEBERLE. I've known him—not really personally. He was down at school the same time I was there for about 3 years. I was there 3 or 4 years.

Mr. LALLY. When was that?

Mr. HAEBERLE. That goes back to 1963, 1964, 1965, around that time, 1966.

Mr. LALLY. Were you concerned about this when you were discharged from the service?

Mr. HAEBERLE. I tried—when I was discharged, I believe I just tried forgetting it. I bummed around California for a while. I didn't process this film until after I got home.

Mr. LALLY. When was that?

Mr. HAEBERLE. That was probably about—a month, month and a half, 2 months later.

Mr. LALLY. That would have made it what, May or June of 1968?

Mr. HAEBERLE. About sometime maybe in May.

Mr. LALLY. Now, when you looked at the pictures, wasn't your memory of all these events revived?

Mr. HAEBERLE. Yes.

Mr. LALLY. This feeling of revulsion that you now have, wasn't that revived.

Mr. HAEBERLE. It wasn't that strong at the time, because of what I was told about the operation.

Mr. REDDAN. What were you told, Mr. Haerberle?

Mr. HAEBERLE. As I said, the people were considered in the village to be VC sympathizers, that they were warned to get out prior. The ones remaining are considered VC.

Mr. LALLY. Did anybody ever tell you that infants were VC sympathizers, these little children, the type you have in your pictures here?

Mr. HAEBERLE. No; that is the one part I can't really understand.

Mr. LALLY. And yet when you saw these pictures in May or June, 1968, you didn't think of going to Mr. Eszterhas at that time, to let the public know what this was all about?

Mr. HAEBERLE. No.

Mr. REDDAN. Have you been served with the additional subpoena to produce the documents we talked about this morning?

Mr. HAEBERLE. Yes, I have.

Mr. REDDAN. Do you have any questions concerning what the committee wants?

Mr. HAEBERLE. No, I don't. My contracts, what I do have, if I have a telegram, I will send it all to you. No problem.

Mr. REDDAN. Now, this would include, although it is not specified there because the specification was in addition to the general request for documents, these documents would include copies of any publications in which any of your pictures appeared, or which any stories or interviews that you have given appeared.

Mr. HAEBERLE. Yes.

Mr. REDDAN. Now, do you have any plans at this time to produce, or write, or have written for you any books or further articles on this matter?

Mr. HAEBERLE. No.

Mr. REDDAN. Have you been approached by any magazine or publishing company or individuals with respect to further stories?

Mr. HAEBERLE. Further photographs, yes, I have. And so far I have turned them all down.

Mr. REDDAN. Well, the subpoena would cover all of these also.

Mr. HAEBERLE. OK.

Mr. LALLY. Upon your return from the operation that day, I assume that you and Roberts returned to your base together, did you?

Mr. HAEBERLE. Yes; I believe we did.

Mr. LALLY. Was there anybody else with you on your return?

Mr. HAEBERLE. Not that I can recall.

Mr. LALLY. Did you have any discussion with Roberts about the operation?

Mr. HAEBERLE. There might have been.

Mr. LALLY. Did you?

Mr. HAEBERLE. I believe there was; yes.

Mr. LALLY. What was it?

Mr. HAEBERLE. I can't recall. It's been 2 years, what we actually said.

Mr. LALLY. What was the substance of it?

Mr. HAEBERLE. I just can't really recall.

Mr. LALLY. Well, let me ask you this: Did you say to Roberts, "On the previous operations you were on, did you ever see anything like this?" You must have said something like that to him.

Mr. HAEBERLE. I may have, but I don't want to make a statement saying that, because I can't recall it.

Mr. LALLY. You were very disturbed about this, you tell me. But you didn't ask Roberts this question?

Mr. HAEBERLE. I am not sure if I asked Roberts that question. I cannot recall it.

Mr. LALLY. Did you ask him a question similar to that?

Mr. HAEBERLE. I am not sure.

Mr. LALLY. Well, can you recall anything that you discussed with Roberts on your return from that operation?

Mr. HAEBERLE. Not really that—maybe just something, something was wrong. That's all. I can't really remember what specific words or anything we said.

Mr. LALLY. I am asking for specific words. I don't expect you to recall verbatim conversations. I am asking the substance of it.

Mr. HAEBERLE. I can't recall that.

Mr. LALLY. Well, when you got back to the PI Office, did you ask any of the other people there if they had ever seen incidents like this on an operation?

Mr. HAEBERLE. No; I can't recall if I did.

Mr. LALLY. Well, you thought this was unusual, didn't you?

Mr. HAEBERLE. We didn't talk that much about it. Just a few words here and there and that was it.

Mr. LALLY. To whom were the few words here and there?

Mr. HAEBERLE. Jay.

Mr. LALLY. Just you and Jay?

Mr. HAEBERLE. Maybe a few words around the office.

Mr. LALLY. What were the few words that you had with Jay, then?

Mr. HAEBERLE. I can't recall the few words, I am sorry.

Mr. REDDAN. Actually, you weren't too much impressed with the operation, were you?

Mr. HAEBERLE. Not really. I don't think I was really—I was more scared than impressed.

Mr. REDDAN. What were you scared of?

Mr. HAEBERLE. Just—just scared.

Mr. REDDAN. That you might step on a boobytrap or something? That kind of scared?

Mr. HAEPPERLE. That area was supposed to be a highly mined area. Fear of that, too, when we were out there.

Mr. REDDAN. I mean is that what you mean when you say that you were scared? Is this what you were afraid of?

Mr. HAEPPERLE. That, and just from what I had maybe witnessed, seeing actual persons shot for the first time.

Mr. REDDAN. You might have been shocked, but you weren't scared of ghosts, they weren't going to come haunt you?

Mr. HAEPPERLE. No. I wasn't scared of ghosts.

Mr. REDDAN. You use the word "scared." I don't think you really mean that; do you?

Mr. HAEPPERLE. Yes; I feel I was.

Mr. REDDAN. You were frightened?

Mr. HAEPPERLE. Disturbed, frightened.

Mr. REDDAN. Frightened? Or would you say "disturbed"? I am just trying again to find out what you mean when you say you were "scared".

Mr. HAEPPERLE. I say maybe in terms of just a little disturbed, just—it was hard at that time to really I think even to think straight.

Mr. REDDAN. In other words, as I get the picture coming across, and you can correct me if I am getting the wrong impression, you were out there, you saw this that day, but it didn't occur to you that there was anything really wrong about it; is that right?

Mr. HAEPPERLE. It just—it went back and forth in my mind, but from what I knew previously, it just didn't hit me. It hit me, but not really that hard.

Mr. LALLY. Did you ever go to Sergeant Stonich?

Mr. HAEPPERLE. No; not that I can recall.

Mr. LALLY. Did you ever ask him, to say "Are we making war on little children out there?"

Mr. HAEPPERLE. Not that I can recall.

Mr. LALLY. Did you ever go to Lieutenant Dunn or Lieutenant Moody and ask them a question like this?

Mr. HAEPPERLE. Not that I can recall.

Mr. LALLY. It really didn't bother you then, what you had seen?

Mr. HAEPPERLE. If it did, I kept it to myself.

Mr. REDDAN. Did anyone tell you to keep it to yourself?

Mr. HAEPPERLE. No; no one did.

Mr. REDDAN. Were you under any impression that this is the sort of thing that you weren't supposed to talk about?

Mr. HAEPPERLE. No; not that I can recall.

Mr. REDDAN. Did anyone ever suggest to you or leave you with the understanding that you weren't supposed to take pictures of things of this sort?

Mr. HAEPPERLE. No.

Mr. REDDAN. Did you turn in all the pictures that you took?

Mr. HAEPPERLE. All the black and white, I believe I turned every bit of black and white in. I have no black and white.

Mr. REDDAN. And you say that you never again saw them after you turned them in?

Mr. HAEPPERLE. I believe that to be correct.

Mr. REDDAN. And you didn't even know whether you had spoiled any of the frames, or whether they all came out properly?

Mr. HAEBERLE. To the best of my knowledge; yes.

Mr. LALLY. Did you ever suggest to any of your superiors over there that you had these other pictures of the operation?

Mr. HAEBERLE. I don't believe so.

Mr. LALLY. In your testimony here today, you related an incident in which you had photographed bodies of some people that a beserk GI had killed: is that correct.

Mr. HAEBERLE. Yes.

Mr. LALLY. Now, you had done this work for the provost marshal?

Mr. HAEBERLE. Yes.

Mr. LALLY. So you had some idea of the value of photographic evidence in a criminal prosecution, didn't you?

Mr. HAEBERLE. Yes.

Mr. LALLY. And with that knowledge, and with this photographic evidence in your hand, it never occurred to you that you could document what you had seen out at this operation, if you really wanted to make an issue of it?

Mr. HAEBERLE. Never. I don't believe it really ever entered my mind.

Mr. LALLY. Did you know Chaplain Creswell?

Mr. HAEBERLE. No.

Mr. LALLY. Never remember having a—

Mr. HAEBERLE. We had a Chaplain's office right next to our PIO office.

Mr. LALLY. Did you ever remember a chaplain stopping in there the day or so after this operation, and talking about it?

Mr. HAEBERLE. No, I am sorry, I don't.

Mr. REDDAN. Mr. Haeberle, that subpoena which has been served on you today calls for your appearance back here forthwith with these documents. Now, it will not be necessary for you to appear with these documents at this time, although the committee may want to call you at a later date to discuss them with you.

Mr. HAEBERLE. Yes.

Mr. REDDAN. However, if you do not bring them personally at this time, the committee will instruct you to send them in with an affidavit, stating that these are the documents which you are supplying pursuant to the subpoena, that these are all of the documents which you have which comply with the subpoena, and if there is anything in these documents which needs explanation, include that in the affidavit itself.

For instance, if there are any writings which you have put on, or if there are any notations which are not self-explanatory.

Mr. HAEBERLE. All right, fine.

Mr. REDDAN. And I caution you to explain these things as fully as possible, because we want to try to avoid the necessity of bringing you back here again. I can't promise you that we won't, but if you make this explanation as fully as possible—and as I say, make it in affidavit form, since it will all be part of this record. And if you will send those in to us air mail or send them in registered mail, to the committee—

Mr. HAEBERLE. May I send these to my lawyer and have him drop them off to you?

Mr. REDDAN. Yes; you can do that, accompanied with an affidavit.

Mr. HAEBERLE. All right, fine.

Mr. HEBERT. I want to impress one thing upon you, Mr. Haeberle, that in issuing this subpoena to bring the records, as you undoubtedly

gathered from my line of questioning this morning, I am interested to know what arrangements you made in writing when you sold these pictures.

I tried to be fair with you, to indicate that we will ask others the same question.

Mr. HAEBERLE. That's no problem. As I said before, I will give the contracts to you.

Mr. HÉBERT. I am not talking only about contracts. I am talking about correspondence, or anything that would indicate—your attorney knows what I am talking about—because if we do, in questioning other witnesses, learn that there is in existence a document, that is going to reflect not kindly toward your not supplying the document.

Mr. HAEBERLE. I will send whatever I can.

Mr. REDDAN. Have you had any other television interview other than the one that you referred to with this Italian outfit?

Mr. HAEBERLE. Just NBC, ABC, and CBS, Metromedia.

Mr. REDDAN. Did you ever receive any compensation?

Mr. HAEBERLE. No; I did not.

Mr. REDDAN. Or anything of value?

Mr. HAEBERLE. Nothing of value.

Mr. HÉBERT. Did you ask for anything to appear on CBS, ABC, or NBC?

Mr. HAEBERLE. No; I did not.

Mr. HÉBERT. Did an agent or a representative of yours ask for compensation?

Mr. HAEBERLE. No, nothing.

Mr. HÉBERT. Do you know that to be a fact, that nobody asked, or are you just saying that because you don't—

Mr. HAEBERLE. This was done through Nona McDonald's office.

Mr. HÉBERT. Who is that?

Mr. HAEBERLE. Nona McDonald. She is with VIP Personnel, and working with news media, TV.

Mr. HÉBERT. She is Time-Life?

Mr. HAEBERLE. Yes.

Mr. HÉBERT. She is Time-Life?

Mr. HAEBERLE. Right. There was no compensation except for my expenses; that's all.

Mr. HÉBERT. And you don't know whether she asked for compensation for you to appear?

Mr. HAEBERLE. In her position, I don't think she would.

Mr. HÉBERT. You don't think she would.

Mr. HAEBERLE. I believe she didn't receive a thing.

Mr. HÉBERT. Did this individual—what is his name—who wrote the Harper's piece?

Mr. LALLY. Hersh.

Mr. HÉBERT. Seymour Hersh, did he ever represent you in any instance?

Mr. HAEBERLE. No; he did not.

Mr. HÉBERT. Then if you had asked ABC, NBC, or CBS, he was asking without your permission?

Mr. HAEBERLE. I have no idea what Hersh has been doing.

Mr. REDDAN. Does he represent you in any way?

Mr. HAEBERLE. No.

Mr. HÉBERT. I am not trying to get you to say that.

Mr. HAEBERLE. No; Hersh doesn't represent me.

Mr. HÉBERT. My information is that Hersh did try to peddle you for television.

Mr. HAEBERLE. I heard nothing about that.

Mr. HÉBERT. That's all I am trying to get, is for you to tell me that you know nothing about it, and if he did do it, he did it without your knowledge, without your consent, and without your permission; that's all.

Mr. HAEBERLE. Did he try to peddle me for television? I didn't hear anything about that.

Mr. HÉBERT. You haven't answered my question yet. Then I will tell you the answer.

Mr. HAEBERLE. All right. No, to my knowledge, no, I know nothing about that.

Mr. HÉBERT. He would not have had your permission, he would not have had your consent.

Mr. HAEBERLE. I gave him no permission, no consent.

Mr. HÉBERT. And no instructions to try to get money for a television interview?

Mr. HAEBERLE. That's correct.

Mr. REDDAN. Do you know Mr. Hersh?

Mr. HAEBERLE. Yes. I know Mr. Hersh.

Mr. REDDAN. How long have you known him, and under what circumstances?

Mr. HAEBERLE. Five minutes by telephone, and about an hour just for lunch with him.

Mr. HÉBERT. Well, now I will answer your question.

Mr. HAEBERLE. OK.

Mr. HÉBERT. My information from television sources is that he did try to sell you.

Mr. HAEBERLE. I made no television appearances to that effect.

Mr. HÉBERT. Well, I am telling you what the facts are. We are trying to see these things through. That is what we are trying to do. Somebody tells us something, we want to know, because this is a rather fantastic development.

Mr. HAEBERLE. It is interesting that he tried selling me.

Mr. HÉBERT. He may not. I said I was told.

Mr. HAEBERLE. But to my knowledge, no.

Mr. HÉBERT. Because this is a most unusual situation, that a newspaper reporter comes in and goes out and represents somebody that has a set of pictures to sell, and that individual, you really have never sold the pictures. As I understand, you only sold the right to use one time.

Mr. HAEBERLE. Yes.

Mr. HÉBERT. You still have the negatives, don't you?

Mr. HAEBERLE. The transparencies, yes.

Mr. HÉBERT. Well, that is the negative. That's the basic one that you make the copies from, isn't that correct?

Mr. HAEBERLE. I am not up with the printing process.

Mr. HÉBERT. And from the transparencies you make the copies.

Mr. HAEBERLE. That is right.

Mr. HÉBERT. So, if you have the transparencies, you have the negative.

Mr. HAEBERLE. It is a positive.

Mr. HÉBERT. That is what I mean. You see, you beg these questions. You make us go to work and ask you five questions that could be answered in one. You know very well what I am talking about. You know very well, and you still have in your possession the very basic piece of film that you can produce more film like this?

Mr. HAEBERLE. The originals.

Mr. HÉBERT. You have the originals?

Mr. HAEBERLE. Correct. The originals are mine.

Mr. HÉBERT. That is what I started out to get, and you give me a lot of palaver about you don't know about the processes and you don't know about this and you make me ask a lot of useless questions when you know very well from the beginning what I am trying to find out.

So, in reality, you have never sold the originals?

Mr. HAEBERLE. Correct. The originals are mine, my personal property.

Mr. HÉBERT. Correct. So, all you have sold are copies. And the right and permission to use them only one time.

Mr. HAEBERLE. That is correct.

Mr. HÉBERT. And every deal was a single deal.

Mr. HAEBERLE. You have the records.

Mr. HÉBERT. And you could go out tomorrow morning and sell them to somebody else?

Mr. HAEBERLE. I haven't been selling them lately, but I have had offers.

Mr. HÉBERT. I am not saying——

Mr. HAEBERLE. I am just telling you——

Mr. HÉBERT. OK, I am not saying what you did. I am merely saying you could go out tomorrow morning and sell them, if you desired, couldn't you?

Mr. HAEBERLE. Yes; I could.

Mr. HÉBERT. Why don't you answer me, then?

Mr. HAEBERLE. All right.

Mr. REDDAN. There is nothing in your contracts with Time-Life that gives them exclusive control over the pictures?

Mr. HAEBERLE. Not exclusive. I believe just North American rights, first edition. It is in the contract.

Mr. REDDAN. Well, we will see that when we get the contract.

Mr. LALLY. Mr. Haerberle, how many film lectures had you given prior to November 1968?

Mr. HAEBERLE. Fairview Park JC's, Parkview Kiwanis——

Mr. LALLY. Just approximately how many?

Mr. HAEBERLE. A church group, a high school, and a few friends.

Mr. LALLY. Approximately 10, maybe?

Mr. HAEBERLE. Less than that, I would say.

Mr. LALLY. At any of these did anybody ask you about these pictures of children that had been killed?

Mr. HAEBERLE. OK. The same thing I was trying to figure, they said the children, maybe the women, and the men they said nothing, because of the way I explained it is the way I understood it, about the

leaflets being dropped and the people told to get out, VC sympathizers that would be left in the village. The question was mainly about the children.

Mr. LALLY. They did raise the question about the children?

Mr. HAEERLE. A couple of times they asked, well, what about the children.

Mr. LALLY. And what was your answer?

Mr. HAEERLE. My answer, like the lectures, some of the stories I have heard, where they boobytrap—the VC boobytrap the children. They come running up to you, a hand grenade will go off, take an American GI with them. I tried in my own mind explaining it that way, and still there was a question. I really couldn't come up with a good solid answer. I never have been able to.

Mr. LALLY. But even with that question in your mind, it was not enough to bring this photographic evidence to the front until November 1968?

Mr. HAEERLE. Yes.

Mr. REDDAN. Just one question: I understand from your testimony today that this form 1099 which you produced here from Time, Inc. for \$17,500, is the only document which your accountant sent in pursuant to the committee's request; is that right?

Mr. SILARD. He sent his wage withholding, W-2 form from his regular employer, but that didn't relate to photographs.

Mr. REDDAN. But those are the only two documents he sent in?

Mr. HAEERLE. That is correct.

Mr. REDDAN. Did he send a covering letter?

Mr. SILARD. Yes; he did.

Mr. REDDAN. Would you furnish the committee with a copy of that letter, please?

Mr. HAEERLE. Yes, sir.

Mr. REDDAN. I understood that you had given him some handwritten notes or something, when we were asking you about the tax return, and my recollection is that you said that he only had a few hand-scratched notes.

Mr. HAEERLE. I think we just sort of figured out from my past wages, you know, averaged—I am missing a year on that for averaging—just little scratch marks. It wasn't anything complete. There was nothing but a piece of paper. I do have an extension till June 15.

Mr. HEBERT. Do you know where Jay Roberts is now?

Mr. HAEERLE. I am sorry; I have no idea.

Mr. HEBERT. He used to live in Arlington, didn't he?

Mr. HAEERLE. Yes; he did.

Mr. HEBERT. When was the last time you saw him?

Mr. HAEERLE. December of 1969.

Mr. HEBERT. 1969?

Mr. HAEERLE. I didn't see him. I was in contact with him by telephone.

Mr. HEBERT. By telephone.

Mr. REDDAN. Have you tried to reach him since you have been here in Washington?

Mr. HAEERLE. No; I haven't.

Mr. HEBERT. All right, thank you, gentlemen, very much. The committee stands adjourned until tomorrow morning at 10 o'clock.

[Witness excused.]

[Whereupon, at 5 p.m. the subcommittee adjourned, to reconvené at 10 a.m., Wednesday April 29, 1970.]

The subcommittee met, pursuant to recess, at 2:30 p.m., in room 2337, Rayburn House Office Building.

Present: Mr. Dickinson, member of the subcommittee, John T. M. Reddan, counsel and John F. Lally, assistant counsel.

Mr. DICKINSON. Colonel Gavin, would you have a seat, please?

Colonel GAVIN. Yes, sir.

Mr. REDDAN. Would you give your name and present address and assignment to the reporter, please?

TESTIMONY OF LT. COL. DAVID C. GAVIN

Colonel GAVIN. David C. Gavin, lieutenant colonel, 427-58-8921. I'm presently assigned to 1st Army, with duty station Armed Forces Staff College in Norfolk.

Mr. DICKINSON. I understand you have a statement that you wanted to read?

Colonel GAVIN. Yes, sir, I do.

Mr. DICKINSON. All right. Let's identify you presently and where you were, and then we will give you our ground rules, and then you can read your statement.

What was your duty assignment on March 16, 1968?

Colonel GAVIN. I was the senior adviser, Son Tinh District, Quang Ngai Province, Republic of Vietnam, sir.

Mr. DICKINSON. All right.

You have received and have had explained to you the rules of our subcommittee?

Colonel GAVIN. Yes, sir.

Mr. DICKINSON. And you are aware that you are entitled to counsel, and I assume that your counsel is accompanying you now, and at your request; is this correct?

Colonel GAVIN. Yes, sir.

Mr. DICKINSON. Would you identify yourself?

Major HAIGHT. Yes, sir. Maj. Barret S. Haight, H-a-i-g-h-t. Assigned to the Judge Advocate General Schools, Charlottesville, Va. I'm a member of the Supreme Court of Connecticut.

Mr. DICKINSON. Very good.

So, if you will, I will put you under oath, and then you can read your statement, and then we will go from there.

Will you stand, please.

[Witness sworn.]

Mr. DICKINSON. All right, you may present your statement now.

Colonel GAVIN. All right.

On March 17, 1970, the Secretary of the Army announced to the general public that I had been charged under articles 92 and 134 of the Uniform Code of Military Justice. These charges resulted from the Peers Committee inquiry. The maximum authorized punishment for these charges includes a dismissal from the Army, confinement at hard labor.

The charges are presently being examined by the Commanding General, 1st Army, at Fort Meade, Md. Disposition of the charges against me to include trial by courts-martial is within the discretion of the 1st Army Commanding General.

I fully appreciate the serious potential of these charges, and the grave effect which any punitive action would bring to my future service as a career officer and to my life. Also, I understand this committee's concern about all the events surrounding My Lai, the Peers inquiry and the official allegations which resulted.

However, in view of the charges pending against me, and the clear danger of prejudice to my constitutional rights under the fifth and sixth amendments, I respectfully decline, at this time, to answer questions relating to these matters.

Mr. REDDAN. Mr. Chairman, I recommend that under the circumstances, that we waive the normal requirement of having him raise his constitutional objection to each question as presented, and instead we accept his blanket refusal to answer.

Mr. DICKINSON. Well, Colonel Gavin has come before the staff informally and given testimony.

Mr. REDDAN. Yes.

Mr. DICKINSON. Well, that being the case, the Chair will rule as requested by counsel, and will not put questions to you individually and compel you to resort to your immunity and constitutional rights as to each individual question; but will grant you your request in blanket.

Let me ask you one question, that you may answer on or off the record, either of you.

Where are you presently stationed now, Colonel?

Colonel GAVIN. Armed Forces Staff College at Norfolk, Va. as a student.

Mr. DICKINSON. Where were you immediately before that?

Colonel GAVIN. I was stationed at Combat Development Command. I went to the Staff College in January, last of January, sir.

Mr. DICKINSON. Were you at your present duty assignment during the time of the Peers investigation, and at the time of the Peers report?

Colonel GAVIN. Yes, sir. Well, I was initially here, for the first part of the Peers inquiry, the first time I appeared; and then I went down as a student, and I'm still there.

Mr. DICKINSON. Well, the purpose of my question, and maybe I'm asking it awkwardly, but it's come to our attention that in at least one instance, as a result of the Peers Committee, charges were attempted to be brought, and the commanding general or the commanding officer of this particular individual refused to bring charges. Consequently and subsequently, he was transferred to another command, where the new commanding officer did bring charges.

Now, nothing like this happened to you, did it?

Colonel GAVIN. No, sir. I think my counsel can explain.

Major HAIGHT. Excuse me, sir.

Mr. DICKINSON. Yes.

Major HAIGHT. The individuals were assigned to Fort Meade, Md. Therefore, under the jurisdiction of the commanding general, 1st Army, and then the charges were read against them.

So, it was a transfer of the individuals prior to the reading of the charges. They weren't read by the command under which they were serving at the time they were drafted. If I have made myself clear.

Mr. DICKINSON. Yes; I think you did.

So far as you know, all of those who are charged as a result of the Peers inquiry were transferred from their duty stations at the time of the Peers inquiry, or immediately prior thereto, and all transferred to one central location, which is where you are now.

Colonel GAVIN. Headquarters, 1st Army, Fort Meade.

Mr. DICKINSON. And then the commanding general of the 1st Army, within his discretion, decided whether all these charges as were read would be proceeded with, if I understand it correctly; is that substantially correct?

Colonel GAVIN. I don't think we're to that stage.

Major HAIGHT. Yes, sir, in substance. The individuals, however, to cover the first point, have been retained at their duty station. They are assigned on a permanent change of station to Fort Meade, but they are allowed to continue their duty at the stations at which they were serving, when the charges were brought into official channels.

Mr. DICKINSON. I see.

But technically and legally, the sole discretion, then, is in the commanding general of 1st Army, regardless of where they are physically located in their present duty assignment?

Major HAIGHT. Yes, sir, as to further disposition of the charges. At the present time, they have merely been preferred by an individual, and read to the individual accused.

Mr. DICKINSON. I see. All right.

That's all I have.

Mr. REDDAN. Major, you mean the commanding general of the 1st Army preferred the charges in each case?

Major HAIGHT. No, sir.

Mr. REDDAN. Who preferred the charges?

Major HAIGHT. They were—it varies as to some of the individuals, sir. I have a copy of the charge sheets if you'd like to see them.

Mr. REDDAN. I think what Congressman Dickinson is trying to determine as to whether or not any commanding officer refused to prefer charges or to make charges against any of those who were subsequently charged.

Major HAIGHT. We have no knowledge of that, sir.

Mr. DICKINSON. I see. All right.

Thank you very much, gentlemen.

While you were not instructed at the beginning, it's been the policy and is the policy of this committee to protect you in your personal privacy. I don't know that there is any press here, but there may be. If you do not wish to talk to the press, there is an officer outside of this door. As you exit, if there is a member of the press there, there will only be one, and the only thing he will do is ask you, are you willing to make a statement.

If you reply in the affirmative, you may accompany him to wherever the reporters are, if they are there, and make a statement. If you reply in the negative, then you will be conducted away from the reporters, and no one will interview you or take your picture or get a recording of your voice, and you can leave unmolested and unrecorded.

It's up to you. All right.

[Whereupon, at 2:35 p.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 2:40 p.m., in room 2337, Rayburn House Office Building.

Present: Mr. Dickinson, member of the subcommittee.
 Also present: John T. M. Reddan, counsel, and John F. Lally,
 counsel.

TESTIMONY OF COL. MASON J. YOUNG

Mr. DICKINSON. Colonel Young, I guess it devolves on me to chair this due to a number of circumstances, we have got down to one member here, so I will chair the meeting in the absence of Mr. Hébert, who is attending another special subcommittee meeting.

I suppose that you have been given a copy of the rules of the subcommittee; have you not?

Colonel YOUNG. Yes, sir.

Mr. DICKINSON. You also are aware that you are entitled to counsel if you so desire?

Colonel YOUNG. Yes, sir.

Mr. DICKINSON. And you have elected, I assume, not to have counsel accompany you here?

Colonel YOUNG. Yes, sir.

Mr. DICKINSON. Do you have any questions that you would like to ask of us before I put you under oath?

Colonel YOUNG. No, sir.

Mr. DICKINSON. All right. If you will stand, please, and raise your right hand.

[Witness sworn.]

Mr. DICKINSON. Be seated, please.

Mr. REDDAN. Colonel, will you identify yourself for the record, please? Your name and address and present assignment?

Colonel YOUNG. I am Col. Mason J. Young, presently assigned to the U.S. Army Combat Developments Command, Combat Arms Group, at Fort Leavenworth, Kans.

Mr. REDDAN. In March of 1969, what was your duty station, sir?

Colonel YOUNG. At that time, I was assigned to the Americal Division. I was the division artillery commander, at Chu Lai in Vietnam.

Mr. REDDAN. During what time did you occupy that slot?

Colonel YOUNG. I was the division artillery commander from the time that initial planning for the task force started, in February of 1967; I was the division artillery commander or the task force artillery commander.

Mr. REDDAN. Task Force Barker?

Colonel YOUNG. Task Force Oregon. The commander when we became operational on the 20th of April 1967. And I held that post until the 31st of March 1968.

Mr. REDDAN. Now, did you have under one of your commands, the battalion which supported Task Force Barker in its operation?

Colonel YOUNG. No; I didn't. Our organization was a little unusual in that the 11th Brigade came to us as a separate light infantry brigade, with its field artillery battalion organic to the brigade. So he was not actually under my command. However, I was responsible for specifying the procedures, SOP's, and methods that we'd use throughout the division.

Mr. REDDAN. Did you participate in any way in the formulation of the operation of Task Force Barker in the Son My area on March 16?

Colonel YOUNG. No, sir.

Mr. REDDAN. Did you ever see any of the copies of the artillery overlays for that operation?

Colonel YOUNG. No.

Mr. REDDAN. Could you tell us, please, Colonel, what the SOP's were with respect to civilian casualties that may have resulted from artillery fire? How were these handled?

Colonel YOUNG. Yes. Now, I have some documents here that I can read from, which I previously presented to Mr. Lally. If you want me to go through that again.

Mr. DICKINSON. I think not, if we already have the documentation. If you can identify it, we will put it in the record, and then if you will just explain it to us.

Colonel YOUNG. Very good.

Mr. LALLY. You can just mark it, Colonel.

Colonel YOUNG. These are three copies of three documents which I required to be in every fire direction center in the division artillery. That is, in the battalion fire direction center, the battery fire direction center, which is the smallest firing unit, and also, of course, in division artillery firing center.

Mr. REDDAN. A copy of this would have been at LZ Uptight with the artillery group at that location?

Colonel YOUNG. With the artillery battery at that location; yes.

Mr. DICKINSON. These are three different types of documents?

Colonel YOUNG. Yes; that is right.

Mr. DICKINSON. Would you explain them, please?

Colonel YOUNG. OK. Now, one of these is entitled "Investigation of Artillery Incidents." I can't read that one, but I have one here that I can read.

Earlier, when I became the Task Force Oregon Commander; I realized we were going to have cases of misdirected artillery. I had already been in Vietnam for 6 months. I knew this was a common problem. And that the problem was that the artillery battalions were organic to the brigades, and they weren't under my command. So I got a letter which is in the top of this folder, signed by the chief of staff of the task force, directing that any time any artillery resulted in wounding of any of our friendly people, any civilians or any noncombatants, or killing them, that a report would be rendered to me, and then I would always appoint an impartial investigating officer, which I later changed to be a field grade officer; that is, a major or higher.

Mr. REDDAN. Who was the chief of staff who signed this?

Colonel YOUNG. That was Col. Edgar R. Poole. And that was dated May 7, 1967, which was just about 2 weeks after we became operational.

Mr. REDDAN. Now, you use the word "misdirected" fire. Does this mean a shell that missed its mark and wounded civilians?

Colonel YOUNG. Well, that was the primary intent, because if the fire is directed where the infantry wants it, this is something else.

Mr. REDDAN. Well, now, supposing in a case like My Lai 4, if artillery were directed on a portion of the village, and it was subsequently determined that some civilian casualties resulted from that artillery fire, would this SOP that you have just referred to require a reporting of that, and subsequent investigation?

Colonel YOUNG. Well, I think I would have to digress on that. We have the rules of engagement, which are put out by MACV, and which I stressed very much. They are in the Americal SOP. And just briefly, they say you don't fire on villages, or inhabited areas, unless it is essential to the scheme of maneuver of the infantry unit.

And I have personally briefed all the incoming infantry and artillery men that I could get my hands on, on this. For instance, you don't put fire on a village, where there would be women and children there. But if you come under fire from the village, if it is light fire, say you are just flying over in a helicopter and they shoot at you, you don't turn around and drop artillery and obliterate the village.

On the other hand, as frequently happened over there, you can have a village which is really just a camouflage for an innetwork of bunkers, and it may have a whole unit, infantry unit, company or so, pinned down, and then artillery is necessary to save our troops and get them out of there.

And these rules are specifically laid down, for instance, in another folder, which I had here, the second folder, indicated artillery command, "Artillery Items for Command Emphasis," dated October 15, 1967. This is dated October 12, 1967. I remember this particularly. And it was put out over my signature to all the artillery units. And we specified the MACV rules of engagement will be strictly observed in the Americal Division.

This applies equally to fires at the request of ARVN units.

And then the rules are detailed in the Task Force Oregon Field SOP, which I believe you all have a copy of that. And next an operations, appendix 4, "Fire Support Coordination," paragraph 3(k), and 7. I remember these, because I wrote them myself, in the planning for the Task Force Oregon. And extracted them from MACV documents. And there in the Task Force Oregon Field Artillery SOP, they are detailed, and next an operations appendix 4, "Fire Support Coordination," paragraph 3.

Mr. REDDAN. Well, now, to come back to my other question, Colonel.

Colonel YOUNG. Yes?

Mr. REDDAN. If in pursuit of a military objective, artillery fire were laid on a village, and it was subsequently determined that civilians had been killed as a result of the artillery shells, would the rules that you are reading, or the rules that you have before you with respect to investigation and reporting of those civilian casualties apply?

Colonel YOUNG. This is a moot question, really. In other words, if the fire went where the infantry wanted it, and the infantryman said it was necessary to his scheme of maneuver, the artillerymen would hardly be expected to report it, unless, of course, it was some sort of an atrocity, where they killed people needlessly or something like that, then he would.

Mr. DICKINSON. Who would do the reporting?

Colonel YOUNG. I would say in a case like that the primary emphasis would be on the infantryman to report it, because he called for it; he got it where he wanted it. The artillery men; it is questionable.

Mr. DICKINSON. I am not as familiar with the military way of doing things as I should be, I suppose, but is there any way that anyone connected with the artillery unit, per se, would have any way of knowing the results of his fire?

Colonel YOUNG. Yes, sir.

Mr. DICKINSON. So far as killing civilians?

Colonel YOUNG. Yes, sir. They were not allowed to fire in the vicinity of villages unless it was adjusted.

Now, if you want, I can talk about this specific case.

Mr. DICKINSON. Yes.

Colonel YOUNG. I happen to have read quite a bit of testimony on it, in assisting Colonel Luper, in his defense, and there is no, absolutely no evidence that any rounds killed a soul at My Lai. And as far as I could make out, all the rounds landed exactly where they were supposed to.

Now, I admit that there is one report, we were shown by Mr. Lally here, where they said, and possibly artillery and gunships. But in point of fact, the people who observed the preparation and so forth, there's no evidence that a single person was killed by artillery.

Mr. REDDAN. Well, the thing that we are trying to get at here is that in view of this report, so-called Henderson report, in which the conclusion was reached that you have just mentioned, that possibly civilians had been killed by artillery fire, should that have been brought to your attention for investigation, for determination of whether or not it was misdirected fire, or whether it was called in by the ground forces?

Colonel YOUNG. Well, as far as Colonel Luper is concerned, I personally don't feel that he had any obligation to report an artillery incident, even though he has been charged with this, in my professional opinion there is no basis for that.

Mr. REDDAN. Well, he did receive a copy of the Henderson report?

Colonel YOUNG. I don't know.

Mr. REDDAN. Well, all we are trying to determine is whether or not anyone was derelict in not bringing this report to your attention.

Colonel YOUNG. I don't think so, and I might say that from the 16th of March until the 31st, when I left, I personally talked to Colonel Barker, Colonel Henderson, Major Calhoun, General Young, General Koster, on an almost daily basis with the latter two—well, it was on a daily basis with General Young and General Koster. At no time did they indicate that there was anything about this incident—in fact, I don't even remember the incident, it didn't even stand out that much that I do remember it—but at no time did they indicate there was any artillery incident there.

And, on the other hand, there are many cases where just one artillery round landed and killed one farmer and one water buffalo and either General Young or General Koster was right on me. It was my personal responsibility, and I always appointed a field grade officer and made a thorough investigation.

So there was never—I don't think in their minds and I believe their testimony will point this out—there was never any idea that this had anything to do with an artillery incident.

Mr. REDDAN. Of course you don't know that, Colonel. You know they did report if a buffalo were killed, but you can't get inside their minds and it is not proper testimony to tell us what they were thinking at that time, because you don't know.

Colonel YOUNG. Yes, sir.

Mr. REDDAN. Now, do you know whether or not fire, artillery fire, was called for on that village of My Lai 4?

Colonel YOUNG. The information—I am still trying to get this from testimony. I personally don't know anything. It is only through testimony. But it appears that they called for the fire outside the village, between the village and the landing zone, and that the rounds landed where they were called for.

Mr. REDDAN. Then if any rounds landed on the village, then it would come within the misdirected fire provision that you have read from, is that right?

Colonel YOUNG. Except that they asked for it very close to the village, and the village was the objective.

This would be a moot point, in our investigation. If I were an investigator, I would have to find out how essential the fire was to the scheme of maneuver of the infantry.

Mr. REDDAN. Well, the question is, Colonel, if the fire was not called for on the village, and if rounds did land on the village, would this constitute misdirected fire?

Colonel YOUNG. Yes.

Mr. REDDAN. And do you know whether or not rounds were called for on the village?

Colonel YOUNG. I have no indication they were. I have read testimony of various people.

Mr. DICKINSON. Well, aside from the testimony, is there anything in the records of the operation that would indicate what fire was required, and called for and delivered? Aside from oral testimony?

Colonel YOUNG. No. There is a report in a log, early in the morning, saying that 69 people were killed by artillery fire. Which I never remember seeing or hearing or—

Mr. DICKINSON. What log was this?

Colonel YOUNG. Well, it is in the various testimony. It was in the Task Force Barker log, the 11th Brigade log, and the division log. But I don't remember hearing anything about it, and, if so, it was as if they were 69 Viet Cong killed. That's the way the report was.

Mr. LALLY. There would have been no obligation to bring to your attention such an item in the journal?

Colonel YOUNG. No. I was over there a year, and I think our body count was over 14,000, in a year. Sixty-five in one day is not unusual.

Mr. REDDAN. Unless they were 65 civilians. Would that be unusual.

Colonel YOUNG. Yes, that is right.

Mr. REDDAN. Who would have had the responsibility for reporting if civilian casualties had resulted from artillery fire at My Lai 4 on March 16?

Colonel YOUNG. Well, I would say it would be the senior man present on the ground that saw the civilian casualties. Probably the company commander, or might have been the platoon leader.

Mr. REDDAN. Would the artillery liaison have any obligation in that respect?

Colonel YOUNG. Yes, if it were brought to his attention, and they were not killed as a part of the required scheme of maneuver for the infantry, he would have an obligation to report it.

Mr. REDDAN. Now, do you recall a visit which took place sometime in the latter part of March or first part of April 1968 when you and Colonel Luper visited the battery commander of Delta Battery at LZ Uptight?

Colonel YOUNG. I don't recall this. I have read this testimony. I don't recall it. I visited these batteries every day. They were stretched out 160 kilometers, and I would probably visit seven or eight in a day. And I remember visiting Uptight with Captain Gamble, the battery commander. I can't remember a time when Colonel Luper was with me, but he might have been. I just can't remember after this time.

Mr. REDDAN. Do you recall such a visit when Colonel Luper inquired or when you inquired of Gamble how things were going, and he told you that his battery had been responsible for 69 VC killed during the My Lai operation?

Colonel YOUNG. I don't recall this; no.

Mr. REDDAN. You don't recall that?

Colonel YOUNG. No.

Mr. REDDAN. Do you recall at that point Colonel Luper stating, "We are not sure that all of those were enemy?"

Colonel YOUNG. No; I don't recall this either. To make these things in context, it was my policy not to have the artillery claim casualties. We didn't want to get in an argument with the infantry as to who had caused the casualties. I personally think most of them, about half of them are caused by artillery, you know. But the infantry wants to claim them.

It is the maneuver element that actually goes through and sees them. So we never got in any argument as to who they were. So when one of my units was claiming casualties, I didn't pay particular attention to it, because really I didn't know whether they were caused by artillery or infantry.

Our success in the artillery is measured only by the movement forward of the infantry.

Mr. REDDAN. I have no more questions.

Mr. DICKINSON. All right, Colonel, thank you very much, and I don't know that there is any press here, but if there should be any out there, only one can approach you and ask you if you care to make a statement, and you may either reply in the affirmative, in which case he will lead you down and you will be interviewed, and if you reply in the negative, the police officer there will escort you away, and your privacy will be protected.

Colonel YOUNG. Yes, sir. Well, I don't care to make any statement to the press.

Mr. DICKINSON. Interest seems to have waned here, and I think maybe that is as it should be, but the first week or so you couldn't get through the hall out here. But I think they have gone now.

Mr. REDDAN. Before you leave, Colonel, I would just like to ask one other question. When were you relieved of your command over there?

Colonel YOUNG. Thirty-first of March.

Mr. REDDAN. Thirty-first of March. And you were followed by Colonel Jones?

Colonel YOUNG. Jones, yes. He is waiting outside.

Mr. REDDAN. All right, fine. Thank you.

We appreciate your coming, Colonel.

[Whereupon, at 3:05 p.m., the subcommittee proceeded to the taking of testimony from a further witness.]

Mr. DICKINSON. Is this your first time to come before the staff or the committee?

TESTIMONY OF COL. LAWRENCE M. JONES, JR.

Colonel JONES. No, sir, I was here before.

Mr. DICKINSON. All right. Now, it has devolved on me to chair the meeting this afternoon, and we will take your testimony now. First, you have been furnished a copy of the rules of the subcommittee?

Colonel JONES. Yes, sir, I have.

Mr. DICKINSON. And you have read and do understand them, and are aware of the fact that you are entitled to counsel if you so desire?

Colonel JONES. Yes, sir.

Mr. DICKINSON. And since you appear alone, I assume it is your election and your desire not to be represented by counsel here?

Colonel JONES. Yes, sir.

Mr. DICKINSON. All right. If you will stand, I would like to put you under oath.

[Witness sworn.]

Mr. DICKINSON. All right, be seated. Now, I don't know that there is any press out there, but this committee will protect you as far as your personal privacy is concerned. At the conclusion of the testimony taking here today, as you leave, if there is anyone from the press there, there will only be one to represent the rest and he will ask you if you are willing to make a statement.

If you reply in the affirmative you can accompany him and you will be interviewed. If you reply in the negative, a police officer will be there to escort you away from the area here, so that you can leave without being photographed or interviewed, and that is your election.

We are here to assure your privacy and we appreciate your coming here and your cooperation. Now, Mr. Reddan.

Mr. REDDAN. Colonel, will you identify yourself for the record, please. Your present address and your duty station.

Colonel JONES. I am the assistant division commander, First Armored Division, Fort Hood, Tex., Col. Lawrence M. Jones, Jr.

Mr. REDDAN. Now, did you succeed Colonel Young in Vietnam?

Colonel JONES. Yes, sir, I did.

Mr. REDDAN. And what was your assignment at that time?

Colonel JONES. Commanding officer of the Americal Division Artillery.

Mr. REDDAN. And you assumed command at the end of March 1968?

Colonel JONES. That is correct, the 31st of March.

Mr. REDDAN. Now, the only thing that we would like to ask you, Colonel, is whether or not at any time during your assignment in-country you received any report of civilian casualties as a result of artillery fire on March 16, 1968, at My Lai 4?

Colonel JONES. No, sir, I did not receive any such reports.

Mr. REDDAN. Have you seen a copy of the so-called Henderson report of April 24, 1968?

Colonel JONES. Sir, I saw a report when I was here before, which you showed me. As I recall, it was a 2- or 3-page document. That is the only one I have seen.

Mr. REDDAN. Do you recall that document having a conclusion that there were possible civilian casualties at My Lai 4 as a result of artillery fire?

Colonel JONES. Yes, sir, I do.

Mr. REDDAN. I have the report here, if you want to see it.

Colonel JONES. Yes, sir, please.

Mr. REDDAN. You will notice the report itself, I believe, is a page and a half long.

Colonel JONES. That is right, yes, sir.

Mr. REDDAN. I think the conclusions are on that second page.

Colonel JONES. Yes, sir. Actually it doesn't say artillery here. It does say it is concluded that 29 noncombatants were inadvertently killed when caught in the area of preparatory fire.

Mr. REDDAN. Was the artillery part of the preparatory fire?

Colonel JONES. As far as I know they were, sir.

Mr. REDDAN. Was it the major preparatory fire?

Colonel JONES. They usually were, but in this particular case, I don't know. I wasn't there.

Mr. REDDAN. Having read those conclusions, Colonel, could you tell us whether or not in your opinion that fact should have been brought to your attention, in your command position in Vietnam?

Colonel JONES. Yes, sir, it should have been, yes, sir.

Mr. REDDAN. Who in the division would have had the responsibility for bringing that report to your attention?

Colonel JONES. Whoever received this report, sir, at division headquarters should have brought it to my attention. In other words, if it went to the division commander, I think he would have, or if it had gone to the chief of staff, he would have, or if it had gone to the G-3 or the G-2.

Mr. REDDAN. That is all.

Mr. DICKINSON. Did any of them in fact bring this to your attention?

Colonel JONES. No, sir.

Mr. DICKINSON. You never saw this before?

Colonel JONES. No, sir. Until I came here in February.

Mr. REDDAN. And your testimony as I understand it is that no one either formally, informally, officially, or unofficially brought to your attention the fact that there had been civilian casualties at My Lai 4 on March 16, 1968, that could have been caused by preparatory fire.

Colonel JONES. That is correct, sir.

Mr. REDDAN. I have no further questions.

Mr. LALLY. Colonel, should this report have been brought to your attention, irrespective of whether the fire was laid on the village itself?

Colonel JONES. I am sorry, Mr. Lally?

Mr. LALLY. If the fire had been directed on the village itself, and casualties had resulted, should the report then have been brought to your attention?

Colonel JONES. Yes, sir.

Mr. LALLY. It should?

Colonel JONES. Yes, sir.

Mr. LALLY. All right.

Mr. REDDAN. Thank you.

Mr. DICKINSON. Well, that means that if the noncombatants that were killed, if they were killed in a rice paddy or field outside the village, or within the village, they were killed in the LZ designated

area, as part of the preparation, or by missent shells within the village, in either event, this knowledge of 29 having been killed in the preparatory fire should have been relayed on to you?

Colonel JONES. Yes, sir.

Mr. DICKINSON. I see. All right.

[Witness excused.]

[Whereupon, at 3:15 p.m., the subcommittee was recessed.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Wednesday, April 29, 1970.

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 2337, Rayburn House Office Building, the Honorable F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Dickinson, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel, and Mr. John F. Lally, assistant counsel.

MR. REDDAN. Mr. Roberts, will you just give the reporter your full name and your address, please?

TESTIMONY OF JOHN C. ROBERTS

MR. ROBERTS. John C. Roberts, 4814 First Street South, Arlington.

MR. REDDAN. And your telephone number, sir?

MR. ROBERTS. 522-9089.

MR. REDDAN. Mr. Roberts, we appreciate your coming in this morning, because we are looking into a matter in which probably your son could be most helpful to us.

MR. ROBERTS. Yes.

MR. REDDAN. It involves this My Lai matter?

MR. ROBERTS. Yes.

MR. REDDAN. And since he was there on the ground on that day, we feel that he could be most helpful to us in helping us understand what went on.

Now, we have been trying to locate him, but I understand he's out of the country, is that right?

MR. ROBERTS. Well, I really don't know, because we haven't heard from him in a long time. Well, the last time he was up here, this was in the first part of February, and he spent 1 whole day in the Pentagon. A very exhaustive interrogation then.

He said "I've told them everything there is possible to tell, and I feel that I've done my part, and I am just going to go someplace and get out of it." And he's quite disturbed, and he said then he was going toward the Gulf of Mexico, and where he would be, he didn't know.

We did get a card from him—this was in, I think the last week in February, and that was from Empire, La. I really don't know where it is.

MR. HÉBERT. It is right on the Gulf of Mexico.

MR. ROBERTS. I think it is down there. Then we got another card, and this was the second week in March, and that was from—where they have the Mardi Gras.

MR. REDDAN. New Orleans.

Mr. ROBERTS. New Orleans. And that's the extent of it. We don't know whether he's there now, whether he's gone on. We haven't any idea. We don't hear from him.

Mr. REDDAN. Then as far as you know he's still in the country someplace?

Mr. ROBERTS. I guess so. As I say, I am just guessing.

Mr. REDDAN. Do you know whether he's employed at the present time? What is the nature of his normal employment?

Mr. ROBERTS. I think primarily he went to New Orleans just for the Mardi Gras. I don't think he intended to stay there.

Mr. REDDAN. I mean, is he a newspaperman or what does he do?

Mr. ROBERTS. He does incidental writing. That was what he did in the armed services, and still does, to a certain extent, but nothing—I mean, he has no definite connection with any periodical of any kind. He is just freelance.

Mr. REDDAN. He doesn't have any one employer that you know of?

Mr. ROBERTS. No, sir. It is just freelance writing is all it is.

Mr. REDDAN. Have you seen anything which he has written in the last month or so?

Mr. ROBERTS. No. No; I don't know of anything—well, the last thing of any of his actual testimony was stuff that came out in Life, and that was back in—oh, I guess the last of January.

Mr. REDDAN. Well, if you hear from him, Mr. Roberts, or if you find out where he is, if you would be good enough to tell him that the committee would like very, very much to talk to him.

Mr. ROBERTS. I certainly will.

Mr. REDDAN. And I am sure that he wouldn't find a session with this committee would be as hard on him as what he went through at the Pentagon. All we are trying to do is to talk to somebody who knows what happened there, somebody who can give us as objective a view as possible, and it might be that his testimony might save some innocent people.

Mr. ROBERTS. Yes.

Mr. REDDAN. Or it might also serve to convict some if they needed to be convicted.

But in other words, in the interest of justice, it is most important that we get his testimony.

Did he ever talk to you about the My Lai matter?

Mr. ROBERTS. Oh, yes. We had some letters when he was over there. We had a letter right soon after the incident itself, and he was quite upset. He never told us really much. I mean, you could tell from the way he wrote the letter that he was disturbed. He was very much upset. But actual details, and even after he came back, of course, he does this I think for his mother, primarily, he did once in a while tell me a little bit. He just—I guess a lot of them were that way. They just tried to get it off their minds when they left there, and they didn't bring it back with them. At least he's never talked very much about it.

Mr. REDDAN. Well, the letter that he wrote to you, where he was upset, did this deal with the My Lai incident at all?

Mr. ROBERTS. Not in a direct sense, no. He said he didn't—never realized that war was like this. Now, what "this" was, I don't know. I don't know what he referred to, because he didn't go into detail. We

just assumed that was what he was referring to, but he didn't say so in the letter.

Mr. REDDAN. Did he ever talk to you about his efforts to bring this thing to the attention of anybody over there?

Mr. ROBERTS. I don't think he did. And I don't know why, and I guess the thing never would have gotten out, except for that chap in Chicago, because—see, he was not there as a combat—in a combat purpose.

Mr. REDDAN. No.

Mr. ROBERTS. He was covering it for this periodical that he was writing for, so he really wasn't in there as a combat member. And he wasn't a member of this group. I have forgot now the unit—

Mr. REDDAN. He was in the Public Information Office?

Mr. ROBERTS. Yes. And he was from—he came over from Duc Pho, which was not even the base that these men were from.

Mr. REDDAN. Yes.

Mr. ROBERTS. So he didn't know anybody there.

Mr. REDDAN. Yes. Well, we understand that.

Mr. ROBERTS. Yes.

Mr. REDDAN. But he was there.

Mr. ROBERTS. Yes; he was there.

Mr. REDDAN. And he saw things there, and this is what we would like to talk to him about.

Mr. ROBERTS. I am sure he did. I will be glad to—if we can get in touch with him.

Mr. HÉBERT. This letter, Mr. Roberts, that you referred to, that he wrote you, you say one time, and then you later, during this morning, mentioned that he was probably talking about "this," meaning My Lai. That's what you meant?

Mr. ROBERTS. I think so, but he didn't say so.

Mr. HÉBERT. He didn't say so, so you don't know?

Mr. ROBERTS. We couldn't—we were just assuming.

Mr. HÉBERT. When did you first learn about My Lai?

Mr. ROBERTS. When did we?

Mr. HÉBERT. Yes; when did you first learn?

Mr. ROBERTS. Oh, I presume from the papers, because he never specifically mentioned it to us.

Mr. HÉBERT. So then when you read about it in the paper, in retrospect—

Mr. ROBERTS. We guessed that's what he was talking about.

Mr. HÉBERT. But he did not say so?

Mr. ROBERTS. He didn't say so in his letter, no, sir. He never gave us much, as I say, he never gave much detail. Very little.

Mr. HÉBERT. You wouldn't know what he was doing at Empire, La., would you?

Mr. ROBERTS. Not unless he was looking for some temporary work. I have never been there, so I don't know what sort of a place it is.

Mr. HÉBERT. What was his training, Mr. Roberts? Where did he go to school?

Mr. ROBERTS. Oh, he went to American University, but primarily he was interested in journalism, rather than any—but he would take odd jobs. For instance, he was up in Connecticut, and they were painting

some television towers up there, and he got into that. But it was just—

Mr. HÉBERT. Construction, some construction work?

Mr. ROBERTS. Incidental construction work. He wasn't interested in it, though.

Mr. HÉBERT. Well, at Empire, La., he wouldn't have been pursuing a journalistic career.

Mr. ROBERTS. I don't know the place at all, but I would guess it was just temporary.

Mr. HÉBERT. There is fishing, oil, shrimping, oysters,

Mr. ROBERTS. Is that what it is?

Mr. HÉBERT. Yes.

Mr. ROBERTS. I am not familiar with it.

Mr. HÉBERT. Thank you for coming in.

Mr. ROBERTS. Quite all right, sir.

I don't feel I have added much.

Mr. HÉBERT. Well, he can help us a lot.

Mr. REDDAN. Just tell him to call us collect.

Mr. ROBERTS. Yes, I will do that.

[Whereupon, at 10:15 a.m. the subcommittee proceeded to a further witness.]

Mr. HÉBERT. Will you identify yourself for the record, please?

TESTIMONY OF LT. COL. WILLIAM D. GUINN, JR.

Colonel GUINN. I am Lt. Col. William D. Guinn, Jr., presently assigned to Headquarters First Army, with duty station at Office, Chief of Research and Development, Pentagon.

Mr. HÉBERT. Colonel, where were you on March 16, 1968? What was your assignment on that date?

Colonel GUINN. Sir, I was the Deputy Province Senior Advisor in Quang Ngai Province, Vietnam.

Mr. HÉBERT. Colonel, Mr. Reddan has given you the pamphlet explaining the rules of the subcommittee for your appearance here, has he not?

Colonel GUINN. Yes, sir.

Mr. KING. It's here. This is the first we've had it. This is the first time I ever saw this thing.

Mr. REDDAN. You were given a copy at your last appearance here.

Colonel GUINN. No, sir.

Mr. REDDAN. You are the only witness that didn't get a copy.

Mr. KING. We are here to testify, Mr. Chairman, and to be of some help to the subcommittee.

Mr. HÉBERT. Well, what the book does is recite the rights of the witness, and the conduct before the subcommittee, and it indicates to him that after having been placed under oath, he has a right of counsel of his choice. Obviously, he has elected to have counsel.

Now, Colonel, are these three gentlemen your counsel?

Colonel GUINN. Yes, sir. Brig. Gen. (ret.) Thomas H. King.

Mr. HÉBERT. They will identify themselves individually.

Mr. KING. My name is King, Thomas H. King. I am an attorney practicing in the District of Columbia, admitted to most all the courts around here, and have been engaged for the last 20 years in the practice of military law.

Mr. BIDDLE. I am Maurice F. Biddle. I am a retired Air Force Colonel, and I practice law here in the District of Columbia with General King.

Mr. DANCHECK. Sir, I am in the active Army. My name is Maj. Leonard Dancheck. I am appointed military counsel for Colonel Guinn.

Mr. HÉBERT. Now, Colonel Guinn, all these gentlemen are counsel of your choice?

Colonel GUINN. Yes, they are.

Mr. HÉBERT. Now, counsel will understand, as they well know, that they are here to protect your rights. They are not here to prompt you as to your responses to questions by the committee. They are not here to suggest how you shall answer questions. They are here to just protect you in case there is a question asked that you do not care to answer, in which case your counsel can advise you to stand on your constitutional rights.

Now, are you under any charges?

Colonel GUINN. Yes, sir.

Mr. HÉBERT. What charges are you under?

Colonel GUINN. I have been charged with dereliction of duty, several counts of dereliction of duty, and also for false swearing.

Mr. HÉBERT. Now, these are charges that are under investigation, as I understand it. The decision has not been made to bring you before a court-martial yet.

Colonel GUINN. That's correct, sir.

Mr. HÉBERT. Now, in connection with that—and counsel particularly—we want you to quite understand that this committee is not becoming involved at all in the truthfulness or falsity of the charges being brought against the colonel. We are not going to engage in any questioning which would prejudice the witness' case before the court-martial, if he is brought before a court-martial; nor will we prejudice the Government's case, in the event he is brought before a court-martial.

The testimony which he gives here today will be available only to him, and to personnel authorized by him. The testimony is not available to anybody except the colonel, and authorized counsel.

Now, do we understand that?

Mr. KING. Yes, sir.

Colonel GUINN. Yes, sir.

Mr. HÉBERT. Now, the committee also wants to inform you that you are under the full protection of the committee while you are under its jurisdiction. By that I mean that your privacy will be protected. You will not be subjected to harassment by any member of the news media. You will not be compelled to have your photograph taken, or answer any questions you do not care to answer to the news media.

When you leave, you will leave by the door in the back of the room. A police officer will be there. The news media, if it elects, may have one representative. That representative, representing all the media—a so-called pool—is allowed to ask one question, and that question is, "Do you care to make a statement?"

If you reply in the negative, that ends the matter right then and there. The news media representative must leave, and you will be escorted in a secured area to leave the building.

Any questions at all?

Colonel GUINN. No, sir.

Mr. DICKINSON. May I ask a question off the record?

Mr. HÉBERT. Yes.

[Discussion had off the record].

Mr. HÉBERT. Colonel, if you will stand and be sworn.

[Witness sworn].

Mr. HÉBERT. All right, have a seat.

Mr. REDDAN. Colonel Guinn, you have submitted to the committee a statement that runs approximately 10 pages. This has been reviewed, and there are parts which are pertinent to our inquiry, and others which are not.

The cover page on that would not be a part of our record, but starting at the next page, which is unnumbered page 1, the top of the page, through the end of line 5 on page 4, would be appropriate, and then picking up again with the last paragraph at the bottom of page 5, and running through the second full paragraph on page 8 would be appropriate.

So if you wish to read those parts into the record at this time, the committee will be glad to hear you.

Colonel GUINN. The second full paragraph on page 8, sir?

Mr. REDDAN. Yes, sir, down to—

Colonel GUINN. Down to "talking about"?

Mr. REDDAN. Where you get down to "talking about," yes.

Colonel GUINN. All right.

Mr. REDDAN. So if you will just start at the top of the page, of page 1—

Colonel GUINN. All right, sir.

I am Lt. Col. William D. Guinn, Jr., Infantry, U.S. Army; I am a Regular Army officer stationed in the Office of the Chief of Research and Development in the Pentagon. I have been assigned there since February 1969.

My last assignment before coming to the Pentagon was in Vietnam, where I served for a total of 18 months in two increments, 1 year followed by a 30-day home leave, and then 6 additional months after my return from the States. During that last 6-month period, I served as Battalion Commander of the 1st Battalion, 20th Infantry, 11th Brigade of the Americal Division.

My Vietnam tour began in June 1967 and ended in January 1969. During the first portion of my tour I was stationed at Quang Ngai in the CORDS organization as Deputy to Mr. James May.

Mr. REDDAN. Would you explain what the CORDS organization is?

Colonel GUINN. This was the portion of MACV that was the civil organization for revolutionary development.

Mr. REDDAN. Now; did this have anything to do with the CIA?

Colonel GUINN. The organization itself did not, I don't believe, sir.

Mr. REDDAN. I mean, did they have any liaison with the CIA?

Colonel GUINN. At the highest level?

Mr. REDDAN. Yes.

Colonel GUINN. I do not know, sir.

Mr. REDDAN. In the field, did they?

Colonel GUINN. We had CIA people integrated into our organization, at the province level. How closely they were integrated into the

organization is a question which I am not really prepared to answer. I can't answer. They were there. They worked with us. However, I feel that it was more of a cooperative arrangement than it was a complete integration into our system.

Mr. REDDAN. How far up the system did they go?

Colonel GUINN. Well, they had a counterpart at the CORDS organization in Da Nang, and from there on, I don't know. But I think it was probably integrated in Da Nang about to the same level, the same extent that it was in Quang Ngai.

Mr. REDDAN. Do you have any idea how many CIA personnel were involved in this work?

Colonel GUINN. In Quang Ngai?

Mr. REDDAN. Yes.

Colonel GUINN. Probably four.

Mr. REDDAN. Do you know their names, sir?

Colonel GUINN. One was Mr. [deleted].

Mr. REDDAN. Tell us what they did, if you know.

Colonel GUINN. Mr. [deleted] was the—they were commonly referred to as "the Embassy." Mr. [deleted] was the RD cadre adviser—the revolutionary development adviser. And in addition to that, he supervised—as far as I know, now—this is as much as I know about their operation—he supervised the remainder of the CIA personnel there.

We had a police special branch adviser. That was [deleted]. We had a census grievance adviser. That was [deleted]. I believe there was another one. However, I am not sure who he was.

We had two or three young officers that were assigned to these people on detached service. I say "officers." I think they were military personnel. I'm not sure of their grades. They wore civilian clothes.

Mr. REDDAN. Were they Army personnel?

Colonel GUINN. I think they were Marines.

Mr. REDDAN. Marines?

Colonel GUINN. I think so. And these people advised, and you might say supervised, the PRU's, the Province reconnaissance units. They worked also under Mr. [deleted].

Mr. REDDAN. Was Mr. May part of this team?

Colonel GUINN. Mr. May was the head of the whole team, sir.

Mr. REDDAN. Of the CIA?

Colonel GUINN. No, sir. Mr. [deleted] was the head of the CIA team.

Mr. REDDAN. I see.

Colonel GUINN. Mr. May was the Province senior adviser.

Mr. REDDAN. All right. Go ahead, sir.

Colonel GUINN. Mr. May, as the Province senior adviser, was the principal adviser to Col. Thon That Khien, the Quang Ngai Province Chief.

My principal function was to oversee the military side of the pacification program. In this capacity, my job was to advise the Province Chief or his military deputy on all military matters involving Vietnamese regional and popular forces assigned to the Province or sector.

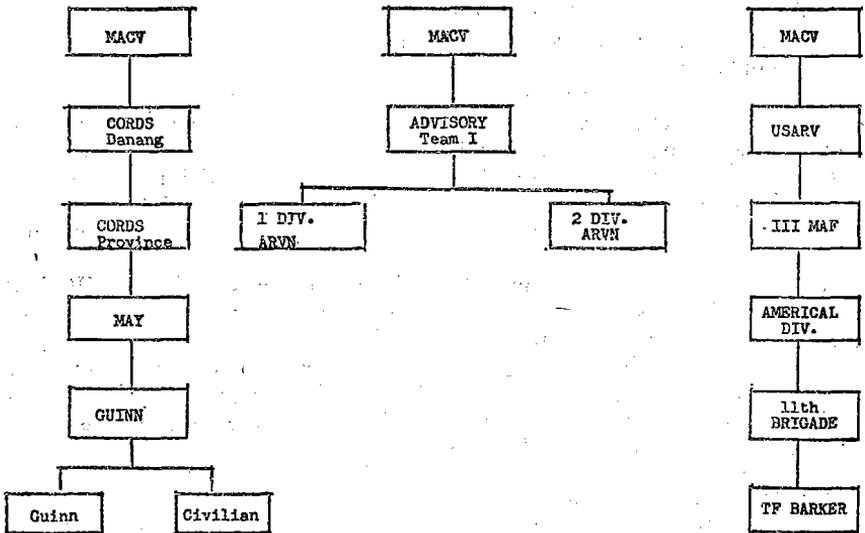
These two terms, Province and sector, were and are used herein as interchangeable.

I might add here that "Province" was the political entity, and "sector" was the military entity. But they were one and the same.

I want to add this. In addition to advising on regional and popular forces, for some period of time, and during the time period that we are concerned with, we had two, and at one time three, ARVN battalions, regular ARVN battalions under our operational control, so I also had advisory responsibility over them.

As such, I was familiar with the general locations, both past and in the then present, where American and Vietnamese forces had been and were conducting operations.

For a clearer understanding of the command relationships and channels of communication in that section of Vietnam, let me present to each of you an organization chart showing the channels.



Do you have that?

Mr. REDDAN. Yes.

Mr. KING. Will that be received?

Mr. REDDAN. Yes.

Colonel GUINN. Are there any questions on that chart, sir?

Mr. REDDAN. No.

Colonel GUINN. As you can see, there were three chains of command with MACV at the top. Under the block on the left is the CORDS side, staffed by State Department, CIA, and military personnel.

Under the center block is the 2d ARVN Division Advisory Team, headed first by Col. Carl Ulsaker and later by Col. Dean Hutter.

On the right is the Americal Division, the American combat force in the area, which had the 11th Brigade, commanded by Col. Oran K. Henderson, as one of its principal units.

Directing your attention to this left-hand column, my particular bailiwick was here and here. As you can see, I wore two hats. I was the principal deputy to Mr. May, and over in the left-hand column you will see that I had another job.

Mr. REDDAN. What was that job?

Colonel GUINN. That was the military adviser. I was principal deputy and also military adviser.

Mr. REDDAN. Who was the civilian opposite you there?

Colonel GUINN. At this time, we did not have a civilian in that job. He departed, and a Marine, Lieutenant Colonel Grubal, had come to us as the JUSPOW. He was on loan. He had come to us on loan from the Marine Corps, and was holding down this job temporarily until we got in another civilian.

I was the military adviser and deputy to Mr. James E. May, State Department, who was the formal and principal adviser to Colonel Khien. In my deputy capacity, I tried always to keep Mr. May advised of any activity in the military side of the organization, and anything that came to my attention on the overall situation.

There was daily contact between us except, of course, when he was absent. He was my boss, my commanding officer, even though he was there in a civilian capacity. I am proud of the fact he apparently had no complaints about my performance of duty, for he gave me the best efficiency rating I have ever received, and I also received the Legion of Merit and two Silver Stars for my work.

The two Silver Stars came later, though, as a result of commanding a battalion. The Vietnamese gave me three Crosses of Gallantry, and the Vietnamese Honor Medal, First Class.

My relationships with Colonel Khien, the Province Chief, were often and good. I also enjoyed extremely good relations with Colonel Toan, the 2d ARVN Division Commander.

Our instructions came to us downward through the CORD chain of command on what we were supposed to do or not do. We occasionally received requests laterally from both the 2d ARVN Division advisers and from the Americal Division and its units.

We were privy to intelligence information from several sources, including the Americal Division, 2d ARVN Division, Census Grievance, Police Special Branch, and various undercover activities located within the Province, both American and Vietnamese.

It was difficult to separate propaganda from legitimate intelligence. We often received VC propaganda leaflets, written in a flowery style—at least the translations were flowery—and were usually easily distinguishable because they always castigated the Americans and usually had the word “imperialist” somewhere in the text.

The problem was in evaluating information that came through agents, because you never knew which agents were feeding us counter-intelligence.

The exact sources of all the VC propaganda were unknown to me. A large portion of it originated in the Police Special Branch and Census Grievance Office.

Mr. REDDAN. Would you explain Census Grievance?

Colonel GUINN. Sir, I do, a little later on.

Mr. REDDAN. All right.

Colonel GUINN. Both of these sources, Police Special Branch and Census Grievance people, were directed by CIA. I am not implying that the CIA was a propaganda source, just that we did get a lot of propaganda from them.

The Census Grievance function ostensibly was to keep tab on the number of people in the area by a periodic census, take complaints by the people made for whatever reason people make complaints, and to see to it that some action was taken if the complaint was valid.

Census Grievance's main function, of course, was the gathering of intelligence gleaned from the census reports and complaints. My principal contact in that office was [deleted]. My main contact with the Police Special Branch was [deleted].

I recall one day in March—the exact date I cannot fix—a Vietnamese came into my office with two pieces of paper which he put on my desk. One was in Vietnamese, which I do not read, and the other was a handwritten translation that was very nearly unintelligible, except for certain parts.

To the best of my recollection, it was Mr. Lee Tom, who was Mr. May's personal Vietnamese secretary. His English was confined to what he had picked up in his association with Americans. If he had any formal education, I didn't know it.

I asked where the report was from, and he replied, "Census Grievance," as he departed my office. I do not know who translated the Vietnamese version, but I do know Lee Tom occasionally tried his hand at translating, with mediocre success.

I picked up the translation and gleaned from it that 1,200 to 1,500 people had reportedly been slain by American forces, artillery and bombing, on some date previous to the report. There were hamlet or village names in addition to map coordinates given in the translation.

I recall going to the map to check the coordinates as given in the translation I had been given. One set of coordinates showed a location right on the edge or just south of the Tra Khuc river in an area where I was virtually certain no American forces had operated, because we had not obtained any clearances for them.

The area, judging by the hamlet or village names, appeared to be the one in which Task Force Barker had been operating. I could not reconcile the difference in the village or hamlet names and the coordinates. The large number of casualties reported did not tally with what knowledge I had of the number of people in this area.

I do not recall specifically passing this information on to Mr. May at this time, but I would normally have done so. Since Mr. Tom was the one who brought it to me, it would have gone to Mr. May first.

As I recall, the translation version was not marked "information" or "action." This was not unusual, because many items came in unmarked. The "action" stamp would either come from Mr. May or from Lieutenant Colonel Green.

Lieutenant Colonel Green was responsible for administration and the message center, and when correspondence or information was clearly something within my area of operations, he would send it direct to me.

Later that day I discussed the message with one of our intelligence officers at our intelligence team. He stated his opinion that this was another piece of VC propaganda, with which we had been flooded ever since the Tet offensive began. I therefore took no further action on the message.

A day or so later, I had business at Duc Pho with our district team. Trips to Duc Pho were made by helicopter, because the road was not secure. Before I left, I recall discussing my trip with Mr. May. This was normal, to see if he wanted me to do anything for him.

At this time I am certain I told him about the message, what I had found and what I proposed to tell Colonel Henderson. I wanted to see if Colonel Henderson had any information on the allegation.

My information was that it was propaganda. I thought, in view of the large number of people reportedly killed, that he should at least know about it.

On arrival in Duc Pho, I went to the district headquarters. After I finished my regular business, I went to the 11th Brigade headquarters, which was maybe 5 minutes away. I met Colonel Henderson coming out of his office. He was on his way somewhere, by helicopter.

He stopped, and we talked for a few minutes outside the door of his office. I told him of the report I'd seen, and asked him if he had had any troops operating in the area as far south as shown by the coordinates contained in the message.

Mr. REDDAN. What were those coordinates, do you recall?

Colonel GUINN. I don't recall the coordinates, sir. They were down right on the edge, or just south of the Tra Khuc River.

Mr. REDDAN. Look at that map. If you'll just take down that aerial photograph—

Colonel GUINN. Yes, sir.

Mr. REDDAN. Does that map show the coordinates that you are talking about, sir?

Colonel GUINN. Sir, the coordinates were in this general area. Now, I am saying in this area, right on the edge of the river, just north of the Tra Khuc River or south of the Tra Khuc River, in this area, but right on the edge of the river.

He replied, "No," he had not, but said he would look into it. At this time he seemed surprised and somewhat taken aback by the allegation. This conversation confirmed my understanding as to where American forces had operated, and I let the matter drop at that point.

It was after my visit to Colonel Henderson that I learned there was an investigation in progress concerning Task Force Barker's activities. My information came from the Americal Division's G-5, Lieutenant Colonel Anistranski. In my own mind, I suppose I subconsciously connected the report I had seen with what Anistranski told me about the investigation. Since what he had seemed to tally with the other evaluations I had received from an intelligence officer, plus my own opinion, I thought the whole matter was over and done with.

To the best of my knowledge and recollection, I did not mention the report I had seen—1,200 to 1,500 people killed—to either Major General Koster or Brigadier General Young. If I did, and I doubt it, it would have been in the context of the knowledge I had from Lieutenant Colonel Anistranski concerning an Americal investigation of Task Force Barker's activities.

Since I had seen only the one report, 1,200 to 1,500 killed, which was the one I contacted Colonel Henderson about, I would have had no occasion to mention any other, and must have naturally assumed that was the one Anistranski was talking about.

Mr. REDDAN. Colonel, would you tell us in as much detail as you can recall what your conversation was with Anistranski, when or where it took place, and who, if anyone, was present?

Colonel GUINN. I don't remember if anyone else was present, sir. I am under the impression that Mr. May was there, but I can't—I can't say for certain that he was there.

Mr. REDDAN. Where did it take place?

Colonel GUINN. In our headquarters.

Mr. REDDAN. Down in—

Colonel GUINN. Quang Ngai.

Mr. REDDAN. In Quang Ngai.

Colonel GUINN. Yes. Colonel Anistranski visited us frequently, usually to attend our weekly briefings, which were held on, I believe, Friday afternoons. He acted as a liaison, you might say, a go-between, from the division and us. There was no official liaison, but he was the G-5, and our work pretty well corresponded with his work, and when Anistranski came down he would usually pass on to us anything that was pertinent or anything that Americal Division might be doing at the time, and we likewise would pass on to him anything. He would take it back and then act on it, whatever was necessary.

Mr. REDDAN. Can you fix with any accuracy at all the date that this conversation with Anistranski occurred?

Colonel GUINN. Sir, it was either—I would say late March or early April, sometime in that time frame.

Mr. REDDAN. In 1968?

Colonel GUINN. Yes, sir.

Mr. REDDAN. All right, go ahead, sir.

Colonel GUINN. I can't recall whether it was in my office, Mr. May's office, or in the conference room. They all opened in the same area, and I just recall Colonel Anistranski mentioning that there was an investigation going on involving something as it happened in Task Force Barker's area, and the details of it I don't recall, and I don't think Anistranski went into any detail on it.

Mr. REDDAN. Well, now, did you tie this in with this so-called propaganda sheet that you had gotten? You say here "In my own mind, I suppose I subconsciously connected the report I had seen with what Anistranski told me about the investigation."

What is your present recollection as to what Anistranski told you? How did this come up, do you know?

Colonel GUINN. I don't remember, sir. Anistranski, when he came down, would talk quite a bit. A lot of it was planning, but he would pass on what he knew about what was going on, and he kept us filled in on Americal's activities.

Mr. REDDAN. Did you tell him you had been up to see Colonel Henderson about this matter?

Colonel GUINN. I don't recall that I told him that, sir.

Mr. REDDAN. Do you have any recollection as to whether or not this came up because of something that you said, or did it come up because Anistranski initiated it?

Colonel GUINN. I think Anistranski initiated it. I don't recall asking Anistranski anything that would have elicited this response from him.

Mr. REDDAN. What did he say that caused you to connect this with the report that you had?

Colonel GUINN. The only thing I can remember is that he said there was an investigation of some type going on, concerning Task Force Barker's activities during this period of time.

Mr. REDDAN. Did he indicate the area in which the investigation was—

Colonel GUINN. I don't recall the area, but I knew the area that Task Force Barker had been operating in and it all tied together.

Mr. REDDAN. You knew they have been operating in the AO extension?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Did he say anything about allegations of civilian casualties?

Colonel GUINN. I don't recall any allegations on civilian casualties. I don't remember it, sir.

Mr. REDDAN. What was there about what he said that caused you to connect this with the Viet Cong propaganda? That's what the Viet Cong propaganda was about, civilian casualties, presumably, wasn't it?

Colonel GUINN. Yes, sir.

Mr. REDDAN. So what was it that Anistranski said that caused you to connect his statement with the allegation you had received?

Colonel GUINN. I can't recall specifically what Anistranski said. I remember his mentioning the investigation, and if he tied it down to civilian casualties or Viet Cong propaganda at that time, I can't fix the specifics on it.

Mr. REDDAN. Well, now, you said you also received some information from an intelligence officer. What was that?

You said, "Since what he, Anistranski, had seemed to tally with the other evaluations I had received from an intelligence officer, plus my own opinion," et cetera.

Colonel GUINN. I had taken this report and had checked it with one of our intelligence officers—

Mr. REDDAN. When you say "report," you mean this Viet Cong propaganda?

Colonel GUINN. The one thing that I remember seeing.

Mr. REDDAN. Yes.

Colonel GUINN. And his comment was, "No, there's nothing to it, this must be some more propaganda."

Mr. REDDAN. Do you know who the intelligence officer was?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Who was that?

Colonel GUINN. That was a lieutenant at that time, Lieutenant Frosch, F-r-o-s-c-h.

Mr. REDDAN. And where was he in this—was he part of the CORDS organization?

Colonel GUINN. He was part of the CORDS organization, sir.

Mr. REDDAN. Where did he fit in?

Colonel GUINN. He would fit in directly under me, here, under the military advisory side of the organization. He was one of the two intelligence officers we had in Quang Ngai, military intelligence officers, I should say, that were both acting as intelligence officers and also as advisers.

Mr. REDDAN. He was in your office, under your command?

Colonel GUINN. He was under our organization, yes, sir.

Mr. REDDAN. But I mean did he report directly to you?

Colonel GUINN. He was the assistant intelligence officer at that time.

Mr. REDDAN. Yes.

Colonel GUINN. And yes, they reported directly to me.

Mr. REDDAN. Do you know what the basis was for his conclusion that there was nothing to this report?

Colonel GUINN. Well, Lieutenant Frosch had a very good feel for the area. I think he knew as much about the intelligence situation in Quang Ngai, as a whole, as anyone around there. Lieutenant Frosch—we've talked to him. I asked him about these things, because I'd forgotten—he briefed us on Task Force Barker's operation, the March 16 operation, a couple of days after it happened.

It was normal for us to have morning briefings, which consisted of an intelligence briefing and operations briefing, anything else that might be of any major concern, and then any of the civilian—on any of the civilians in the organization might brief, but it always contained a situation briefing and an intelligence briefing.

At one of these morning briefings, Lieutenant Frosch mentioned this operation, and that Task Force Barker had reportedly gotten a 128-body count in the operation. I believe that was the number. Something like that.

Lieutenant Frosch at that time made a comment that he doubted this number, or something to that effect. He thought—I believe he said something to the effect that he thought that they were exaggerating their body count, because we had two differences of opinion between us, that we now know, and Americal Division on the location of the enemy units. We were carrying the Viet Cong 48th, local force battalion, over to the west, west of Highway 1, in fact, certainly miles to the west of this My Lai area, and they had reportedly gone to that area, back into the mountains, to reequip, retrain, and resupply.

Mr. REDDAN. When were they supposed to have gone back in there?

Colonel GUINN. This was immediately after Tet, sir. I don't know the exact date that they made the move. This would be awfully hard to pin down because they usually infiltrate when they move.

Mr. REDDAN. How would you evaluate that intelligence? How good was that?

Colonel GUINN. I can't give you an evaluation on it, because Americal Division intelligence was carrying them in this area, in the My Lai area. So we had an entirely different opinion there on the location of this unit.

Mr. REDDAN. You got, you say, morning briefings on the operation of Task Force Barker?

Colonel GUINN. Yes.

Mr. REDDAN. Did you get a briefing the morning of February 23, or thereabouts, relative to an operation at My Lai 4 headed by a company commanded by Captain Trinkle?

Colonel GUINN. I don't recall that operation, sir.

Mr. REDDAN. Was that where he got severely wounded, and the company was pinned down all day long by mortar and rocket fire at My Lai 4?

Colonel GUINN. No, sir, I don't remember the briefing. The briefings that Lieutenant Frosch gave us were in no detail. He would mention, just mention Americal's operation, and especially in this area, because we were concerned about the 48th Battalion. They had been a thorn in our sides for a long time.

This information might have been as much as a day or two days old, because we, as I said, we didn't have direct communications with Americal Division. We had to go through 2d ARVN Division to get this information. How fresh it was, I don't know.

Mr. REDDAN. How about Anistranski? Didn't he keep you advised as to what was developing?

Colonel GUINN. He didn't advise us on tactical operations too much. His main concern was pacification, civil actions, and this type of thing. The intelligence, though, would come through intelligence channels, and it would be taken by our intelligence team and passed on to us.

I don't remember whether it was the day—well, this action took place on the 16th. I don't remember whether the briefing was on the 17th or 18th, but within a day or two after it happened. And Lieutenant Frosch stated in that briefing that he doubted this body count. He felt that it was exaggerated, because he didn't feel that the 48th Battalion was still in that area.

The only thing that we were carrying in that area at that time was two local force companies, the size of which I don't remember, but they were usually small, plus the civilian civil defense Vietnamese civil defense groups and a few squads, which were just the true guerrillas. But that's all we were carrying in that area.

And Lieutenant Frosch at that time said that he doubted this body count. He felt it was too high.

Later on that week, during the Friday briefing, he briefed again on this same operation, and mentioned this body count and the fact that he did not believe the body count.

Mr. REDDAN. Did he indicate that he did not believe that it was all VC body count?

Colonel GUINN. No, sir.

Mr. REDDAN. Or that it was just too high a count?

Colonel GUINN. He felt that it was too high.

Mr. REDDAN. Didn't he think there were 128 VC in the area?

Colonel GUINN. Not in these exact small locations, because these people were spread out, sir. You didn't find a squad of VC—a company, for example, if they had hit an entire company, they probably wouldn't have gotten that many people because they weren't that large.

I would say their companies were maybe, well, I don't know at that time. I wouldn't speculate on the size. But they were relatively small.

Mr. REDDAN. That's why I asked you about the operation at the end of February, because they did hit a company size operation, and got the hell kicked out of them up there.

Colonel GUINN. I remember Trinkle. I met Trinkle later, and I do know that he was wounded, but I don't recall any briefing on that specific operation.

Mr. REDDAN. Your discussion with Colonel Henderson—

Colonel GUINN. Sir, let me continue here.

Mr. REDDAN. Yes.

Colonel GUINN. I didn't finish.

Mr. REDDAN. Fine; you go ahead.

Colonel GUINN. I don't think I answered your question.

When I took this message to Lieutenant Frosch and asked him about it, of course he went back to this operation, this was what it was refer-

ring to, I'm sure that's what he was referring to, and because of the body count which was listed as, I believe, 128, we didn't believe that the VC allegation had any basis to it, but because, I am convinced and I think Lieutenant Frosch's rationale was if the Americal Division had killed more than 128 people, they would have reported it. So here's a report of 128, and the VC allegation of, I remember, 12 to 1,500 people. Well, it just didn't make any sense.

Mr. REDDAN. What was the allegation? The allegation wasn't that they killed 1,500 VC's, the allegation was they killed 1,500 civilians.

Colonel GUINN. By artillery and bombings.

Mr. REDDAN. Yes. And what you are saying, that this would have been reported by the Americal Division?

Colonel GUINN. Well, we get into the body count business here, and I think if they had killed a reasonable number of people, they would have reported every one they could, because their success was measured on body count, and if they had killed them, I think they would have reported it.

Mr. REDDAN. Would this include civilians, as well as VC?

Colonel GUINN. Well, I can't answer that, sir, because it depends on what their body count consisted of.

Mr. REDDAN. This is what I would like to find out at this point, Colonel. How did they reach their body count? Did they count civilians along with VC?

Colonel GUINN. Sir, I wasn't there, I assume they counted everything.

Mr. REDDAN. I don't mean you were at My Lai 4, but I am trying to find out if you knew what the general policy was in the Americal Division. Was this to count civilians into a body count? Or did they eliminate civilians, and then come up with 128 VC killed?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Could that include civilians under the policies under which the Americal Division was operating at that time?

Colonel GUINN. Sir, it was impossible to distinguish in this area between civilians and VC.

Mr. REDDAN. Except when you get them so big?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Now, to go back to My Lai.

We know the problems there, Colonel, of distinguishing VC from civilians. But in the event you have the rare few cases when you can, and if as a result of an action there were individuals killed about whom there was no question that they were innocent civilians, where would their body count come?

Would that be lumped in with the VC, or would it be ignored, or would there be a separate category for it, under the procedures applied by the Americal Division at that time?

Colonel GUINN. Well, I wasn't familiar with their operation at that time. We were completely removed from them. However, we did keep a record in Quang Ngai at least, and this was of major concern at that time, because we had so many civilians killed as a result of the Tet offensive, that we did try to distinguish between military and civilian, and I am not sure that the Americal Division was doing this, but I assume they were too.

Mr. REDDAN. Had you had any discussions with Colonel Anistranski about this? That was his principal area of concern, was it not, civilians, and pacification, and that sort of thing?

Colonel GUINN. Yes.

Mr. REDDAN. Did you ever discuss this with him?

Colonel GUINN. I don't recall discussing this incident with him.

Mr. REDDAN. I mean the policy.

Colonel GUINN. The policy, no, sir.

Mr. REDDAN. That you had established?

Colonel GUINN. No, sir. That wasn't established by us. We had to send a report of casualties to CORDS, Saigon—through DaNang, of course—during this period, because we were trying to determine the result, effects of the Tet offensive, how many people had been killed, how many people had been wounded, how many houses had been destroyed and this type of thing. And this was—in fact, at one time we had a requirement to report by age and sex the number of people killed.

I don't remember whether that was still in effect at this time or not.

Mr. REDDAN. I see.

Now, where did you get your intelligence that you passed on to MACV that you have discussed here? You say your procedures, as I understand you, required you to report to MACV any civilians killed.

Colonel GUINN. This came to us as advisers. This came to us from the Vietnamese.

Mr. REDDAN. Yes. The reports that you made to MACV were based upon information given to you by the Vietnamese, is that right?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Now, did you pass on all information that you got?

Colonel GUINN. As far as I know, we did; yes, sir.

Mr. REDDAN. Did this particular report that you got relative to what you feel was connected with the operation of Task Force Barker, was that passed on to MACV?

Colonel GUINN. No, sir, I don't think it was. I don't recall passing it on.

Mr. REDDAN. Why wasn't that passed on?

Colonel GUINN. I never felt there was any basis to it.

Mr. REDDAN. Well, now, that is what I am trying to find out, whether you passed on to MACV all reports that you received from the Vietnamese with respect to civilian casualties, or did you screen them in your office?

Colonel GUINN. No, sir. Let's get this straight.

Mr. REDDAN. That is what I would like to do.

Colonel GUINN. We had two reporting chains here.

Mr. REDDAN. Yes.

Colonel GUINN. We did not report kills by Americal Division. They had their own reporting channels and they had to report that.

Mr. REDDAN. Yes.

Colonel GUINN. If it came to us, it came to us as information only.

Mr. REDDAN. Yes.

Colonel GUINN. Just to give us a feel for what was going on in that area. What I am talking about on the reporting of this, I can't remember exactly when this came about. I believe it was—perhaps April or

May, somewhere during that period of time. The date escapes me. But MACV and Saigon were becoming concerned about the state of the Viet Cong, and the North Vietnamese, how much damage had we had done to them at Tet. And what problems were they having in re-equipping and regrouping and getting ready to come back.

This, I believe, is what required this report to be submitted on the age and sex.

Mr. REDDAN. Of what?

Colonel GUINN. Of any casualties, Viet Cong casualties.

Mr. REDDAN. Did this include civilian casualties?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Any casualties—would these casualties be those which result from a military operation?

Colonel GUINN. Well, this report that I am speaking of was concerned only, as I remember it, only with those people that were killed as a result of military action.

Mr. REDDAN. Yes.

Colonel GUINN. What they were concerned about was trying to determine if we hit a Viet Cong unit, for example, what was the—this is the way I understand it—what was the distribution of ages. Were they going down to the extremely young, and to the extremely old, to try to build their forces back up? And were they using women?

This, I think, is what they were trying to get at in these reports, and I am not sure how effective it was, because it is impossible, with a Vietnamese, to look at a man and tell how old he is, unless he is a mere child.

Mr. REDDAN. Supposing he was a mere child. Was this supposed to be reported?

Colonel GUINN. Yes, sir, the age was to be reported.

Mr. REDDAN. So that if a 2-year-old child was killed as a result of military action, this information should be passed on to MACV?

Colonel GUINN. Yes, sir, I think it would have been.

Mr. REDDAN. Did you screen out any information that you didn't send through, or did you send through the raw material and let them make their own evaluation?

Colonel GUINN. We sent through what the Vietnamese gave us. This report came from the Vietnamese.

For example, the advisers in the field, the battalion advisers, where we had advisory teams, had to get their report from their counterparts. They didn't go out and make the counts. This came from the Vietnamese, and then they would report it on through advisory channels to what the kills were.

Mr. REDDAN. Well, now, at any time that you were there, did you get any reports from the Vietnamese relative to civilian casualties resulting from military operations of U.S. forces?

Colonel GUINN. From Vietnamese sources of U.S. casualties?

Mr. REDDAN. No; not U.S. casualties.

Colonel GUINN. I mean caused by U.S. operations.

Mr. REDDAN. Yes.

Colonel GUINN. I don't recall them.

Mr. REDDAN. As I understand, this report that you received had something to do with 12 to 1,500 people killed.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Did this report say that these were VC or they were civilians?

Colonel GUINN. I believe it said they were civilians, sir.

Mr. REDDAN. Did it give any ages on those?

Colonel GUINN. No, sir, I don't recall any ages. There was no breakdown that I recall.

Mr. REDDAN. Now, I want to make sure I understand. You say this report was not sent on to MACV?

Colonel GUINN. This report was not, as far as I know.

Mr. REDDAN. This is what I am trying to understand, is why it wasn't?

Colonel GUINN. I never felt that there was any reason to send it on.

Mr. REDDAN. Well, this is why I asked you whether or not you sent through to MACV all of the reports that you got, or whether they were screened in your office, or in some office up there in the CORDS organization?

And as I understood you to say, all of the raw or unevaluated reports were sent through to let MACV make its own decision.

Colonel GUINN. Well, let's take an operation where our advisers are working with the Vietnamese.

Mr. REDDAN. Let's take the one specific one we have here, and then we will know just what we are talking about.

Why wasn't this one sent?

Colonel GUINN. This report that I recall, I don't think fit into the criteria of the report that I am talking about. The report that I am talking about was a requirement to report casualties, a breakdown of casualties, Viet Cong casualties, that were the result of our operations. I say, "our operations," the Vietnamese operations, the people whom we advised. This was the report they were looking for.

Mr. REDDAN. Well, I am getting confused here, Colonel, because I thought a minute ago we decided that if a little child had been killed, this would have been reported to MACV too.

Am I wrong on that?

Colonel GUINN. I think civilian casualties were reported, yes, sir. But sir, I think we are talking about two entirely different things.

Mr. REDDAN. If you can straighten me out, I wish you would, because the way I read it, your testimony now is that any reports that came in with respect to VC or civilian casualties were to be put in the pipe to be transmitted to MACV for their own analysis and evaluation.

Colonel GUINN. When we ran an operation with the Vietnamese, advising the Vietnamese, any kills that the Vietnamese attained, we would send that through our channels.

Mr. REDDAN. Yes.

Colonel GUINN. To MACV. They sent it through their channels, too, but we sent it through our channels.

Mr. REDDAN. You are talking about the ARVN Division?

Colonel GUINN. Yes, sir, and our regional and popular forces.

Mr. REDDAN. Yes.

Colonel GUINN. This report went through our channels and also went through the Vietnamese channels. This is the report that required the breakdown by sex and by age.

Mr. REDDAN. Well, your understanding was MACV wasn't interested in casualties caused by American troops?

Colonel GUINN. No, sir. I am not saying that. I am saying that this was a special requirement during this period.

Mr. REDDAN. Yes.

Colonel GUINN. To try to determine what the status was on the buildup or the comeback of the VC after Tet. I don't think that report lasted too long. I think it was a requirement that lasted for a short period of time.

Mr. REDDAN. Well, I would think they would certainly want to know about the casualty reports coming out as a result of a U.S. forces operation.

Colonel GUINN. Yes, sir. U.S. forces reported their casualties. We did not report their casualties. They had their own reporting channels, and we had ours.

Mr. REDDAN. Oh, well, then let me get this straight. Anyone that the U.S. Forces killed, you didn't feel you had a requirement to report to MACV?

Colonel GUINN. No, sir. That—we did not get a detailed breakdown on their casualties.

Mr. REDDAN. No, no, That's true. But here you receive a report from Vietnamese sources that U.S. troops killed 1,000 people in this Barker AO Extension.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Now, what I am trying to understand is whether there was any requirement that this information be passed on through the CORDS organization to MACV?

Colonel GUINN. I don't feel that there was, sir, because it wasn't substantiated. The reports that we submitted were substantiated.

Mr. REDDAN. Well, this is what I am trying to get at. Did you go out and investigate these reports when they came to you, and then make a screening of them and only send on to MACV those that you could establish with positive evidence?

Colonel GUINN. We could not go out and investigate these reports, sir.

Mr. REDDAN. Well, then you didn't send any of them on?

Colonel GUINN. No, sir, not a report like that.

Mr. HÉBERT. May I interrupt to try to find out—now I am getting confused, too—as I understand it, Colonel, if the report came to you that there were casualties caused by the American operation, that was no concern of yours, period?

Colonel GUINN. Yes, sir, that's correct. We did not report that.

Mr. HÉBERT. You did not?

Colonel GUINN. No, sir.

Mr. HÉBERT. However, if a report came that was ARVN or Vietnamese casualties, that was your concern?

Colonel GUINN. Yes, sir.

Mr. HÉBERT. And in this report, which Mr. Reddan is talking to you about, there was no charge in there that there was a casualty by the ARVN troops?

Colonel GUINN. That's correct, sir.

Mr. HÉBERT. And that is the reason why you did not report it?

Colonel GUINN. Yes, sir.

Mr. HÉBERT. That was not your jurisdiction?

Colonel GUINN. If the report came to us through advisory channels from the people that we advised, the units that we advised, this was somewhat substantiated by advisers on the ground. But in many respects we had to take the Vietnamese word for it. We have to distinguish the difference between the U.S. operation and the ARVN operation.

Mr. HÉBERT. Maybe I am oversimplifying, but I am trying to exactly draw the line.

Colonel GUINN. I think you are absolutely correct.

Mr. HÉBERT. What you are saying is the reason you did not send the report on, because it did not charge ARVN casualties?

Colonel GUINN. It did not charge ARVN casualties.

Mr. HÉBERT. And that is the reason you didn't send yours?

Colonel GUINN. There is another reason. That we never believed it.

Mr. HÉBERT. Never mind whether you believed it or not. Mr. Reddan is trying to establish why the report was not submitted to MACV.

Colonel GUINN. Yes, sir.

Mr. HÉBERT. And it was not your responsibility?

Colonel GUINN. No, sir, it was not.

Mr. HÉBERT. All right.

Colonel GUINN. No, sir.

Mr. STRATTON. Mr. Chairman, then I'm confused. I thought the colonel testified that any reports that had to do with civilian casualties, regardless of who caused them, were to be sent to MACV. Wasn't that the testimony?

Colonel GUINN. If they were substantiated, I think we would have sent them on, sir.

Mr. STRATTON. But you just testified you had no means of substantiating these charges. You weren't in a position to go out and testify. So the requirement that was laid on you was not to go out and substantiate charges, and then if you found that they were substantiated, to send them on to MACV; but to send on to MACV all reports of civilians who were killed.

Now, it wasn't just those that were killed by ARVN Forces, Mr. Chairman, and I think the question Mr. Reddan is asking is how is it that you were sending on these things without any attempt to substantiate them, and then suddenly one of them comes along which you say you decided not to send on because you hadn't been able to substantiate it.

Colonel GUINN. Sir, I don't think we ever submitted any reports unless we had some reliable source of reporting it. We didn't report rumors. We didn't report propaganda.

Mr. STRATTON. You testified that you had no way of checking on these reports, and that you sent them on to MACV in accordance with the appropriate directives, so that MACV was aware of what the charges, allegations, rumors, et cetera, were. That was your testimony earlier.

Isn't that what he replied, Mr. Reddan?

Mr. REDDAN. I think so. That was my understanding of it.

Colonel GUINN. I think you have to distinguish the source, where did these casualty reports come from. If they came through—

Mr. STRATTON. Which source reports did you send on, and which source reports did you not send on, then? What was your method of deciding whether you were to send these on in accordance with the directive?

Colonel GUINN. Casualty reports that came to us from the Americal Division, which came to us as information only, we did not forward. We forwarded those casualty reports that came to us through our advisory channels, from the ARVN units, the units that we were advising.

Mr. STRATTON. And you had here one that came through Census Grievance, which is an advisory channel, is it not?

Colonel GUINN. Yes, sir.

Mr. STRATTON. Then this was one that you would normally send on.

Colonel GUINN. This report would have gone through Census Grievance channels. It was in Census Grievance channels.

Mr. STRATTON. Well, the question is—

Colonel GUINN. I didn't personally send it on; no, sir.

Mr. STRATTON. Well, that's the question, as I understand it. Other reports that you got you sent on. This report you did not send on.

Colonel GUINN. Census Grievance reports I did not personally send on. Census Grievance reports were forwarded through Census Grievance channels. I am not sure how far they went, but they went through Census Grievance channels.

Mr. STRATTON. Now, your testimony is that you did not send on anything that came from Census Grievance channels, is that correct?

Colonel GUINN. I personally did not, sir.

Mr. STRATTON. Your testimony is that you did not send on anything that came through Census Grievance channels.

Colonel GUINN. Yes, sir.

Mr. STRATTON. Well, then, why is it important to establish the question of whether this was substantiated or not, if this was something that came through Census Grievance channels, then you just automatically wouldn't send it on, whether it was substantiated or not.

Mr. KING. Mr. Chairman, Colonel Guinn has said he is not quite sure of what Congressman Stratton is getting at.

Mr. STRATTON. I will go back and repeat the question, if you like.

I am trying to find out why this report was not sent on to MACV. You testified earlier that it wasn't sent on because you hadn't substantiated it. It was unsubstantiated.

Now you testified just a moment ago that you didn't send it on because it came from Census Grievance channels, and you never sent anything on from Census Grievance channels, since that went on through their own channels, anyway.

Colonel GUINN. Yes, sir.

Mr. STRATTON. Well, now, which was it? I'd like the witness to answer the question, Mr. Counsel.

My question is, which is the reason? You give us one reason one time and one reason another time. Now, which is the reason? Was it because you failed to substantiate it, or was it because it came through Census Grievance channels, and you never returned anything from Census Grievance channels?

Colonel GUINN. Well, we did not send forward from our office Census Grievance reports. They were in Census Grievance channels, and they automatically went forward.

Mr. STRATTON. So that's why I don't understand why you made such a point here a moment ago of the fact that you didn't send it on simply because you hadn't been able to substantiate it.

If this came through Census Grievance channels, then you would just look at it and say, "This is one I don't send on, because I never send anything that comes through this channel."

Colonel GUINN. Well, I wouldn't have sent this report forward, as we had it, because I didn't believe it. I saw no reason to send it forward.

Mr. STRATTON. Well, Colonel, I think you've got to either have one reason or the other. I don't think you can have both.

Now, you just testified a moment ago that you didn't send anything on that came through the Americal Division, because that just came to you for information, and it went through the other channel.

Now, I would assume that if it comes from the Americal Division, you wouldn't be skeptical of it, but you would not send it on because you testified that it went through some other channel.

Colonel GUINN. Yes, sir.

Mr. STRATTON. Now, why does your appraisal of the validity or lack of validity of this particular report have anything to do with whether you sent it on to MACV?

Colonel GUINN. I never felt that there was any requirement to send this particular report to MACV.

Mr. HÉBERT. Colonel, what Mr. Stratton is asking you, and properly so, he is trying to divide it up now. Supposing that you had believed this report, you had believed the validity of the report, would you then have sent it on to MACV?

Colonel GUINN. Yes, sir; I'm sure if we had believed there was any validity to this, we would not only have sent it to MACV, but we would have made a personal trip to General Koster. Or Mr. May would have.

Mr. HÉBERT. That is what Mr. Stratton is saying.

Mr. STRATTON. That is right. That's what I understood the testimony to be earlier.

Mr. HÉBERT. That if it was in Census Grievance channels, that was their responsibility, whether it was true or not true.

Colonel GUINN. Yes, sir; it went through automatically.

Mr. STRATTON. Well, now, this is the thing that disturbs me, Colonel, and you may recall that we had a little colloquy on this matter when you testified before the staff earlier this year.

You say that you didn't think there was enough to this to bother to send it on to MACV, and yet you did think there was enough to it to take it down to Colonel Henderson, and you just have given us in some detail a discussion of what occurred when you went down to Colonel Henderson.

Obviously, you did not dismiss this. You thought seriously enough of it to discuss it with Colonel Henderson. Why did you, therefore, resolve the doubt in terms of not sending it on to MACV?

Colonel GUINN. Sir, we felt that this was propaganda.

Mr. STRATTON. Well, you didn't feel it was enough propaganda so as not to even bother to go down to Duc Pho to talk to Colonel Henderson about it. You wouldn't have taken it down there if you thought that it was just propaganda, and therefore merited no further attention.

Colonel GUINN. No, sir. I think we would have, because propaganda, at this time in particular, could be as damaging as anything else, and we were at that time trying to come out from under the effects of the

Tet offensive, and we could not stand this adverse propaganda. We needed to come back with a counterpropaganda campaign.

Mr. STRATTON. Well, you didn't go down to ask Colonel Henderson what was the best way to counteract a deceptive propaganda. He wasn't an expert in that field. You went down to find out from Colonel Henderson, as you just testified, whether anything of this kind did or did not occur.

Colonel GUINN. Yes, sir; and to pass this information on to him, because we felt it was propaganda.

Mr. STRATTON. Therefore you were not sure whether this was propaganda or not.

Colonel GUINN. I felt it was.

Mr. STRATTON. You had to go down to explore it a little further, did you not?

Colonel GUINN. I felt that it was propaganda.

Mr. STRATTON. Well, if you felt there was nothing but propaganda to it, you wouldn't have gone to Colonel Henderson, would you?

Colonel GUINN. Yes, sir, I think so; with this allegation, I think we would have.

Mr. STRATTON. You just testified you went down, Colonel—unless you want to change your testimony—that you went down to Colonel Henderson to talk to him about whether something of this kind occurred.

Colonel GUINN. Yes, sir.

Mr. STRATTON. And the coordinates.

Colonel GUINN. Yes, sir.

Mr. STRATTON. So you were trying to find out whether it was true or not, and what actually happened; not the question of how do we counteract this latest bit of false propaganda.

Mr. GUBSER. Maybe I can help the witness.

I would presume that the best way to combat propaganda is with the truth. And so would it be fair to say that your purpose in communicating with Colonel Henderson was to get the full truth?

Colonel GUINN. Yes, sir.

Mr. GUBSER. Not necessarily to ascertain the validity of the propaganda assertion, but to get the full truth, so that you could combat it? Is that a fair statement?

Colonel GUINN. I think that's a fair statement, sir, because I never believed that American troops would go in and kill people indiscriminately, and I don't think anybody else does, and why should we forward propaganda to MACV, or through any other channels?

Because if we had, if we had forwarded all of the propaganda that we got to MACV, they would have sent a psychiatrist up there to examine us, and I see no validity to sending something through that we don't believe, ourselves.

Now, I went down and checked with Colonel Henderson, yes, this is true. But I went down feeling all the time that it was propaganda.

Mr. GUBSER. I think that's understandable.

Colonel GUINN. In fact, our Vietnamese counterparts, I think, will also say that they thought it was propaganda at the time.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Mr. Chairman, I don't want to pursue this, but I think the record ought to indicate that it doesn't make sense for the Colonel

to have gone down to talk to Colonel Henderson about it, to have felt seriously enough about it to have taken that action, and then to have used the argument that it was nothing but propaganda, and for that reason he didn't feel it was important enough to forward through channels.

Mr. REDDAN. I might observe, Colonel, it would be somewhat more convincing had you included that reason in your statement. There is no suggestion in your statement that that is why you went to see Colonel Henderson.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Tell me, Colonel, were you in-country all during March and April?

Colonel GUINN. Yes, sir; I was.

Mr. REDDAN. Were you absent from your post for any extended period during that time?

Colonel GUINN. No, sir; I was in the field frequently, but not out of Quang Ngai Province.

Mr. REDDAN. Now, reports coming into the Quang Ngai Province chief, relative to civilian casualties resulting from military operations of U.S. Forces, would they normally come to your attention?

Colonel GUINN. They would have come not necessarily to my attention. They would have come into the headquarters. Mr. May usually handled that type of a thing.

Mr. REDDAN. How did this one happen to get to you?

Colonel GUINN. I don't know, sir. The only thing I can remember is that this Vietnamese that I remember as Mr. Tom, who was Mr. May's personal secretary, brought it to me. As I recall, there were no initials, there was no "action" or anything stamped on it.

He was Mr. May's personal secretary, and I can only assume that he took it to Mr. May, and then brought it on to me.

Mr. REDDAN. Was there any time during that period that you were the acting head of the office?

Colonel GUINN. Mr. May was out of the province on several occasions. There were several times when I was.

Mr. REDDAN. Do you know during what periods you were the acting head of the office?

Colonel GUINN. During Mr. May's absences, but—

Mr. REDDAN. Yes, but was he gone for a month at any particular time?

Colonel GUINN. No, sir. Well, during the early part of 1968, he was gone for about a month, but he returned from the States about the middle of February, and then he was absent for 2- and 3- and 4-day periods.

Mr. REDDAN. Colonel, I want to show you five documents here. The first one is a report to the census grievance chief at Quang Ngai. It comes from the census grievance cadreman of the Son My village, and it is dated March 18.

The second one is a report of the Son My Village chief, dated March 22, and it is directed to the Son Tinh District chief.

Colonel GUINN. Yes, sir.

Mr. REDDAN. The third one is the initial report of the Son Tinh District chief, dated March 28, to Quang Ngai Province chief. And again, this all relates to the Son My operation.

Colonel GUINN. Yes, sir.

Mr. REDDAN. The fourth one is a second report of the Son Tinh District chief, dated April 11, 1968, to the Province chief. The fifth one is a memorandum from G-2, 2d ARVN Division, to the Commanding General, 2d ARVN Division, dated April 12, 1968. Who was the G-2, do you know, at that time?

Colonel GUINN. It was a Major Pho, sir.

Mr. REDDAN. Did you have any liaison with Major Pho?

Colonel GUINN. I did not, personally. Only through the intelligence advisers.

Mr. REDDAN. I will show you these reports, with the English translations, and ask you if you ever saw the originals or copies of those before, while you were in-country in Vietnam.

Colonel GUINN. Sir, may I ask, is this the census grievance report, the Vietnamese version?

Mr. REDDAN. That is my understanding. The translation is on top of it.

Colonel GUINN. I have not seen this census grievance report. I don't recognize it.

Mr. REDDAN. Did you ever hear of that when you were incountry?

Colonel GUINN. No, sir, I don't recall ever seeing this census grievance report.

Mr. REDDAN. That is the first one that I gave you, that comes from the cadreman out of Son Mỹ Village, to the census grievance chief at Quang Ngai.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Should a report of that sort have been passed on to your office?

Colonel GUINN. Not necessarily, sir.

Mr. REDDAN. Who should it have gone to?

Colonel GUINN. It should have stayed probably in census grievance channels, unless the people there felt that it should have been brought to our attention.

Mr. REDDAN. Well, now, census grievance was supposed to take care of the grievances of the people in the field.

Colonel GUINN. Yes, sir.

Mr. REDDAN. They obviously couldn't do it themselves, so who did they pass it on to for action or consideration?

Colonel GUINN. Sir, the census grievance people were really Vietnamese.

Mr. REDDAN. Yes. And they were set up, with our assistance, as part of our pacification program. We wanted to build a good image.

Colonel GUINN. Yes.

Mr. REDDAN. Now, when they come in with a complaint, you just didn't throw it in the circular file. You have to do something about it, if you're going to really accomplish your objective.

Colonel GUINN. You're asking me a question that I am really not qualified to even speculate on, because this would involve the internal workings of the Census Grievance Office, and I don't know exactly how they functioned. I don't believe, for example, I don't think they showed [deleted] everything that came in. They may have. But I don't believe they showed him everything that came in.

Mr. REDDAN. Were there any Americans working in the Census Grievance Office?

Colonel GUINN. I don't believe so. [Deleted] was the only one that I know of. It was, I think, completely staffed by Vietnamese.

Mr. REDDAN. All right, go ahead.

Colonel GUINN. The next one, sir, I don't recall seeing it, either.

Mr. REDDAN. That is a report of the Son My Village chief, dated March 22, to the Son Tinh district chief.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Would this, in its normal course, have ever come into your shop?

Colonel GUINN. No, sir, I don't think so.

Mr. REDDAN. Or to Mr. May?

Colonel GUINN. I don't think so; no, sir.

Mr. REDDAN. Why?

Colonel GUINN. This was strictly in Vietnamese channels, and I don't know of any reason they would have sent it to us. This document right here, I don't believe would have come to our office, unless the Province chief might have sent it over. They were sticklers for channels, and I don't believe that they skipped channels.

Mr. REDDAN. All right. Well, would they normally send this to the Province chief?

Colonel GUINN. I can't answer that, sir. I don't know.

Mr. REDDAN. All right, go ahead. The next one is the report of the Son Tinh District chief to the Quang Ngai Province chief, dated March 28.

Colonel GUINN. I don't remember seeing this one, either, sir.

Mr. REDDAN. Well, now, did the Province chief ever send reports of this sort into your office, or Mr. May's office?

Colonel GUINN. The Province chief did, on occasion, send information copies, or send things over to us. Whether he sent a copy of this to us or not, I do not know. I don't remember seeing it.

Mr. REDDAN. Is there any indication on that as to whether it was passed on for help and assistance?

Colonel GUINN. No, sir, no indication that I can see.

Mr. KING. Mr. Chairman, may I ask Mr. Reddan a question, please?

Mr. HÉBERT. Address the question to me.

Mr. KING. Through you, of course.

These translations apparently have been made since the investigation started, and I was wondering whether the committee was furnished any of the original translations.

Mr. REDDAN. This is all we have, sir.

Mr. KING. You weren't furnished any of the original translations?

Mr. REDDAN. No; this is all we have.

Colonel GUINN. Sir, I might say that the translation I see here, if I had seen it before, and in no way would correspond to anything that you have here today, because the translators we had could not translate like that.

Mr. REDDAN. How about the subject matter, Colonel?

Colonel GUINN. I don't recall the subject matter, either.

Mr. REDDAN. They are talking about civilians being killed, are they, in that particular one?

Colonel GUINN. Yes, sir.

Mr. REDDAN. In the area of Task Force Barker?

Colonel GUINN. Yes. I've seen this before. The Peers committee has this. I've seen it before. And the translation that you have on here is in good English. Obviously, an expert has done it.

Mr. REDDAN. I'm trying to find out, Colonel, if you ever saw a translation of the basic documents which are attached to this.

Colonel GUINN. Yes, sir, I understand.

Mr. REDDAN. This translation is only there for your convenience.

Colonel GUINN. I understand that.

Mr. REDDAN. This, of course, was translated—the translation there came after you left the country. All I'm trying to find out is whether the intelligence contained in these documents ever came to you while you were over there.

Colonel GUINN. I do not recall that one either, sir. I do not recall this letter of March 28. I do not recall ever seeing that document.

Mr. REDDAN. Do you remember any of the others?

Colonel GUINN. No, sir, I do not.

Mr. REDDAN. All right.

Now, coming up to the memorandum from G-2, 2d ARVN Division, dated April 12. Did that memorandum ever come to your attention?

Colonel GUINN. Dated April 12, sir, is that it?

Mr. REDDAN. Yes, sir.

Colonel GUINN. No, sir, I don't recall ever having seen this one either, signed by Major Pho, G-2.

Mr. REDDAN. Did you take a look at that April 11 one? I just want to make sure. That's the second report of the Son Tinh District chief, to the Province chief.

Did you look at that?

Colonel GUINN. No, sir, I don't recall having seen that one dated April 11, either.

Mr. REDDAN. Do you know Captain Rodriguez?

Colonel GUINN. Yes, sir.

Mr. REDDAN. Who was he?

Colonel GUINN. He was the assistant district adviser up in the Son Tinh District.

Mr. REDDAN. Did Captain Rodriguez ever report to you that he had received any allegations concerning civilian casualties as a result of the operation of Task Force Barker?

Colonel GUINN. Sir. I don't recall Captain Rodriguez ever reporting that to me.

Mr. KING. Mr. Chairman, may I ask that that question be put in the frame of while they were in Vietnam, because I imagine they have talked since?

Mr. REDDAN. Everything is in-country. I'm not interested in any conversations since then.

Mr. HÉBERT. I believe Mr. Reddan has suggested that already.

Mr. KING. Yes.

Mr. REDDAN. Now, what was the normal chain of transmission from the district adviser at Son Tinh to the Americal Division? Would that come through the Province office, normally?

Colonel GUINN. They had, at the district headquarters, for some time. I don't know how long they had it. I would say, what I would consider informal liaison.

Mr. REDDAN. With whom, sir?

Colonel GUINN. With Task Force Barker, sir.

Mr. REDDAN. How about with the division?

Colonel GUINN. I don't think they had any liaison with the division. It would have gone through Task Force Barker, I think.

Mr. REDDAN. Could it have come through the Quang Ngai province chief?

Colonel GUINN. Are you speaking now of the Americans or the Vietnamese?

Mr. REDDAN. I'm talking about the Americans.

Colonel GUINN. The Americans?

Mr. REDDAN. Yes.

Colonel GUINN. Well, I would have to speculate, because I can't say. Task Force Barker operated in that area for several weeks, I don't know how long they had it there. They did have a liaison team, I think, maybe of two men or so, colocated with our advisers up at Son Tinh. And I think this was mainly to obtain artillery clearances and this sort of thing.

I also believe that since Colonel Barker was operating in their area, that he was a visitor there on occasions. I don't know with what frequency.

Mr. REDDAN. Well, did you ever take or send to the division, or to the brigade, any reports from the assistant district adviser in Son Tinh relative to civilian deaths in the My Lai area?

Colonel GUINN. No, sir, I don't recall ever taking anything from the district over to division.

Mr. REDDAN. I have here, Colonel, a statement dated April 14, 1968. I have a retyped copy of it, which is a little clearer. I will give you both of them to look at.

This statement was prepared by Captain Rodriguez, and it's in reference to a letter from the Son Tinh district chief, to the Quang Ngai province chief, subject, "Alleged forces gathered people of Son My village for killing."

And the letter to which it refers is dated April 11, 1968. And I will ask you whether you ever saw that document while you were in-country?

Colonel GUINN. Sir, I don't recall ever having seen this.

Mr. REDDAN. Then your testimony is, and tell me if I am correct, that you never transmitted, nor caused the transmission of this document to anyone at the brigade or division level?

Colonel GUINN. No, sir, I don't recall ever taking that document to anyone. I don't remember even having seen it before.

Mr. REDDAN. I'm not putting a question to you, Colonel, but I can't help but observe that there must have been a total failure of communications in that area, where so many documents relating to possible civilian casualties as a result of this My Lai operation surfaced over there, and they never got into any transmission channels.

Perhaps you could tell me this, though: Are any of these documents that you have just been shown here this morning, in your opinion, the types of allegations which should have been forwarded on to MACV?

Colonel GUINN. In my opinion, no, sir, not unless we had substantiation from the province chief.

Mr. REDDAN. Now, what form would that take, sir?

Colonel GUINN. Well, it would have to come from the province chief.

Mr. REDDAN. Here, for instance, the province chief gets one, he sends it on to Captain Rodriguez.

Had the province chief sent it on to you, would this have been sufficient—would this constitute substantiation, within your definition of the term?

Colonel GUINN. In my opinion, we would have gone back to the province chief and discussed it with him and found out from him personally what the substance was to it.

Mr. REDDAN. Well, this is what he's trying to find out.

Colonel GUINN. Yes.

Mr. REDDAN. This is what he's asking Rodriguez, and what I'm asking is if he came to your shop with this sort of thing—I'm trying to understand how the wheels turned, if at all, to grind out these things.

Colonel GUINN. Well, sir, Rodriguez could not tell the province chief as much as his own Vietnamese people could tell him. Rodriguez had to rely on only what the Vietnamese told him. We had to rely on what the Vietnamese told us.

Mr. REDDAN. Well, this gets back, then, what sort of substantiation—you used the term, and I'm trying to understand what it would take to move these things through channels. They come up against the dam here, and I'm trying to find out what it takes to wash them over the dam to let somebody know what's going on.

Colonel GUINN. I think if the province chief himself had come to Mr. May or any of us, and said, "Look, this, in my opinion, is true; there is something to it," then someone would have known something was up, something was wrong, something was going on.

Mr. REDDAN. Now, here, for instance, this one of April 11, 1968, from the district chief of Son Tinh to the province chief, Quang Ngai, in which he talks about these people being killed, 400 people being killed, and 90 more at another place, 52 at another, and so forth.

Only one American was killed by the Vietcong; however, the allies killed nearly five hundred civilians in retaliation. Really an atrocious attitude, if it cannot be called an act of insaneliness. Request you intervene on behalf of the people.

Is this the sort of thing, if it had come into your office, that would have been pushed on through to MACV?

Colonel GUINN. I think if that had, it would have gone back to the province chief first. I think the province chief himself would have taken some action on it, and come to us with it.

Mr. REDDAN. Had he come, if the province chief had come to you with it, then what would have happened?

Colonel GUINN. Then very definitely I'm sure it would have, sir.

Mr. REDDAN. You would have sent this on to MACV?

Colonel GUINN. Yes, sir; something would have been done about it.

Mr. REDDAN. What sort of substantiation would you require of the truth of the allegations?

Colonel GUINN. Well, just from the province chief himself, that he believed it, that there was some substance to it. He's the man who

really knows what's going on in that province, and we have to rely on what he tells us.

Mr. STRATTON. Colonel, what Mr. Reddan is interrogating you about is the same thing referred to in this report by Captain Rodriguez, which you also looked at.

I'm just noticing here that, "The district chief was called and directed by the 2d Division Commander, Colonel Toan, to investigate the incident and prepare a report. The district chief proceeded to interview the Son My village chief, and got the same information I have discussed above. The district chief is not certain of the information received, and has to depend on the word of the village chief and other people living in the area."

There he has checked it out. It was sent by the district chief to the province chief; the province chief called in the district chief. The district chief interviews the village chief. The information is checked out at every level. That's the same report that Mr. Reddan has referred to.

How much more substantiation would you want before you decided to send something on?

Colonel GUINN. I would say proof from the province chief, sir. Something from the province chief.

Mr. STRATTON. Well, Colonel, you're not trying to run a scientific operation over there where you're not going to send anything through channels until you actually have scientific proof, signed, sealed, and delivered.

That wasn't your assignment, was it, that you were supposed to screen out everything that couldn't be absolutely verified beyond a possible shadow of a doubt, and then you would send it to MACV? That isn't the kind of thing that you were told to do; was it?

Colonel GUINN. Sir, I think you had to use your own reason in deciding what was and what wasn't. I think, as I said, if the province chief had come to Mr. May with that, and said, look, I believe this report, I think there's something to it, I'm sure something would have been done.

Mr. STRATTON. There it's at every stage, the province chief turns it over to the district chief to look into it, and the village confirms it. You would have to really be working to decide that this was something not to send on; wouldn't you?

Colonel GUINN. I don't believe the province chief brought it to us. If he did, I don't recall his bringing it to our attention.

Mr. STRATTON. You would have to have something in May's window at high noon to meet the kind of requirement that you're setting up, if this isn't good enough to send on through channels.

Mr. REDDAN. Now, I believe you said you may have talked to Mr. May about the matter that you went over and talked to Colonel Henderson about.

Colonel GUINN. Yes, sir.

Mr. REDDAN. Did you tell us about your conversation with Mr. May?

Colonel GUINN. No, sir; I don't recall exactly what we discussed. I remember when I left the office, I stopped in Mr. May's door, just around the corner from my office, and told him what I was going to Duc Pho for. I don't remember what I was going to see the advisers

about. On some business. And mentioned to him that I was going to see Colonel Henderson, and pass this information on to him.

Mr. REDDAN. And what did Mr. May say?

Colonel GUINN. I don't remember what he said, sir.

Mr. REDDAN. Did he encourage you, do you know, or did he attempt to stop you from going?

Colonel GUINN. No, sir, he didn't attempt to stop me. Certainly he did not.

Mr. REDDAN. Well now, was it your testimony that you had already decided that this was propaganda before you went to see Colonel Henderson?

Colonel GUINN. I felt that it was propaganda.

Mr. REDDAN. You felt sure it was propaganda when you went up to see him, did you?

Colonel GUINN. Well, I think I had reasonable belief, or thought that it was propaganda; yes, sir.

Mr. REDDAN. Did you tell him that you had any trouble making up your mind as to whether it was or not?

Colonel GUINN. You mean Mr. May or Colonel Henderson?

Mr. REDDAN. Colonel Henderson.

Colonel GUINN. No, sir.

Mr. REDDAN. Did you tell him that you had trouble resolving this meaning?

Colonel GUINN. Yes, sir, I told him that I had trouble resolving the meaning.

Mr. REDDAN. What did you mean by that, sir?

Colonel GUINN. As I remember the translation, it listed some village or hamlet names, which I don't recall, and then it had some coordinates. And the hamlet names, or the village names, did not match up with the coordinates. And this was the problem I had in resolving this meaning.

Mr. REDDAN. Well, if they had matched up, then what, sir?

Colonel GUINN. Well, then there would probably have been a little more reliability to it.

Mr. REDDAN. Despite the fact that the coordinates didn't match the names, did you find out that the operation of Task Force Barker took place in the hamlet areas that were named?

Colonel GUINN. No, sir.

Mr. REDDAN. Did you attempt to find that out, sir?

Colonel GUINN. I don't remember what I asked Colonel Henderson about that. I remember showing him, or asking him, about this area down in here, if they had operated down in there, south, in the area of the river; and his statement was, no; they had not been that far south. And this threw further doubt into my mind that there was any validity to this meaning at all.

Mr. REDDAN. Did you try to locate the hamlets that they were talking about?

Colonel GUINN. Yes, sir.

Mr. REDDAN. And where were they?

Colonel GUINN. They were up in the area of the My Lai/Pinkville area, somewhere up in here.

Mr. REDDAN. Did you ask Colonel Henderson whether they were operating in those areas?

Colonel GUINN. I don't—no, sir. I don't believe I did. I was concerned with this area down in here, mainly.

Mr. REDDAN. Why?

Colonel GUINN. Because the coordinates and the hamlets did not match up. There was some problem in the names, and I couldn't resolve the difference.

Mr. REDDAN. Colonel, you have been shown a copy of the so-called Henderson report of April 24, 1968?

Colonel GUINN. I have seen some of it, sir. I'm not sure whether I've seen that or not.

Mr. REDDAN. There are two attachments to that report. One is a copy of the Rodriguez document that I referred to a short while ago.

Colonel GUINN. Yes, sir.

Mr. REDDAN. And another one is a translation of a Vietnamese document. It's entitled "The American Devils Divulge Their True Form."

Colonel GUINN. Yes.

Mr. REDDAN. Do you remember that you ever saw that document?

Colonel GUINN. I don't recall seeing it, sir. Is it a propaganda leaflet?

Mr. REDDAN. Well, I'll show it to you. I'm sure you saw that when you were here the last time.

Colonel GUINN. Well, I've seen it, during the investigation.

Mr. REDDAN. Yes.

Colonel GUINN. I don't remember seeing this document, sir. I saw several propaganda leaflets of various sizes and types.

Mr. REDDAN. This was not a translation of the document that you went over to see Colonel Henderson about?

Colonel GUINN. No, sir. Those—no, sir, it wasn't, I'm sure it's not that.

Mr. REDDAN. Did you take a copy of the document to Colonel Henderson that you wanted him to resolve?

Colonel GUINN. No, sir, I don't remember giving him anything.

Mr. REDDAN. Did you have it with you, at the time?

Colonel GUINN. I don't recall having it with me. I may have. But I don't think I did.

Mr. REDDAN. Did you have any notices with respect to it?

Colonel GUINN. I probably had some papers with me. Whether I had notices on the incident or not; I don't know. When I went down there, I usually had a briefcase full of things; but notices on this incident, I don't recall having.

Mr. REDDAN. Did you have anything to help you recall accurately the coordinates and the names of the villages involved?

Colonel GUINN. I think I had a map. I usually carried a map with me everywhere I went. And probably talked to him, talked on the map, probably. I don't remember.

Mr. REDDAN. You have no recollection of this?

Colonel GUINN. No, sir, I don't remember what I had with me.

Mr. REDDAN. I don't have any further questions.

Mr. HÉBERT. Colonel, you used the expression earlier in your testimony, the 48th Battalion was a thorn in your side.

What did you mean by that?

Colonel GUINN. Oh, sir, this 48th Battalion was probably, in the opinion of a lot of people, one of the best Vietnamese or Viet Cong

units anywhere in the country. And they had continually harassed and upset our pacification program for years, even before I got there. And if there was ever an attack or ever anything committed against the Vietnamese forces, or committed against the Vietnamese people, the 48th Battalion was, in almost all cases—

Mr. HÉBERT. That's the Viet Cong 48th?

Colonel GUINN. Yes, sir. They would be spearheading the attack.

Mr. HÉBERT. And this is the 48th Battalion of the Viet Cong that you referred to as a thorn in your side?

Colonel GUINN. Yes, sir.

Mr. HÉBERT. And if you learned they were operating in this area, that would arouse your particular interest, at that time?

Colonel GUINN. Well, sir, this was their home base.

Mr. HÉBERT. My Lai 4?

Colonel GUINN. This area, this entire area. You couldn't pin them down to one spot and say this is where they are, because they operated throughout the area, and they rarely, until they got ready to attack, would they assemble in any size force. They were spread throughout the area.

Mr. HÉBERT. My Lai 4 was pretty much of an armed camp; wasn't it?

Colonel GUINN. Sir, I can't speak of My Lai 4 itself and say. Most of those hamlets in that area were heavily fortified.

Mr. HÉBERT. But you don't know yourself? You hadn't been to My Lai 4?

Colonel GUINN. I had not been in My Lai 4, no, sir.

Mr. LALLY. Colonel, what was the procedure at the province advisory headquarters for referring matters to the district headquarters? Who would handle that?

Colonel GUINN. It would depend on what the matter was, sir. Mr. May was the boss, and if he wanted anything, he would usually either send it out by radio, or send it through a message that they would come in and pick up themselves. You know, just a normal message distribution.

Mr. LALLY. Well, at this particular period, mid-March, to mid-April, 1968, was Mr. May at the province headquarters all the time?

Colonel GUINN. No, sir, not all the time. He was out. You mean was he physically?

Mr. LALLY. Was he physically there?

Colonel GUINN. No, sir, he was gone some of the time.

Mr. LALLY. Now, in his absence, would you have that responsibility?

Colonel GUINN. Yes, sir, I would.

Mr. LALLY. And if this April 11 report of the district chief, which has been shown to you here, had been referred to the district headquarters, by whom would that have been referred?

Colonel GUINN. Let me—I'm not sure I follow your question, sir. If this had come to us, the advisers?

Mr. LALLY. That's right, sir.

Colonel GUINN. If this had come to the advisers, it would have probably gone over Mr. May's signature, or initial, or something, down to the district.

I say probably, because I don't know.

Mr. LALLY. Now, that would have been whether or not Mr. May was physically present at the time; is that correct?

Colonel GUINN. Yes, sir, it would have gone in his name, at least.

Mr. LALLY. We have had testimony here, Colonel, that this particular document, this April 11 report, was referred to the district headquarters, with a request that it be investigated. Do you have any recollection of having referred that matter?

Colonel GUINN. I don't have any recollection of sending this report down to district, no, sir.

Mr. LALLY. Do you have any recollection of having had a conversation with Mr. May about the reference of this document to the district headquarters?

Colonel GUINN. About the reference of this? I don't recall discussing it with Mr. May, no, sir.

Mr. LALLY. Do you remember, Colonel, discussing with Major Hancock an allegation of several hundred civilians having been killed by U.S. forces?

Colonel GUINN. I have had several discussions with Major Hancock, and I do not recall discussing this particular operation with Major Hancock.

I have read Major Hancock's testimony, from before the Peers committee, and I don't recall discussing this particular operation, or these particular casualties, with Major Hancock.

Mr. LALLY. You do not?

Colonel GUINN. Maybe something about the area, but not these particular casualties, no, sir.

Mr. LALLY. Do you remember discussing this April 11 report of the district chief with Major Earle?

Colonel GUINN. No, sir, I do not.

Mr. LALLY. Are you familiar with Major Earle's testimony before the Peers Committee?

Colonel GUINN. Yes, sir, I discussed many things with Major Earle. Major Earle was the G-2 adviser, Second ARVN Division, and I frequently discussed things with Major Earle.

Mr. LALLY. But you do not recall discussing this April 11 report with him, is that correct, sir?

Colonel GUINN. I don't recall the conversation, no, sir.

Mr. LALLY. Do you remember discussing with Major Earle VC propaganda relating to this particular incident?

Colonel GUINN. I may have discussed some propaganda with Major Earle, at one time or another. I don't recall the specific of discussing it with Major Earle.

Mr. LALLY. Do you remember telling Major Earle that you were having somebody look into the matter?

Colonel GUINN. No, sir, I do not.

Mr. LALLY. The distribution reflected on the copy of the April 11 report of Lieutenant Toan indicates that copies were forwarded to the sector headquarters. Now, that would be your headquarters, would it not, Colonel.

Colonel GUINN. Well, sir, the MACV Quang Ngai sector was an old carryover from the former organization; and yes, we were referred to as MACV Quang Ngai sector, but we were actually the coordinating organization, at that time.

Mr. LALLY. But this would indicate that your headquarters had received a copy of the report, would it not, sir?

Colonel GUINN. It would indicate that we were put on the distribution.

Mr. LALLY. If that had been sent to your headquarters, Colonel, where would it have been filed in the headquarters?

Colonel GUINN. It would have been filed in the coordination office, if it actually got there.

Mr. LALLY. Do you ever recall, Colonel, talking to Lieutenant Colonel Khien about the April 11 report?

Colonel GUINN. No, sir, I do not.

Mr. LALLY. Do you ever recall talking to General Young?

Colonel GUINN. No, sir, I do not.

Mr. LALLY. About the district chief's report?

Colonel GUINN. No, sir.

Mr. REDDAN. Is it possible, Colonel, that you may have had these conversations and just don't recall them? Or do you deny having had the conversation?

Colonel GUINN. Sir, I don't deny it. I talked to General Young on several occasions.

Mr. REDDAN. But your testimony is you have no present recollection of having done so.

Colonel GUINN. I have no recollection of discussing this with Colonel Khien, nor with General Young.

Mr. LALLY. Do you remember discussing it with General Koster?

Colonel GUINN. No, sir, I do not.

Mr. REDDAN. Did you have many conversations with General Koster?

Colonel GUINN. No, sir, I had very few with General Koster.

Mr. REDDAN. About how many times would you say you had occasion to visit General Koster during this particular period?

Colonel GUINN. I think General Koster was down to see the province chief on a couple of occasions. I can't fix the date. And he would usually come through the advisors before he would go see Colonel Khien and Mr. May or I; usually Mr. May would accompany General Koster if he went to see Colonel Khien.

Mr. REDDAN. Did you accompany him other than this time?

Colonel GUINN. I may have, but I don't recall it.

Mr. REDDAN. But again, you have no recollection?

Colonel GUINN. No, sir. If Mr. May had been gone, I would have accompanied General Koster. Or whoever was the senior man left in the office would have accompanied General Koster.

Mr. REDDAN. I don't recall what your testimony was, Colonel, with respect to that first report that I showed you, the one from the Census Grievance cadreman of the Son My Village, that report to the Census Grievance chief at Quang Nvai, dated March 18.

And I ask you directly if that is the report that you received?

Colonel GUINN. Sir: it does not appear to be the report that I received. It doesn't look like it. I don't think it is. It certainly doesn't look like it.

Mr. REDDAN. From reading a translation of that particular document, could you tell from that translation whether the report contains the sort of information that was used in the report that you said you did receive?

Colonel GUINN. No, sir, this doesn't appear to be the report, because I see no coordinates. It just doesn't appear to be the report.

Mr. REDDAN. I have no further questions.

Mr. HÉBERT. Thank you, gentlemen, very much.

Mr. KING. Mr. Chairman, we want to thank you for the courtesy you have extended to us.

[Witness excused.]

[Whereupon, at 12:15 p.m., the subcommittee was recessed, to reconvene the following day at 10 a.m.]

HOUSE OF REPRESENTATIVES,
COMMITTEE OF ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Thursday, April 30, 1970.

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, and Mr. Dickinson, members of the subcommittee.

Also Present: Mr. John T. M. Reddan, counsel, and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. We brought you in, at this time, all together, in the interest of time, on account of the floor situation over in the House. As you know, we have a procurement bill up today, and it will demand our attention over there, from time to time.

However, in order to expedite the matter, I will discuss together with the group what I would tell each of you individually, and you will accept my remarks as being to each individual, after you have identified yourselves, and you can ask any questions you want, in order that you may be fully apprised of your rights. After that, we will separate you and you will come in at one time, the same as now.

Mr. REDDAN. Just identify yourselves. We have five witnesses.

Mr. HÉBERT. All these are witnesses?

Mr. REDDAN. Yes, all witnesses.

Mr. HÉBERT. No attorneys here yet?

Mr. REDDAN. No.

Mr. HÉBERT. All right.

Maj. Thomas B. Earle, Jr., U.S. Army.

Mr. HÉBERT. What is your present assignment?

Major EARLE. Present assignment is ODC Sintel, Headquarters, CONAC, Fort Monroe, Va.

Mr. HÉBERT. What was your assignment on March 16, 1968?

Major EARLE. I was the G-2 adviser to the Second ARVN Division, Quang Ngai city, Vietnam.

Mr. HÉBERT. You, sir. Identify yourself for the committee, please.

Captain DAWKINS. Clarence J. Dawkins, captain, U.S. Army, 252, 662349. Present duty assignment, 26 NORAD Region, Luke Air Force Base, Phoenix, Ariz.

Mr. HÉBERT. On March 16, 1968, what was your assignment?

Captain DAWKINS. I was the District Intelligence Adviser, Son Tinh district, Quang Ngai Province, Republic of South Vietnam.

Mr. HÉBERT. You, sir.

Major HANCOCK. Maj. James H. Hancock, Jr., assigned to Headquarters, U.S. Army, Europe.

On March 16, 1968, I was the G-3 adviser to the Second ARVN Division.

Mr. HÉBERT. In Vietnam?

Major HANCOCK. In Vietnam; yes, sir.

Mr. HÉBERT. You, sir.

Mr. LIND. Mr. Dean C. Lind, presently a civilian. I was flying a helicopter as pilot for Colonel Barker in Vietnam the day of March 16, 1968.

Mr. HÉBERT. You're out of the Army now?

Mr. LIND. Yes, sir.

Mr. HÉBERT. What is your present position?

Mr. LIND. I'm presently working for my father on his farm, and I will be going to school next fall.

Mr. HÉBERT. Where do you live?

Mr. LIND. Winthrop, Minn.

Mr. HÉBERT. You, sir.

Mr. MAY. James A. May, foreign service officer, Department of State, currently assigned to the Foreign Service Institute, Vietnam Training Center, as department coordinator.

On March 16, 1968, I was provincial senior adviser for coordination, Quang Ngai Province.

Mr. HÉBERT. Are any of you gentlemen under any charges at all?

No charges at all?

Now, each of you gentlemen has been provided with a booklet describing the rules of the subcommittee as related to witnesses appearing before the subcommittee.

Let the record show that each one of the five gentlemen has nodded assent.

You have had an opportunity to read it?

Again show the five witnesses have nodded assent.

Now, in that book, you will notice that having been placed under oath, you are then privileged to have counsel if you desire. Obviously, none of you desire counsel.

Let the record show all reply in the negative.

Now, gentlemen, the subcommittee wants to assure you that you're under the full protection of the subcommittee while under its jurisdiction, and the subcommittee is very jealous of guarding your privacy, of protecting you from any harassment or infringements on your privacy.

By that, I mean this: You do not have to answer any questions of the news media at all. You do not have to allow your picture to be taken, under any circumstances, without your consent.

When you leave the room, you will leave through that door in the back. This will be individually. The policeman in uniform will be standing at the door to meet you. If the news media desires, in some cases it has, in some cases it has not, it's allowed to have one representative, a so-called pool representing all the news media. Only one man. And this one man, representing the news media, is allowed to ask you one question, and that is, do you care to make a statement, or have you anything to say.

If you reply in the negative, and indicate you do not care to make any statement, that's the end of it. He cannot pursue it any further. He is not allowed to ask any further questions. He is not allowed to put a sound box up in front of you, or a recording machine, and let you talk into it. Under no circumstances is your privacy to be violated in any way whatsoever, and you will be given that full protection of the

committee. And if you desire in the negative, the newsman must step aside and you will be escorted—these halls are all secured, and you will be escorted away from the building without harassment from any of these people.

Now, of course, if you want to say something, that's your business.

Now, after having been sworn in, I caution each one of you that this is an executive meeting of a congressional committee, and everything in this room is privileged. You're not to discuss anything which we talk about here this morning, or discuss the matters, except to authorized personnel. By authorized personnel, it becomes obvious what I mean; if you're called before another committee or called by a military court, or something of that nature, of course, you're to answer all questions there, but not discuss the matters before individuals not authorized to receive such information.

Now, do you understand these instructions?

Any questions at all? Feel free to ask any questions. We will try to clarify it for you.

No questions.

Well, then, gentlemen, rise and I will swear you in at one time.

[Witnesses sworn.]

Mr. LALLY. Major Hancock will remain, and the rest of you witnesses wait in the waiting room.

[Remaining four witnesses excused.]

[Whereupon, the subcommittee proceeded further.]

Mr. REDDAN. Major, you were the G-3 adviser to the 2d ARVN Division at Quang Ngai, in March of 1968?

TESTIMONY OF MAJ. JAMES H. HANCOCK, JR.

Major HANCOCK. Yes, sir.

Mr. REDDAN. What were your duties?

Major HANCOCK. I advised the division G-3 in matters primarily of combat operations, and training, combat type training.

Mr. REDDAN. Who was your immediate superior there?

Major HANCOCK. It was the division senior adviser, who was initially Col. Carl Ulsaker, and following that, Col. Dean Hutter.

Mr. REDDAN. Now, while you were in that position, did you ever receive any information or intelligence of any sort relative to possible civilian casualties in the Son My area, as a result of Task Force Barker operations in that area, during the middle of March 1968?

Major HANCOCK. Yes, sir. In about late March, I had a brief discussion with Lt. Col. William Guinn, about—at that time, it was in the context of a rumor that we had gotten, or some brief information that we had gotten that American soldiers had killed Vietnamese civilians in this area.

Mr. REDDAN. What was the source of that information?

Major HANCOCK. Well, the source, to me, was Colonel Guinn.

Mr. REDDAN. Guinn brought it to your attention?

Major HANCOCK. Yes, sir.

Mr. REDDAN. Can you tell us the circumstances of it, as best you recall, when and where he discussed this with you, and who, if anyone else, was present.

Major HANCOCK. All right, sir.

Let me say, too, that about the same time that this discussion occurred, I had read a translation of what I recall being a Viet Cong propaganda broadcast that we had intercepted, and I read the translation of this, and it referred to the U.S. soldiers killing civilians in the Son My area.

Mr. REDDAN. Is this something about the "American devils divulge their true form"?

Major HANCOCK. Yes, sir.

Mr. REDDAN. I will show you a copy which bears that heading on it, and is part of the so-called Henderson report of April 24, 1968, and I ask you if that is what you saw?

Major HANCOCK. Yes, sir, this is it.

Mr. REDDAN. What is that document? You say it's a—

Major HANCOCK. Sir, it was a Viet Cong propaganda broadcast or document.

Mr. REDDAN. It was either a document or a broadcast which had been intercepted?

Major HANCOCK. Intercepted and translated for us, yes, sir.

Mr. REDDAN. I see.

And did that translation come to your attention?

Major HANCOCK. Yes, sir, in the form of a, as I recall, in the form of part of a reading file, with other similar type propaganda documents.

Mr. REDDAN. Where would that come from? That is, the reading file itself.

Major HANCOCK. The reading file was normally prepared by our G-2 adviser, who was Major Earle, or his people did it.

Mr. REDDAN. Major Earle who is here today?

Major HANCOCK. Yes, sir.

Mr. REDDAN. All right.

Major HANCOCK. And this was, as I recall, this was part of a reading file.

Mr. REDDAN. This reading file was read so that you could be kept abreast of matters of current interest, is that right?

Major HANCOCK. Yes, sir, it was just an information file, that's what it was.

Mr. REDDAN. Did you read this regularly?

Major HANCOCK. Yes, sir.

Mr. REDDAN. As part of your duties?

Major HANCOCK. Similiar type files, I read almost daily.

Mr. REDDAN. All right, fine, sir.

Major HANCOCK. About the same time, then, that I read this, and the best I can recall now, let's say late March of 1968—at about this same time, Colonel Guinn and I had the brief discussion—as I recall, it was—and I will have to hedge a little—it was either in my office or over in the compound, where we lived.

Mr. REDDAN. Yes.

Major HANCOCK. And I don't—I can't tie it down any closer.

Mr. REDDAN. Did Colonel Guinn start the conversation off with you?

Major HANCOCK. Sir, I frankly can't remember exactly how the conversation was initiated.

Mr. REDDAN. Yes.

Major HANCOCK. And I can say, with certainty, though, that it was part of an overall discussion. In other words, this was not the main

topic of discussion. It was something that was mentioned, sort of in passing, that he had received such a report, and as I recall, we sort of related the information he was giving me with what we had read in this Viet Cong intercept.

Mr. REDDAN. Do I understand that it's your recollection that Colonel Guinn said he had seen a similar translation or similar document or that he had had similar information from other sources?

Major HANCOCK. I don't recall that he referred to any document, sir.

Mr. REDDAN. Do you remember your discussions, what he said, or any conclusions?

Major HANCOCK. The only thing about the discussion that I can remember, sir, that this incident was referred to, and it was pretty much in the context of just another piece of Viet Cong propaganda, or a rumor that had been started. It was nothing substantive.

Mr. REDDAN. Did he say where he got his information?

Major HANCOCK. My impression, now, is that he indicated that he had received the information either from his advisory chain—in other words, a subordinate adviser to him—or through a Vietnamese counterpart, and I don't know which.

Mr. REDDAN. Did he indicate whether or not he or his group were investigating this allegation?

Major HANCOCK. Sir, I don't recall that he indicated one way or the other about that.

Mr. REDDAN. Did he indicate any judgment as to the validity of the allegations?

Major HANCOCK. As best as I can recall, he and I both felt that at that time that it was just another rumor, or Viet Cong propaganda.

Mr. REDDAN. Now, did you have any other discussions with Colonel Guinn relative to allegations you had received, either in the form of propaganda or otherwise, which concerned possible civilian casualties in the My Lai 4 area as a result of Barker's operations?

Major HANCOCK. I think that he and I made mention to this same report of this same incident in the compound at some later time in the initial discussion I just mentioned to you, and it was strictly a passing remark.

Mr. REDDAN. Do you remember what it was?

Major HANCOCK. No, sir, I can't recall what the comment was, but again, it was in the form of commenting on an unfounded rumor. In other words, that was still the feeling or the context that all this information was in, for me. Just another rumor, or just another Viet Cong bit of propaganda.

Mr. REDDAN. Do you remember seeing a memorandum from the G-2 of the Second ARVN Division, with notes on it by Colonel Toan, I think?

Major HANCOCK. Yes, sir, I can recall seeing this document that was a report from Major Pho, who was the division G-2, to Colonel Toan.

Mr. REDDAN. I will show you a photostat of a document and ask you if the original of that is the one you're referring to now?

Major HANCOCK. May I look at another page of this?

Mr. REDDAN. Yes, surely.

Major HANCOCK. This looks like it may have been it. I can't read the Vietnamese writing, of course, but it had a little—oh, I see, marginal notes by Colonel Toan, yes, sir.

Mr. REDDAN. That's a translation of the other documents?

Major HANCOCK. Yes. Yes, sir, this looks like the translation of the document I saw.

Mr. REDDAN. What is the date of that document, Major?

Major HANCOCK. Looks like April 12, 1968.

Mr. REDDAN. And how did that come to your attention?

Major HANCOCK. Again, as I recall, either part of a reading file, or just normal—let's say interoffice correspondence, that normally came through my desk. I saw virtually everything that pertained to operations, as a matter of information.

Mr. REDDAN. What is that document about, now?

Major HANCOCK. This is a report by Major Pho to the division commander, Colonel Toan, reporting that there had been an allegation against the Americans operating in Son My, that they had shot and killed 500 people, including men, women, young and old, and it just goes on to describe the U.S. Forces did operate in that area and that they had been accused of killing Vietnamese civilians.

Mr. REDDAN. Does he request any action?

Major HANCOCK. Major Pho does not. In the marginal notes by Colonel Toan, Colonel Toan says, "Quang Ngai sector review this investigation. If there is anything to it, have the district rectify the report. Or, if there is nothing to it, have the district rectify the report. If it's true, coordinate with the Americal and have this stopped."

Mr. REDDAN. Now, do you know whether Toan's suggestion was carried out?

Major HANCOCK. Sir, I have no idea whether it was.

Mr. REDDAN. Who would have had the responsibility for initiating an investigation?

Major HANCOCK. Well, based on this directive by Colonel Toan, it would have been the Quang Ngai sector or Quang Ngai Province people. The Vietnamese man would have been the province chief, Lieutenant Colonel Khien.

Mr. REDDAN. Who would have been the American counterpart?

Major HANCOCK. His immediate counterpart was Mr. May.

Mr. REDDAN. Then would Mr. May have had to become involved in any investigation of this matter?

Major HANCOCK. Well, only if the Vietnamese had told him, probably. In other words, this was our translation of the Vietnamese document. The Vietnamese document would have gone to the province chief.

Mr. REDDAN. Yes.

Major HANCOCK. And Mr. May would have—or any of the advisers there—would have known about it only if Colonel Khien or his people told him about it.

Mr. REDDAN. Well, how would the translation of this come to you, and not go to May?

Major HANCOCK. Well, I don't say that a translation would not have gone to him. I don't know what the sector's special operational mode was. But with us, we had translators that worked right in the Division Tactical Operations Center, which was just across the yard

from my office. And they translated virtually every piece of paper that the Vietnamese put out, and they put out reams of them. They wrote up almost everything they did, and then when these were translated over in the TOC, the Tactical Operations Center, then they were routed through our advisory staff, just for information.

Mr. REDDAN. Well, would it have been routed through the advisory staff if a decision had not been made by the Vietnamese that they wanted the U.S. support in any investigation?

Major HANCOCK. Oh, yes, sir. We got translations of—

Mr. REDDAN. You would get the translations even if they didn't want you to do anything?

Major HANCOCK. That's right.

Mr. REDDAN. I see.

Major HANCOCK. In fact, most of the translations of their documents I read did not require any action on our part, or were not requesting any, by the Vietnamese from us.

Mr. REDDAN. Now, did you receive any other information of any sort, or allegations concerning possible civilian casualties in the Son My area?

Major HANCOCK. The only other information I can recall hearing about this was about early to mid-April, when Colonel Henderson, the 11th Brigade Commander, visited Quang Ngai City, and visited Colonel Toan's office. And the subject was brought up at this meeting, it was an operational coordination meeting.

Mr. REDDAN. Who was there, sir?

Major HANCOCK. OK, sir.

As far as I can remember, it would have been Colonel Toan, the division commander, his G-2 and G-3.

Mr. REDDAN. These are Vietnamese?

Major HANCOCK. Vietnamese, yes, sir.

Mr. REDDAN. All right.

Major HANCOCK. That's all that I can say for sure of Vietnamese.

Now, on the American side, it was Colonel Henderson, 11th Brigade Commander, his S-3, Major McKnight, probably Colonel Hutter, who was the senior advisor. I can't say for sure that he was there, but it's logical that he would have been. I was there. And Major Earle may have been, because his counterpart was at the meeting; but I don't remember whether he was there.

And those are the only people I can recall being there.

Mr. REDDAN. Was the meeting called specifically to discuss these allegations?

Major HANCOCK. No, sir, it was an operational coordination meeting. We were coordinating on current operations and possibly some command operations. And this subject just came up after Colonel Henderson had been there for a while.

Mr. REDDAN. All right.

What was said, to the best of your recollection? Who brought the subject up?

Major HANCOCK. I can't recall how the subject was broached, whether Colonel Toan asked a question about it, or whether Colonel Henderson initiated the conversation, but, regardless of how it was initiated, Colonel Henderson stated that he would—well, he referred to this allegation, that his troops had shot and killed Vietnamese civilians.

Mr. REDDAN. Did he refer to any particular piece of propaganda, or particular document?

Major HANCOCK. Not that I remember.

Mr. REDDAN. Or just the allegation, generally?

Major HANCOCK. Just the allegation in general, as I recall, sir. And Colonel Henderson stated, that after he received information about the allegation, that he flew in his helicopter to the unit that was involved in this, went among the unit there, went among the troops and talked to several of them, and, as I recall, he said he looked several of them eyeball to eyeball and asked them specifically if they knew anything about the killing of civilians on this operation, if they had any knowledge of it, or if they had seen any of it, and he said that all of them stated emphatically "No;" and he then went on to say that he was convinced that nothing had happened, nothing wrong had happened, and that more or less closed the issue, or he said that he asked the people, did they know anything about it; the answers were "No," in all cases, and he said, "I'm convinced that they don't know anything about it."

Mr. DICKINSON. What was Colonel Toan's attitude? Did he believe it?

Major HANCOCK. As I recall, he accepted this. I don't recall that he rebutted that statement, or questioned Colonel Henderson further on it. As I recall now, he seemed to accept that explanation.

Mr. DICKINSON. Well, in the first marginal notes that you referred to—

Major HANCOCK. Yes, sir.

Mr. DICKINSON [continuing]. That the colonel had made, did you get the impression that the colonel had a feeling that this was or was not so? I mean Colonel Toan, now. Or was it just something that came across his desk, and he bucked it on and said, "What do you know about this"?

Major HANCOCK. Sir, my impression of it, and it's sort of hard to say what I thought at that time, but in trying to remember back, my impression of this, his note, the documents, the discussions I had with everybody, my impression was that nobody believed that it had happened, including the Vietnamese. It was treated strictly as a rumor, or some Viet Cong propaganda that had been started, which was not unusual. This type of Viet Cong propaganda was not unusual to read. The only thing that made this of more interest to me, when it came through my desk, was that it was referring to a place that was close by, and not, you know, 200 miles away.

But my total impression of all this was strictly in the context of a rumor, and no basis, in fact, to it.

Mr. DICKINSON. And you said the Vietnamese, meaning someone, I suppose, other than just Colonel Toan?

Major HANCOCK. Well, that was my impression. I cannot recall ever discussing this allegation, or this matter, with any Vietnamese. My counterpart, for example, never mentioned it to me. The division G-3. The man I advised. He never mentioned this subject to me. In fact, I can't recall that any Vietnamese ever did.

Mr. REDDAN. Would it have been the normal and usual thing that if there were anything of substance, he would have mentioned to you? Was that your purpose? Your job, to work and coordinate with him?

Major HANCOCK. Yes, sir. I had good rapport with my counterpart. We dealt on a daily basis; in other words, we were together most of the day, every day. And I felt that he trusted me and would usually tell me things that he wanted me to hear, anyway. In other words, he was rather free in telling me how he felt about various things.

Mr. REDDAN. Did Colonel Toan indicate to you, at any time, that he wanted to go up to My Lai and investigate this matter?

Major HANCOCK. No, sir.

Mr. REDDAN. Did you ever hear any suggestion of that from any of the Vietnamese or the Americans, that on two occasions Colonel Toan wanted to go to My Lai to investigate?

Major HANCOCK. No, sir.

Mr. DICKINSON. This might not be a fair question, but I'm going to ask it anyway, Major.

I have been sitting here now for some weeks, listening to one witness and another witness, and what happened and what was said, and I can't help but get the feeling that assuming that some atrocity occurred there, and that 128 civilians were killed, massacred, even—I can't help but get the feeling that we in the United States, in the U.S. Army, are a lot more exercised and upset about it than the Vietnamese are themselves, if it was so.

Is this right or wrong? Am I just reading it wrong?

Major HANCOCK. Well, the only way I can answer that is by saying that there was no—well, I can't say what other people thought, but I can say definitely, for myself, that there was never the slightest iota of a thought in my mind that any massacre had occurred.

In other words, I didn't get upset about it, because to me it was just reading about another rumor, another propaganda.

Mr. DICKINSON. My point is, though, that assuming that it was so, it seems to me that we are more upset over it, as Americans, than the Vietnamese are when it was their national concern.

Major HANCOCK. Well, just looking at it now, I would agree with you. In other words, but saying what I felt back then, I had no thoughts about it, because to me nothing had happened.

In other words, there had been nothing. It was just another Viet Cong propaganda that I was reading. Looking at it now, I agree with you. I think we are very much concerned about the whole situation.

Mr. DICKINSON. The point being, though, that I think we are a lot more concerned and upset over whatever occurred there than are the South Vietnamese themselves, when it was the Vietnamese civilians who were the ones who were killed.

Would you agree with that statement? Or do you have any way to come to this conclusion?

Major HANCOCK. I don't really have any way to answer that, sir.

Mr. DICKINSON. All right.

Thank you.

Mr. HÉBERT. Was it a practice of the Vietnamese to make claims, because they had reparations? They were paid for those killed? Would they make wild claims?

Major HANCOCK. Sir, I frankly can't—I don't know, because that was not part of my job, and—

Mr. HÉBERT. That was Anistranski's job?

Major HANCOCK. Oh, he was with the division.

Mr. HÉBERT. He was the fellow that made the decisions and gave them reparations, wasn't he?

Mr. DICKINSON. Well, he and the S-5. He was G-5.

Mr. HÉBERT. Yes.

Major HANCOCK. I had no contact with that at all, sir, so I really—I understand—well, I know that there was some type of committee that they had for reparations.

Mr. HÉBERT. Did you, after this occurred, in this conference, how long were you in-country after March 16, 1968?

Major HANCOCK. Well, I left the country on May 10.

Mr. HÉBERT. That would give you about 6 weeks.

Major HANCOCK. Yes, sir.

Mr. HÉBERT. After this.

Major HANCOCK. Yes.

Mr. HÉBERT. Did you hear any discussion, rumor, scuttlebutt, anything of this nature, about My Lai 4, and something extraordinary taking place there?

Major HANCOCK. After I left country?

Mr. HÉBERT. No, in-country.

Major HANCOCK. No, sir. The last thing I can recall hearing about this whole incident was the discussion I just described, where Colonel Henderson was present, and told Colonel Toan that he had talked to his men, and that—

Mr. DICKINSON. Looked them in the eye and they stood tall.

Major HANCOCK. Yes; stood tall and said no, sir. That was the last thing.

Mr. HÉBERT. The last you heard of it until it broke in the papers?

Major HANCOCK. The last thing I heard until I read about it in the newspapers.

Mr. HÉBERT. Would that be unusual, if something of this alleged magnitude had occurred, that it would have been stopped suddenly, the discussion of it among the troops?

Major HANCOCK. Well, sir, I will just sort of have to repeat myself here, because I never got the impression that anything had occurred. To me, it was just another rumor.

Mr. HÉBERT. No; I didn't ask you that. I said, if it had occurred, would it be the normal reaction of troops to discuss it?

Major HANCOCK. Well, I don't—

Mr. HÉBERT. I mean, I'm asking you to give a judgment, drawn on your experience. It can only be a judgment. You can't state it as a fact, and I don't expect that. I'm merely asking what your reaction is, after your experience in-country, and your associations with the troops, and their reactions to certain events; if this were true, would your judgment be that they would continue to talk about it, or suddenly shut up?

Major HANCOCK. Well, the way rumors flew over there, and the way troops liked to talk about things like that, it seems logical that if people had believed that anything had happened, that they would have talked about it, yes, sir.

Mr. HÉBERT. That would be a normal reaction?

Major HANCOCK. The normal reaction is that—

Mr. HÉBERT. And this did not occur as far as My Lai 4 is concerned?

Major HANCOCK. This did not occur. At least I didn't hear any of it.

Mr. LALLY. Major, how do you relate the time of this meeting of Colonel Henderson with the Vietnamese command staff with the time that you saw the other documents?

Major HANCOCK. Well, I think this meeting occurred about roughly mid-April.

Mr. LALLY. And you had seen this other document approximately a month prior to that?

Major HANCOCK. Well, not a month prior. It had been only, I'd say, a couple of weeks. More like the end of March when I saw that. And one reason I can tie down the time just a little bit is because I was in Hawaii on R. & R. about—well, I got back from there about the 24th or 25th of March, and I went about the 15th or 16th; so, from about—correction—about the 18th—from about the 18th to the 25th of March, I was in Hawaii with my wife. So it was about the end of March when I saw the Viet Cong propaganda document; and then the best I can recall, it was about 2 weeks later, or about mid-April, that the meeting with Colonel Henderson occurred.

Mr. LALLY. And then what is the date of the ARVN memo, in which the investigation is suggested?

Major HANCOCK. That's dated April 12, sir.

Mr. LALLY. Now, would that have occurred prior to the meeting with Colonel Henderson, or subsequent, or can you fix the time?

Major HANCOCK. Sir, I frankly did not fix the time on that.

Mr. LALLY. Approximately how many discussions did you have with Colonel Guinn concerning this allegation?

Major HANCOCK. Well, as best I can recall, we had the one brief discussion at about the same time I read the VC document, which would have been about late March. And then just another brief mention, almost a passing remark, over in the compound, about the same time, with the meeting with Colonel Henderson, which would have been about mid-April.

Mr. LALLY. Now, was any other person present during either of these discussions you had with Colonel Guinn?

Major HANCOCK. Sir, I can't remember if anybody was.

Mr. LALLY. At this time, Major, who was the commanding officer of the ARVN division advisory team?

Major HANCOCK. Well, about the first of April, Colonel Hutter came in to replace Colonel Ulsaker. So, Colonel Hutter came in one day at about around the first of April, and then about 3 days later, as I recall, Colonel Ulsaker departed.

Mr. LALLY. Now, this reading file that you referred to, would that have been examined by each of the advisory team officers?

Major HANCOCK. It would have probably been read by not all of them, but the ones in our particular building, which would have been the G-2, Major Earle, myself, the senior adviser, and the department senior adviser.

Mr. LALLY. The senior adviser would be—

Major HANCOCK. Would have been Colonel Hutter, after the first of April.

Mr. LALLY. And Colonel Ulsaker, before that time?

Major HANCOCK. Yes, sir.

Mr. LALLY. Now, who would the department senior adviser be?

Major HANCOCK. Lieutenant Colonel Cromwell.

Mr. LALLY. Did you ever have any conversations with any of those three gentlemen, Colonel Ulsaker, Colonel Hutter, or Colonel Cromwell, relative to this allegation?

Major HANCOCK. No, sir, I did not.

Mr. LALLY. With reference to the suggested investigation of the matter, could that have been carried out in the area, Major, without military assistance?

Major HANCOCK. Are you referring to Colonel Toan's note?

Mr. LALLY. Colonel Toan's suggestion that an investigation be conducted.

Major HANCOCK. Could it have been conducted without U.S. assistance?

Mr. LALLY. Yes, sir.

Major HANCOCK. Oh, yes, sir.

Mr. LALLY. In the My Lai area?

Major HANCOCK. Yes, sir.

Mr. LALLY. It could have?

Major HANCOCK. Yes.

Mr. LALLY. In other words, the ARVN people could have walked in there and conducted such an investigation?

Major HANCOCK. Well, it depends on how many—if they had proper security, they wouldn't have walked in with 10 people.

Mr. LALLY. What would it have required?

Major HANCOCK. It was too hot an area. With the Vietnamese that would have probably—well, a normal operation, in that area, let me say, was—as I recall, usually not less than a Vietnamese battalion was what we normally sent in there.

Mr. LALLY. Major, do you remember at or about this period of mid-March to mid-April, a group of people coming down from the northeast, to Quang Ngai, in a demonstration?

Major HANCOCK. Sir, I can vaguely recall a demonstration of the people, but I can't recall the time. It could have been then, but I don't recall the time.

Mr. LALLY. Do you have any recollection of the purpose or the alleged purpose of their demonstration?

Major HANCOCK. No, sir, I can't remember why they were demonstrating.

Mr. REDDAN. Did you know John Lam?

Major HANCOCK. Yes, sir, the I Corps commanding—yes, sir.

Mr. REDDAN. Did you ever have any discussions with him concerning these alleged civilian casualties?

Major HANCOCK. No, sir.

Mr. REDDAN. Do you know whether or not Colonel Toan ever asked the sector to investigate this matter?

Major HANCOCK. Well, other than this marginal note he made on the document; no.

Mr. REDDAN. Did he ever tell you, or did you ever learn, that the province chief had tried to make the investigation, but couldn't?

Major HANCOCK. No, sir, I don't recall hearing him, or hearing any mention of the province chief trying to investigate and couldn't do it, no, sir.

Mr. REDDAN. Did you ever hear from any source whatever that the district chief had been asked to make the investigation, but he couldn't?

Major HANCOCK. No, sir.

Mr. REDDAN. I have no further questions.

Mr. HÉBERT. Mr. Stratton?

Mr. STRATTON. No.

Mr. HÉBERT. Thank you very much, Major.

[Witness excused.]

[Whereupon, at 10:45 a.m., the subcommittee recessed.]

The subcommittee met, pursuant to recess, at 10:45 a.m. in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Stratton, and Mr. Dickinson, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel and Mr. John F. Lally, assistant counsel.

[Witness Dean Lind, previously sworn and advised of rights—see page 597.]

Mr. REDDAN. You have identified yourself, and said you flew Colonel Barker's command and control helicopter on March 16, 1968, over the My Lai area, Mr. Lind?

TESTIMONY OF DEAN C. LIND

Mr. LIND. Yes, sir, I did.

Mr. REDDAN. Did you get out there that morning in time to see any of the artillery preparation?

Mr. LIND. Yes, sir, I believe most all of it was controlled from my aircraft.

Mr. REDDAN. Were you on-station when the initial round was fired, the marking round?

Mr. LIND. Yes, sir.

Mr. REDDAN. And do you recall where it impacted with respect to My Lai 4?

Mr. LIND. Let's see. It wasn't directly on the target. I think it was some south of the target. It didn't hit directly on it.

Mr. REDDAN. And was anyone aboard your craft to send back to LZ Uptight, the battery there, the necessary information to correct their trajectories?

Mr. LIND. Yes, sir, I believe there was—I am not sure how many or who it was, but I believe there were at least one or two artillery observers on board besides Colonel Barker. I don't remember who it was, though.

Mr. REDDAN. And do you recall whether they did send corrections back to—

Mr. LIND. Yes, sir, I believe so.

Mr. REDDAN. And then did you see the subsequent rounds impact?

Mr. LIND. Yes, sir.

Mr. REDDAN. What is your recollection as to where they landed?

Mr. LIND. It seems to me they had quite a bit of a problem—

Mr. REDDAN. There is an aerial photograph there, right behind you, and if that will help you, you can indicate on that the areas that you are discussing.

Mr. LIND. I believe they, if I am not mistaken, they landed, started out to the south, and to the west of the area, and it seems to me they

did adjust some of them back into the area, but it was pretty much scattered.

Mr. REDDAN. There was scattered impact going then, both in the western side of the village, of the hamlet, and in the paddies at the LZ area, and also south of the hamlet; is that right?

Mr. LIND. As I remember it, sir, yes. I could be mistaken.

Mr. REDDAN. At what altitude were you flying at that point, approximately?

Mr. LIND. I believe probably about 1,200 feet, 1,000 to 1,200 feet.

Mr. REDDAN. Did you drop below that at any time?

Mr. LIND. Later on in the day, we landed at My Lai 4.

Mr. REDDAN. You landed at My Lai 4?

Mr. LIND. Yes, sir, later on in the day.

Mr. REDDAN. Whereabouts, sir?

Mr. LIND. I believe it was right where this red X is, just on the trail just south of My Lai 4.

Mr. REDDAN. Who was aboard at that time?

Mr. LIND. The one time that I remember, we just picked up a medevac, and I don't remember who was aboard. At that time I don't believe there was anybody else on board.

Mr. REDDAN. Just the crew?

Mr. LIND. Right, sir. And I believe we landed again another time, but I don't remember it very well at all.

Mr. REDDAN. Could you tell us what you saw there when you landed?

Mr. LIND. I remember seeing just some bodies, I believe, on the trail that borders the southern edge of My Lai 4, but I can't remember very well how many or exactly what happened. I picture in my mind just some bodies there, and that's about all I remember. And then I can remember the village, looking into the village some, and I believe there were some troops just on the other side, or just inside My Lai 4.

Mr. REDDAN. Can you tell us what these bodies were? Male, female, ages, anything about that?

Mr. LIND. I believe it was—there were women and children and men, pretty much mixed.

Mr. REDDAN. Do you recall whether any males of military age were in the group?

Mr. LIND. I don't recall specifically, no, sir.

Mr. REDDAN. Could you give us any estimate at all as to how many bodies there were, and also whether they were in a group or whether they were spread out?

Mr. LIND. As I remember it, it looked like they were pretty much put in one group. I think it was on the road, or next to the road. And I would say maybe 15, possibly 20. I can't remember too much as to how many were there.

Mr. REDDAN. Was there anything about the condition of the bodies or their positions from which you could conclude how they were killed? By that I mean, did their positions and condition suggest they may have been killed by artillery, or by gunship or by small arms fire? Is there a way you could reach any conclusion on that?

Mr. LIND. As I remember it, they were pretty much grouped in one area. I don't recall wounds or anything that would indicate as to how they were killed, except that they were grouped in one area.

Mr. REDDAN. Now, during that day, did you hear any transmissions or conversations relative to possible civilian casualties at My Lai 4?

Mr. LIND. As I remember it, sir, there was something mentioned about it, but I don't recall what it was. I think Colonel Barker, I am sure, was involved in whatever it was mentioned, but I don't remember who it was, the specific conversation, but there was something, as I recall, there was something mentioned about it.

Mr. REDDAN. How many bodies would you estimate you saw there?

Mr. LIND. That day?

Mr. REDDAN. Yes, that day, in that area.

Mr. LIND. I believe they had some, north of My Lai 4, and I think I saw a few bodies there, and then I think, I remember seeing something down in the trail to the south. I don't remember the number.

Mr. REDDAN. The road from Quang Ngai City going west?

Mr. LIND. Yes, sir.

Mr. REDDAN. There were some bodies along that?

Mr. LIND. I believe so. And other than those two places, and right at My Lai 4 there, they are the only ones that I recall. There were maybe two or three at each place. That's all I remember.

Mr. REDDAN. Would your estimate be somewhere between 20 and 25 total?

Mr. LIND. Right, sir, probably something like that.

Mr. REDDAN. Now, at any time during that day, did you hear a transmission or a conversation directing Captain Medina to return to My Lai 4 to examine and make a body count?

Mr. LIND. Maybe that's the conversation I remember, sir, but I don't remember specifically any directions of that sort.

Mr. REDDAN. After this action, did you ever learn that there was any investigation being made of this matter?

Mr. LIND. No, sir, I didn't.

Mr. REDDAN. Did Colonel Barker ever discuss any investigation?

Mr. LIND. No, sir, he didn't, not to me.

Mr. REDDAN. Did he ever indicate that he had been directed to make an investigation?

Mr. LIND. No, sir, not that I know of.

Mr. REDDAN. Did you thereafter fly Colonel Barker out into that area for the purpose of examining bodies or to see what had taken place?

Mr. LIND. No, sir, not for that purpose, that I recall.

Mr. REDDAN. Were you ever interviewed by anyone while you were in-country relative to this matter?

Mr. LIND. No, sir, I wasn't.

Mr. REDDAN. Or asked to submit a statement?

Mr. LIND. No sir.

Mr. REDDAN. Did you file any report at the end of the day on the 16th which would indicate what you had seen out there?

Mr. LIND. No, sir, I didn't.

Mr. REDDAN. A normal mission report?

Mr. LIND. Oh, yes, a mission report.

Mr. REDDAN. You filed that, but did you indicate you had seen any civilian casualties?

Mr. LIND. I believe on our report it was how many KIAs, or how many people that we were responsible for, and the other reports would have been on the ground unit at My Lai, and we had nothing to do with the casualties there.

Mr. REDDAN. Did you have any VC kills that day?

Mr. LIND. I don't believe so, sir, no. I don't think we fired weapons except for smoke runs, marking runs.

Mr. REDDAN. That is all I have.

Mr. HÉBERT. Did Colonel Barker even discuss this particular operation with you, any conversation that you can remember?

Mr. LIND. No, sir, I don't think any conversation, even on March 16, I don't believe any conversation was directed toward myself, no. I remember some conversation, I believe it was Colonel Barker and somebody else, but I don't remember if it was on intercom or over the air or what it was.

Mr. HÉBERT. You had the headphones on all the time as the pilot of the ship?

Mr. LIND. Yes, sir.

Mr. HÉBERT. So you would hear any ground-to-air talk?

Mr. LIND. Yes, sir.

Mr. HÉBERT. You said the village of My Lai 4. How do you know it was My Lai 4?

Mr. LIND. I remember the area. I didn't know that it was considered My Lai 4 until looking over the map later, after starting the investigation here, and then I read which area it was that I was in, by looking at the map, and then—

Mr. HÉBERT. You mean after this became public knowledge?

Mr. LIND. Yes, sir.

Mr. HÉBERT. At that time you didn't know it was known as My Lai 4?

Mr. LIND. No, sir. I didn't know the name of the area. I remembered the area I was in that day, but I didn't remember exactly.

Mr. HÉBERT. Any particular village name?

Mr. LIND. No, sir.

Mr. HÉBERT. Mr. Stratton.

Mr. STRATTON. Did I understand you to say that you did not hear any communications directed to Colonel Barker that would refer to some killing going on on the ground, and somebody expressing concern about the extent of that killing?

Mr. LIND. I remember some conversation about it, sir, but I don't remember who it was directed to. I don't believe it was over the air. I believe there was some conversation between Colonel Barker and somebody else, as I recall, in the back of my aircraft, but I can't remember specifically the conversation or who it was with, even.

Mr. STRATTON. Did Colonel Barker direct you to land at some point during that operation so that he could make some further inquiries about this matter?

Mr. LIND. I don't remember us specifically landing except for the one medevac, but it seems that I think we might have landed later with Colonel Barker, but I can't recall specifically, I can't place it in my mind landing there for that particular purpose.

Mr. STRATTON. Did you know a Mr. Thompson, who was flying one of the Aero Scout helicopters?

Mr. LIND. No, sir, I didn't know anyone in that unit at all.

Mr. STRATTON. Did you hear of any complaint that he might have filed to which Colonel Barker had to respond?

Mr. LIND. No, sir, not in-country, not until after, later on, reading it in the news media?

Mr. STRATTON. How many times did you fly Colonel Barker? Were you his regular pilot?

Mr. LIND. No, sir. We switched off. I didn't fly him real often, but I'd say maybe 5 to 10 times. I can't remember.

Mr. STRATTON. What was your own impression as to the colonel, as an officer, a combat officer?

Mr. LIND. Colonel Barker always treated me and my crew quite well, and as far as I can remember, it just seems like he was a pretty good man to work for, from what I knew of him. But then I wasn't involved with his actual operation. I came in the morning and worked for him that day and then left in the evening.

Mr. STRATTON. Right.

I have no further questions.

Mr. REDDAN. Did you fly Colonel Barker the day before the 16th? That is, on the 15th? Did you fly him with the company commanders over My Lai 4?

Mr. LIND. I may have, sir, but I don't recall specifically doing it, no.

Mr. REDDAN. All right.

Mr. LALLY. Mr. Lind, do you recall taking Major McKnight out over the combat assault area on the 16th?

Mr. LIND. Not specifically, sir, no.

Mr. LALLY. Do you recall taking anybody out over this area within 2 or 3 days after the combat assault?

Mr. LIND. Not specifically. I may have, but I don't remember, no, sir.

Mr. LALLY. Were you shown photographs which were taken in the area when you appeared before the Peers inquiry?

Mr. LIND. Yes, sir, I was.

Mr. LALLY. Did any of those photographs they showed you resemble the scene of the bodies which you saw that day?

Mr. LIND. Yes, sir. I remember—they had a picture of my aircraft landing there at the time I picked up the medevac, and they had a picture of bodies there, too, and as I recall, that looks about the same thing as I saw, as I recall.

Mr. LALLY. I direct your attention to photograph No. 16. Would that appear to be the scene, as you recall it?

Mr. LIND. Yes, sir.

Mr. LALLY. And can you find the picture of your aircraft in here?

Mr. REDDAN. Was it a color picture or black and white?

Mr. LIND. I believe it was black and white.

Mr. LALLY. It would not be in this book, then.

I have nothing further.

Mr. HÉBERT. Thank you, very much.

[Witness excused.]

[Whereupon, at 11 a.m. the subcommittee proceeded to further witnesses.]

[Witness Captain Clarence J. Dawkins, previously sworn and advised of rights—see page 597.]

Mr. REDDAN. Captain Dawkins, in March of 1968, you were a lieutenant, is that right?

TESTIMONY OF CAPT. CLARENCE J. DAWKINS

Captain DAWKINS. That is right, sir.

Mr. REDDAN. And you were the intelligence adviser of the Son Tinh district?

Captain DAWKINS. Yes, sir.

Mr. REDDAN. What were your responsibilities and duties in that slot?

Captain DAWKINS. My responsibilities in that slot were, sir, as an adviser to a new program called the Phoenix program, which was to construct in each district a district intelligence office coordinating center, called a DIOC. And it was my function to advise the Vietnamese counterpart, or the S-2 in the organization of this office, and its job in the attack against the infrastructure of the district.

Mr. REDDAN. Now, in the normal course of your duties, did you ever receive a package of documents which alleged possible civilian casualties in the Son My area as a result of the operation of Task Force Barker on March 16, 1968?

Captain DAWKINS. No, sir, I saw no package relating to this alleged incident.

Mr. REDDAN. Did you receive any Viet Cong propaganda at all submitted by the province?

Captain DAWKINS. I saw some propaganda, sir, which was the regular routine type Viet Cong propaganda. I did not see any leaflets concerning the alleged incident.

Mr. REDDAN. Did you ever see any report relative to possibly 300 or 400 killings up at My Lai 4?

Captain DAWKINS. I do not remember, sir, seeing a report referring to this. I stated before General Peers' committee that I did see—I remember or I recall a message which stated that—the only thing that stands out in my mind concerning this message was the fact that there had been some cows and some pigs killed, and 90 percent of a village destroyed or damaged.

Mr. REDDAN. Where was this area?

Captain DAWKINS. I cannot, sir, relate it to a time to any portion of the year, nor can I relate it, sir, to any location. I do not remember anything preceding this sentence or anything that was after this sentence.

Mr. REDDAN. Now, this was a message that came through the district chief?

Captain DAWKINS. This was a message that came to our little hootch there on the hill.

Mr. REDDAN. Through the district chief?

Captain DAWKINS. Through the district chief. Possibly, sir, it would have been an info copy of a message from the office of the district chief.

Mr. REDDAN. What, if anything, did you do with it?

Captain DAWKINS. Sir, this message was translated by our translator that lived there on the hill with us, and upon seeing this message, like I say, what I can't recall before, but the fact that these cows and pigs being killed, and 90 percent of a village destroyed or damaged, I remember making a comment of exclamation, such as, you know, "Did you see this?" or "What is this?" This was in the hootch that I am referring to.

Mr. REDDAN. Yes.

Captain DAWKINS. I don't know if one man was present in the hootch or if there were others. I can't recall who was actually in the hootch at the time.

Mr. REDDAN. What did you do with the information?

Captain DAWKINS. I did nothing with the information, sir.

Mr. REDDAN. Was there anything that you were supposed to do with it?

Captain DAWKINS. No, sir. It was just an info copy for us. Like I say, I cannot remember actually the actual contents of the message.

Mr. REDDAN. Do you know Colonel Guinn?

Captain DAWKINS. Yes, sir, I knew Colonel Guinn. I know Colonel Guinn.

Mr. REDDAN. Did you have any discussions with him concerning this?

Captain DAWKINS. No, sir. I never discussed anything other than just a casual "Hello," or a greeting with Colonel Guinn.

Mr. REDDAN. How about Major Gavin?

Captain DAWKINS. I did not discuss it with Major Gavin, no, sir.

Mr. REDDAN. Did you have any discussions with Major Gavin relative to a report of killings of civilians?

Captain DAWKINS. No, sir, I recall no discussion, nor any report of killing of civilians.

Mr. REDDAN. Did you have any discussions with Captain Rodriguez?

Captain DAWKINS. No, sir, I did not.

Mr. REDDAN. Do you know Captain Rodriguez?

Captain DAWKINS. Yes, sir, I know Captain Rodriguez.

Mr. REDDAN. Now, you testified before the Peers group, did you not?

Captain DAWKINS. Yes, sir.

Mr. REDDAN. Is your testimony here today in any way different from the testimony you gave the Peers group?

Captain DAWKINS. Sir, I have seen the copy of the testimony that I gave to the Peers committee, and when I read this report, I was somewhat confused.

Mr. REDDAN. Well, what was confusing about it, sir?

Captain DAWKINS. Some of the answers, sir, that I gave—I don't know. The answers that I gave, when I reread, when I read the thing, they sounded differently than I thought they did when I was saying them.

Mr. REDDAN. Now, they were talking to you about Major Gavin being absent, and then coming back to the office, and "Do you remember 14 April being Easter," they asked, and you answered, "Yes, sir."

"Do you remember him coming back that day?"

"No, sir."

"Question. He was there when you were doing the talking, though?"

Wait a minute, I will go back, so you know what they are talking about.

Mr. HÉBERT. May I ask there, Captain, you say you were confused after reading the copy of your testimony, the printed word didn't sound like the spoken word you had given; is that correct?

Captain DAWKINS. Yes, sir. Some of the statements that appear on the report that I read of General Peers' investigation just—they appear to me in writing to sound differently from the way I meant them to sound when I talked.

Mr. HÉBERT. You mean different—in other words, what you are saying is they were different—a different conclusion would be drawn from the written word?

Captain DAWKINS. Yes, sir.

Mr. HÉBERT. Than the spoken word.

Captain DAWKINS. Yes, sir.

Mr. HÉBERT. What did you do about that?

Captain DAWKINS. I only saw the report yesterday, sir.

Mr. HÉBERT. You only saw it yesterday?

Captain DAWKINS. Yes, sir.

Mr. HÉBERT. So you have not informed the Peers committee that there were some inaccuracies as far as you are concerned?

Captain DAWKINS. No, sir. I don't want to make the statement, sir, that there are inaccuracies. It is just that saying them and then reading them on this paper, it seems like, you know, drawing different conclusions.

Mr. HÉBERT. Well, one conclusion would have to be accurate and one would have to be inaccurate.

Captain DAWKINS. It was confusing to me, sir, when I reread it.

Mr. HÉBERT. It would have to be, if it was different, it would have to be inaccurate, or it would have to be accurate. What I am trying to find out is, what did you do about it to clear up the testimony which you gave to the Peers committee?

Captain DAWKINS. I haven't done anything about this, sir. I only saw the report yesterday.

Mr. HÉBERT. Do you intend to clear this matter up with the Peers committee?

Captain DAWKINS. I was talking with the legal counsel yesterday, sir, when I saw it, counsel for another—for one of the persons who has been charged in the—by the Peers committee. He wanted to talk to me.

Mr. HÉBERT. Well, did you indicate that you would want to clear up these matters?

Captain DAWKINS. I would like to clear them up with someone, sir, or at least with someone who I could rephrase the answer to the questions that were asked.

Mr. HÉBERT. To indicate what you really meant?

Captain DAWKINS. Right, sir.

Mr. HÉBERT. Well, you will pursue that, do I understand that?

Captain DAWKINS. I would like to get those things—

Mr. HÉBERT. Will you do it?

Captain DAWKINS. Yes, sir, I will make an attempt.

Mr. HÉBERT. All right.

Captain DAWKINS. To get this cleared away.

Mr. REDDAN. Captain, I would like to show you a statement dated 14 April 1968, and signed by Captain Rodriguez, and ask you if you ever have seen the original of that, sir?

Mr. LALLY. There is a more legible copy immediately beneath it.

Captain DAWKINS. All right, sir.

Mr. REDDAN. Was that shown to you at the Peers committee?

Captain DAWKINS. Yes, sir, this was shown to me, and I have not seen this report prior to the time that it was shown to me by General Peers.

Mr. REDDAN. Now, do you recall—you say you didn't see that document prior to the time you saw it before the Peers committee?

Captain DAWKINS. Prior to the time.

Mr. REDDAN. You didn't see that in-country?

Captain DAWKINS. No, sir, I did not.

Mr. REDDAN. Now, a question was asked you by the Peers group.

"Question. I have here a statement which is signed by Captain Rodriguez, dated 14 April. This is a photostat of that copy, which we have seen. It is not too legible, but underneath is the true copy. I would ask you if you have seen this statement." And an indication of the witness examining Exhibit M-30.

"Don't get nervous now, just be calm.

"Answer. All right, sir. I recall the incident at that time, sir, but I do not believe I have seen the report, no, sir.

"Question. Well, let me show you another report."

And then a report of April 11, exhibit M-34, was shown to you, and then "Captain Dawkins, you indicate that you recall the incident, but you don't recall the paper. Will you tell us what you recall of the incident?"

"Answer. Just the recollection of talking about the incident, sir, that alleged killings had occurred. As far as the actuality, sir, I know nothing of that.

"Question. Well, I am trying to find out what went on at Son Tinh District, and that is the reason I have got you here. As you can see, we know more than a little, so I am trying to put a few more pieces together here. When did you talk about this, and who was doing the talking?"

"Answer. The discussion that I had about it, sir, is difficult to recall, but it was within our advisory team, not around in the area, or with anyone at higher headquarters.

"Question. Who in the team was talking, do you recall the circumstances?"

"Answer. The circumstances, no, sir. It was just a discussion. Well, this had been brought up with Lieutenant Colonel Gavin, and Captain Rodriguez and myself."

Now, is that a correct statement, sir?

Captain DAWKINS. That's a confused statement, to me, sir. Back up at the beginning, when I said my answer, when I said I remember the incident, my answer there, I thought, when I read the report, my answer there should be I remember reading this report that I made reference to.

Mr. REDDAN. Yes.

Captain DAWKINS. I do not recall, sir, any discussion, and the word "discussion" is misleading, because the only thing I remember about the report of the incident that I read was the phrase that I stated to you, and the discussion, or so-called discussion that's written there is my explanation of "Did you see this?" or something like "What is this?"

I don't recall my correct words, my exact words, sir.

Mr. REDDAN. Well, now, they go on to ask you about Major Gavin coming back on Easter, or they ask you "Do you remember April 14 being Easter?"

"Yes, sir.

"Do you remember him—that is Gavin—coming back that day?"

"Answer. No, sir.

“Question. He was there when you were doing the talking, though?”

“Answer. We talked about this.”

“Question. Do you remember talking to Major Gavin about this?”

“Right, sir, I remember it being mentioned within the team, yes, sir.”

“Question. Now, what was mentioned?”

“Answer. Just the fact that these killings had allegedly been done.”

“Question. How many killings? Did he talk about how many women and children?”

“Answer. Between 300 and 400. And I think Captain Rodriguez was doing most of the work on this thing.”

Now, is that correct, sir?

Captain DAWKINS. Sir, I do not remember any reference in the message to any killings.

Mr. REDDAN. Well, how about your testimony here?

Captain DAWKINS. Right, sir. I understand. And I see what you are getting at. But I do not remember, sir, seeing any alleged killings. I do remember the phrase that I mentioned stands out in my mind. I remember this. But I cannot recall seeing anything that alleged any killings of people.

Mr. REDDAN. Well, did you have any conversations, did anyone say anything about 300 or 400 being killed? I am trying to understand why you testified that these things did take place, and now you have no recollection of them. What was the—am I asking the wrong question here?

Captain DAWKINS. I am confused, sir. I will make an attempt—

Mr. REDDAN. So is your testimony now, under oath, on the record, as to whether or not you had any conversations with Colonel Gavin and Captain Rodriguez or either one of them or any one else, relative to 300 or 400 civilian casualties—

Captain DAWKINS. There was no conversation, sir, on my part, between Colonel Gavin or Captain Rodriguez concerning any alleged killings.

Mr. REDDAN. Did they say anything to you about it?

Captain DAWKINS. No, sir, they did not.

Mr. REDDAN. So that this testimony, then, there is no truth to it, is that right? I mean, that is wrong. The testimony that you have here is not correct?

Mr. HEBERT. Wait, let me ask one question, Mr. Reddan, there. What you read in reference to the 300 to 400 killings, is that what the Peers representative asked the Captain, or is that what the Captain said?

Mr. REDDAN. This is what the Captain said. The question was: “How many killings did they talk about? How many women and children?”

“Answer—”

Mr. HEBERT. This is the Captain now speaking?

Mr. REDDAN. Yes.

“Between 300 and 400. And I think Captain Rodriguez was doing most of the work on this thing.”

Now, what was Captain Rodriguez working on?

Captain DAWKINS. I don’t understand your question there, sir.

Mr. REDDAN. My question is just a part of your answer. You say “I think Captain Rodriguez was doing most of the work on this thing.” This thing, since you had just referred to 300 or 400 killings, “this thing” would obviously relate to that. And what do you know about what Rodriguez was doing at that time?

Captain DAWKINS. Sir, if there was a report, and I did not see a report, then Captain Rodriguez would have been working on it at that time.

Mr. REDDAN. Well, now, you appeared before the Peers group on the 23d of January of this year?

Captain DAWKINS. Yes, sir.

Mr. REDDAN. Now, that's not too long ago.

Captain DAWKINS. Yes, sir.

Mr. REDDAN. And I am just trying to understand how testimony got in here that you now say you have no knowledge of, that you have no knowledge that these things took place. Did you testify to this before the Peers group?

Captain DAWKINS. The answers that I gave, sir, before the Peers committee, were the answers to the best of my knowledge. Now, I say, now that I am reading, now that I have read the report of my testimony, I am confused as to some of the answers.

Mr. STRATTON. If I could interrupt here. Were you under oath before the Peers committee, Captain?

Captain DAWKINS. Yes, sir.

Mr. STRATTON. You were testifying at that time to the best of your knowledge, is that correct?

Captain DAWKINS. Yes, sir.

Mr. STRATTON. So what you told them was what you thought to be the truth?

Captain DAWKINS. What I told them, sir, was what I thought to be the truth at the time.

Mr. STRATTON. Well, then, the responses to the questions, you are not suggesting that they didn't report what you said accurately, are you?

Captain DAWKINS. I am not suggesting, sir. I am saying I am confused.

Mr. STRATTON. Well, I don't know whether you are confused, but are you suggesting they put down different words from what you said?

Captain DAWKINS. No, sir, I would not suggest that.

Mr. STRATTON. All right. Let's try to get the meaning of these words.

I think, Mr. Chairman, I see something here that maybe we can clear up. This is the question here: "Do you remember talking to Major Gavin about this?"

"Answer. Right, sir, I remember it being mentioned within the team, yes, sir.

"Question. Now, what was mentioned?

"Answer. Just the fact that these killings had allegedly been done.

"Question. How many killings did they talk about? How many women and children?

"Answer. Between 300 and 400, and I think Captain Rodriguez was doing most of the work on this thing."

Now, Mr. Reddan just asked you a moment ago whether you talked to Captain Rodriguez, and whether you talked to Major Gavin about this thing, these killings, and you said no, you did not talk to them. You just said that, didn't you?

Captain DAWKINS. Yes, sir. I did not talk to them.

Mr. STRATTON. All right. Now, this testimony, as I understand it, does not suggest that you talked to them. You are testifying here before the Peers committee that in your presence there was some conversation going on about 300 and 400 people being killed.

Now, are you prepared to testify that that conversation that you said you heard, before the Peers committee, you now did not hear?

Captain DAWKINS. Sir; the conversation that I am referring to is my comment that was made when I read the line that said—

Mr. STRATTON. I am not interested in your comment about the lines or anything else, Captain. You say that this is confusing. Now, what this testimony says before the Peers committee is that you heard these people discussing 300 or 400 individuals being killed.

Now, Mr. Reddan just asked you a question as to whether you had conducted a conversation about 300 or 400 people being killed, and you said no, you never talked about that. Well, I submit that these are not diametrically opposed. Maybe you didn't talk about it, but my question is, did you hear somebody else, Major Rodriguez and Major Gavin, discussing 300 or 400 people being killed?

Captain DAWKINS. No, sir, I did not hear this conversation.

Mr. STRATTON. You didn't hear—your testimony now is you didn't hear it although in January you heard it?

Captain DAWKINS. No, sir, I did not hear a conversation.

Mr. REDDAN. Where did you get these figures, 300 to 400? Those are specific numbers. Now, where did you get them?

Captain DAWKINS. All right, sir. I cannot recall. I cannot recollect reading any numbers of alleged killings from the message that I read.

Mr. REDDAN. The Peers group asks you how many were killed, and you come right out and you say 300 or 400.

Now, my question is, Captain, where in the world did you get these figures?

Captain DAWKINS. Sir; I can't explain where I got these figures. I do not recall reading these figures in Vietnam.

Mr. HÉBERT. Do you recall having told the Peers committee 300 or 400?

Captain DAWKINS. Sir, I don't recall it.

Mr. HÉBERT. You don't recall having used figures?

Captain DAWKINS. I do not recall it. Now, apparently I did, because it is in the report.

Mr. LALLY. Captain, did the Peers group have a reporter as we have here today?

Captain DAWKINS. No, sir.

Mr. LALLY. How was the testimony recorded?

Captain DAWKINS. It was recorded—I had a microphone in front of me, into a tape, and a man was sitting at the end of the table talking into a voice tape thing. And it was recording.

Mr. HÉBERT. Are they still using those things around the Pentagon? The technique is the man repeats what he thinks the witness says, but it is not actually the witness' voice on that recording.

Mr. REDDAN. You say this was a Stenomask report?

Captain DAWKINS. I don't know what you call it, sir. A big mask and he was talking into the mask.

Mr. REDDAN. Was there a tape recording also?

Captain DAWKINS. There was a recorder, sir, and a mike in front of me, yes, sir.

Mr. REDDAN. So there were two methods, a tape recorder and a—was there a tape recorder? You know what a tape recorder is.

Captain DAWKINS. Yes, sir.

Mr. REDDAN. Was there one of those things?

Captain DAWKINS. Yes.

Mr. REDDAN. And there was also a man using the Stenomask?

Captain DAWKINS. Yes.

Mr. REDDAN. So there were two methods of recording?

Captain DAWKINS. Yes, sir.

Mr. HÉBERT. And we don't know which copy this is, whether it is the talking box or the tape recording.

Mr. REDDAN. Now, having reviewed your testimony, I understand you have reviewed all of your testimony before the Peers group?

Captain DAWKINS. Yes, sir, I have read the testimony.

Mr. REDDAN. And have you made arrangements to return to correct your testimony?

Captain DAWKINS. I have not at this time. I only saw it yesterday, sir. But I would like to attempt to have a meeting with someone over there concerning this testimony.

Mr. REDDAN. And you are going to do this?

Captain DAWKINS. I will try, sir.

Mr. REDDAN. What do you mean you are going to try? You are going to make a formal request to change your testimony?

Captain DAWKINS. Yes, sir.

Mr. REDDAN. All right.

Captain DAWKINS. I am going to make a formal request to discuss my testimony with someone from the Peers committee.

Mr. REDDAN. And in that request are you going to indicate that there are inaccuracies, your testimony has been inaccurately reported?

Captain DAWKINS. Yes, sir. There are other places in the testimony that I would like to question also. In fact, there is one remark to one question in there that I am almost positive I did not answer.

Mr. HÉBERT. What was that question?

Captain DAWKINS. It was a question concerning this report dated April 14, and the question was—there was a question concerning a specific paragraph here in this letter, that General Peers asked me why do I think that Captain Rodriguez wrote this in about the district chief didn't give the alleged report much credence, you know. And my answer to that question was, "It appears to me that this was Captain Rodriguez' opinion." And then the answer in the report says, "It appears to me that this was my observance, or Captain Rodriguez observance of the district chief in the performance of his duty." But my answer to that question was sir, "It appears to me to be Captain Rodriguez' opinion."

Mr. HÉBERT. Period.

Captain DAWKINS. Period.

Mr. HÉBERT. And all the extra lines, you don't recall having said?

Captain DAWKINS. My answer was the last sentence. This other was put in before my answer.

Mr. HÉBERT. Thank you very much, Captain.

[Witness excused.]

[Whereupon, at 11:25 a.m. the subcommittee went to another witness.]

[Witness Maj. Thomas B. Earle, Jr., previously sworn and advised of rights—see page 597.]

Mr. REDDAN. Major, you have already identified yourself for the record, and stated that in April of 1968, you were the G-2 advisor for the 2d ARVN Division.

TESTIMONY OF MAJ. THOMAS B. EARLE, JR.

Major EARLE. Yes, sir.

Mr. REDDAN. Did you also hold that slot in March of 1968?

Major EARLE. Yes, sir.

Mr. REDDAN. And what were your duties as G-2?

Major EARLE. Well, sir, I advised the G-2 of the 2d ARVN Division on intelligence matters, interrogation procedures, how to handle enemy information, and ways of improving the intelligence gathering procedures that they had in the regiments and battalions in the division.

Mr. REDDAN. Now, did there come a time when you heard a rumor or a report of possible civilian casualties in the Son My area of Quang Ngai Province as a result of operations of Task Force Barker on March 16, 1968?

Major EARLE. Yes, sir. I did hear about it.

Mr. REDDAN. How did this first come to your attention, sir?

Major EARLE. Well, to the best of my knowledge, of my memory, it came to my attention at a morning briefing, and it was brought to light by Colonel Guinn, who was quoting the fact that it had been in the form of a Viet Cong propaganda leaflet, it said that the Americans had killed—I believe it was 500 civilians in this operation. And I thought at that time, or I believe that he said they were killed by artillery fire.

Mr. REDDAN. Who else was present?

Major EARLE. Well, that was a morning briefing. There were—oh, Major Hancock was there, and I believe that Colonel Hutter was there, who was the senior adviser. Colonel Cromwell. Major Doshier, and probably Major Gray, Major Glaff. Now, those are the people that were normally there. I am not sure that they were there that specific day.

Mr. REDDAN. How much time was devoted to this alleged killing of civilians during that briefing?

Major EARLE. Not too much time, sir.

Mr. REDDAN. Was any attempt made to evaluate the source of the information?

Major EARLE. Well, no, sir. It seemed that this came from one of the advisers at Son Tinh district. He had wind of this, and that he—

Mr. REDDAN. Is this from Lieutenant Tan?

Major EARLE. No, sir. An American, Captain Rodriguez, I believe, is where the information came from.

Mr. REDDAN. I see. And what, if anything, what disposition was being made of the allegation?

Major EARLE. Well, sir, I talked with Colonel Guinn about it after the briefing, and I was under the impression that he said he was going to get some more information, and report the matter. To whom he was going to report it, I don't know. He didn't say. But I did question Major Pho, who was the ARVN G-2, about the matter, and apparently he had had some knowledge of it prior to that time, because he told me it was Viet Cong propaganda, VC propaganda, to quote him. And I asked him if he believed it. He said no, he didn't.

Mr. REDDAN. Did you thereafter talk to Colonel Guinn?

Major EARLE. No, sir; I never heard the incident mentioned again.

Mr. REDDAN. Did Colonel Guinn say that he was passing this information up through channels?

Major EARLE. I thought that that's—he said he was reporting it, and I thought that to be up through channels. Again, sir, this is to the best of my memory.

Mr. REDDAN. Did you ever again hear anything with respect to possible civilian casualties at My Lai 4?

Major EARLE. No, sir; not until after it came out in the news media.

Mr. LALLY. Major, at the time that Colonel Guinn discussed this propaganda, did he have any document from which he was reading?

Major EARLE. Yes, sir. I thought it was a letter. It was a one-sheet piece of paper that he had received from Captain Rodriguez, who was one of the advisers at Son Tinh district, with this information on the letter.

Mr. LALLY. Did he ever show you this document from which he was reading?

Major EARLE. Yes. I have a vague memory of seeing it; yes, sir.

Mr. LALLY. Major, I direct your attention to a document which I believe is located in front of you at this time—yes, the statement dated April 14.

Major EARLE. Yes, sir.

Mr. LALLY. Signed by Captain Rodriguez. Is that the document which Colonel Guinn had?

Major EARLE. I believe this is the one; yes, sir. Now, I was called before General Peers' committee, and he showed me these documents when I first appeared there, and I didn't remember seeing any of them. But after the briefing, I searched my memory from one end to the other, and spent considerable time trying to reflect on what had happened, and this document here seemed to come to mind. The one that Captain Rodriguez sent to him.

Mr. LALLY. Now, Major, I direct your attention to another document in front of you here, which is a memorandum dated April 12, for the commanding general 2d ARVN Division, from Maj. Thomas Van Pho, G-2.

Major EARLE. Yes, sir.

Mr. LALLY. Have you ever seen that document, or a copy of it?

Major EARLE. No, sir; I don't remember ever seeing this document before.

Mr. LALLY. Now, Major Pho would have been your counterpart with the 2d ARVN Division?

Major EARLE. Right, sir.

Mr. LALLY. But you do not recall having seen that document in Vietnam, anyhow?

Major EARLE. No, sir, I don't remember seeing it, no, sir.

Mr. LALLY. All right.

Major, I ask you, do you recall at or about this mid-March to mid-April period, a group of people coming down from northeast of Quang Ngai on a demonstration?

Major EARLE. Yes, sir, I remember.

Mr. LALLY. What do you recall of that demonstration, Major?

Major EARLE. I just vaguely remember it. I don't even remember—I think it was a Buddhist demonstration. But I remember there were a few demonstrations about that time.

Mr. LALLY. Do you recall what the alleged purpose of this demonstration or these demonstrations was?

Major EARLE. No, sir, I don't remember what it was.

Mr. LALLY. Do you recall, Major, whether any of these demonstrations were allegedly in protest of the action of U.S. troops up in that area northeast of Quang Ngai?

Major EARLE. No, sir, I don't remember hearing anything about that.

Mr. LALLY. Thank you. I have no further questions.

Mr. HEBERT. Thank you very much.

Mr. STRATTON. Could I just ask one question?

Major, did I understand you to say that Colonel Guinn, when he referred to this propaganda document, indicated that it was completely valueless, or did he indicate that it was perhaps worth looking into?

Major EARLE. He didn't say one way or the other.

Mr. STRATTON. Well, did he say that he was looking into it, or that it was being looked into?

Major EARLE. That was the impression that I remember, yes, sir, that it was—he was trying to get additional information, and also the province chief was trying to get additional information.

Mr. STRATTON. And did he say that he was also planning to take it up with Colonel Henderson?

Major EARLE. No, sir, he didn't mention any names at all.

Mr. STRATTON. Did he indicate that it was going to be passed up to higher headquarters?

Major EARLE. Well, I believe I remember him saying that he was going to report it. Now, he didn't say to whom, or anything else about it.

Mr. STRATTON. Would that have been the normal procedure with an allegation of that kind?

Major EARLE. Well, sir, I have always operated on the system that you report an incident to the concerned unit, the commander of the unit concerned, and let him take necessary action, especially if it is a unit outside of your own organization.

Mr. STRATTON. So that would mean what?

Major EARLE. Well, he could have reported it to Task Force Barker commander, 11th brigade commander, or the Americal Division commander.

Mr. STRATTON. But would there not also be a corresponding responsibility to pass it along up through his own channels?

Major EARLE. Right, sir, yes, sir.

Mr. STRATTON. And in that case, what would his channels be?

Major EARLE. Well, I think it would be—his superior, I believe, was Mr. May. I think he would have informed him, and then it would have gone up channels.

Mr. STRATTON. I see.

Thank you.

Mr. HEBERT. Thank you very much, sir.

[Witness excused.]

[Whereupon, at 11:35 a.m. the subcommittee proceeded with another witness.]

[Witness James May, previously sworn and advised of rights—see p. 597.]

Mr. REDDAN. Mr. May, you have already identified yourself for the record and back in March 1968, as I understand it, you were the senior province adviser for Quang Ngai Province?

TESTIMONY OF JAMES MAY

Mr. MAY. That's correct, yes, sir.

Mr. REDDAN. Were you in-country in March and April 1968?

Mr. MAY. During much of that, during all of that time, yes, sir.

Mr. REDDAN. Was there any time during that period when you were absent from your Quang Ngai office?

Mr. MAY. Yes; several times in was in Da Nang and Saigon.

Mr. REDDAN. You mean for extended periods?

Mr. MAY. Several days, up as long as 5 or 6 days.

Mr. REDDAN. Now, did there come a time in the March or April time frame of 1968 when you received any information or allegation concerning possible civilian casualties in the Son My area of Quang Ngai and were briefed concerning such allegations?

Mr. MAY. No, sir.

Mr. REDDAN. No allegation ever came to your attention, of this sort?

Mr. MAY. None that I can recollect.

Mr. REDDAN. Colonel Guinn was your assistant, is that right?

Mr. MAY. Yes, sir, he was my deputy.

Mr. REDDAN. He was your deputy, and he acted for you in your absence?

Mr. MAY. Yes, sir.

Mr. REDDAN. Do you recall any time when you returned to Quang Ngai and he briefed you concerning such allegations?

Mr. MAY. I have no specific recollection of that. I have a recollection of several times—oh, say during the last year I was in Quang Ngai, which I cannot locate specifically, in which verbal statements were made to me by Colonel Guinn or by other senior persons, along the general lines that, "We have a report that," or "There is a Viet Cong report of some problems in this area or that area," and "I am going to see somebody and check it out." But I cannot specifically recollect that this occurred with reference to that area, at that time.

Mr. REDDAN. During your entire stay in Vietnam, did you ever receive any allegations of a significant number of civilian casualties resulting from a single day's operation by U.S. troops in the Quang Ngai Province?

Mr. MAY. None that I recall. I have heard such allegations, not located as to time or place, by American civilians living in Quang Ngai.

Mr. REDDAN. What sort of allegations were they, sir?

Mr. MAY. These would be allegations that American artillery or Vietnamese artillery was unnecessarily killing a lot of civilians.

Mr. REDDAN. Now, how many times, or how many different incidents of that sort did you hear discussed?

Mr. MAY. Oh, several, perhaps. Not more than that. And on discussion, with one exception, which I investigated, normally it was a person expressing an attitude, a point of view, who did not have specific facts. He was not alluding to a specific place, time, or set of events. He was expressing an attitude, a point of view.

Mr. REDDAN. Well, I don't want to get into generalities, Mr. May, but attitudes, unless they are based on fact, are irrational attitudes.

Mr. MAY. That's why I didn't pay much attention to them, when I ascertained there were no facts to support them.

Mr. REDDAN. Well, did they say, "Well, hell, didn't you hear what happened up at My Lai 4," or "Didn't you hear what happened up in the Son My area?" Didn't they say anything like that? In support of their position?

Mr. MAY. No, sir. Nothing has ever, at any time, been mentioned to me about any events occurring in My Lai, or that area, that would be in the nature of a massacre or anything of that type. The first suggestion that I ever heard of this was in November of last year, when I read it in the press here in the United States.

Mr. REDDAN. Well, if anyone in your office had any information concerning this, or any allegation of this sort, should it have been brought to your attention?

Mr. MAY. If the information that they had was of a sufficiently factual, hard nature to appear to be credible, and if I was there.

Mr. REDDAN. Well, you were there eventually, even if you might not have been there on the day the mailman arrived; but an allegation that gives the names of villages, and dates, and numbers of civilians killed, what more would you need before you would consider the allegation?

Mr. MAY. Well, I think I may have discussed this before. There is a matter of what our mission was, what our responsibilities were, and if something were sufficiently important, I would pass it on to my supervisor at Region. I would include it in my monthly report.

Mr. REDDAN. What I am saying, if these things came in in your absence, should they have been reported to you, if they indicated that American troops were involved on or about a certain date, and that certain hamlets were involved, and giving numbers of people, numbers of civilians killed? Should this have been brought to your attention, if that sort of information came into your shop?

Mr. MAY. I would expect it to be; yes, sir.

Mr. REDDAN. What sort of liaison did you have with the CIA?

Mr. MAY. They worked for me, the unit in our Province. However, they operate in a quasi-independent fashion, particularly with reference to their reporting.

Mr. REDDAN. Do you have any official connection with CIA?

Mr. MAY. No, sir.

Mr. REDDAN. If any of the CIA representatives had information of this sort, should they have brought that to your attention?

Mr. MAY. They should have, yes, sir.

Mr. REDDAN. And your testimony is that—

Mr. MAY. Again, I want to underline, if it was factual and credible.

Mr. REDDAN. Well, I don't know—

Mr. MAY. You said "information."

Mr. REDDAN. Yes. Well, I don't know how you can establish the credence of the thing unless you go in and make an investigation. You start first with an allegation, and then it takes an investigation to determine whether or not it is factual.

Mr. MAY. Well, what I am saying is, if it appeared likely, that it would be credible, if the information available gave time, place, enough to get your teeth into it—

Mr. REDDAN. You remember the old poem, "It couldn't be done, but he did it." If you start off with the assumption that it couldn't have been done, then you never go the next step to find out if he did it. So what you are saying is that an allegation of such a magnitude would be so incredible that nobody would bother to investigate it.

Mr. MAY. No, I am not saying that, sir. What I am trying to say is that our organization received many intelligence reports, all sorts of reports on the entire spectrum of responsibilities of the Government and our advisory team.

We did not act on everything, because we had to make a judgment as to what things were true, what was probably true, what was unbelievable, marginal, unimportant. And you make this sort of judgment all the time.

Mr. REDDAN. Are you suggesting that maybe this came into your shop, and somebody below you made the judgments, and you never heard about it?

Mr. MAY. I have no reason to know or believe that it came into my shop.

Mr. REDDAN. But there are some people in your shop that were talking about it. We have their testimony. Documents came in, and were analyzed and evaluated. But apparently none of this—

Mr. MAY. In my shop?

Mr. REDDAN. Yes.

Mr. MAY. Then you know much more than I do about this subject.

Mr. REDDAN. Apparently, you say, it never surfaced at your level, and I am just wondering if they had authority below you to screen these things and make their own judgment without you knowing about it.

Mr. MAY. Authority and responsibility. We had 150-odd Americans on the team, and 150-odd Vietnamese, and the heads of my particular section, in some cases representing individual agencies, were expected to use their judgment, and to act without referring anything other than major policy or major programs or major problem matters to me.

Mr. REDDAN. But in any event, your testimony is that at no time did you ever hear anything from which you could say was even an unsubstantiated allegation of civilian killings up in the Son My area as a result of Task Force Barker's operations?

Mr. MAY. Specifically at that area, I have no recollection of anything of that sort. What I tried to say is that I have heard allegations a few times attributed to VC sources, or to nonsources, without any information, specific information attached thereto, that the Americans did this atrocity, or the Vietnamese did that or the other.

If someone showed me—not showed me a document, but had a document—I am speculating; but this is the way I believe it could have happened—and said, "I received an allegation or a statement, I have some sort of information that Americans or anybody committed atrocities, I am going to see Mr. so-and-so, or the commander of the unit, to discuss it with him, and see whether there is anything to it or not."

That sort of thing, I would not remember, unless the individual either at the time indicated, in detail, that he thought it was important and believable, or reported back to me later that "I have checked it out, and by God, there's something to it."

Mr. STRATTON. Well, now, Mr. May, if I understand what you're saying, Mr. Reddan asked you, "Is it your testimony that you never heard of any of these allegations," and you said, "Not to my recollection."

Now, you have said that three or four times this morning.

Mr. MAY. Yes.

Mr. STRATTON. I have read your testimony before the staff, and you keep using those same words, not to your recollection. You are under oath here this morning. Do I understand that you are now taking the position, under oath, that you never did hear these? You are simply saying that not to your recollection do you recall at the moment ever having heard any of these allegations?

Is that your testimony?

Mr. MAY. Let me clarify that. I think "not to my recollection" goes without saying, and therefore I should not state that.

Mr. STRATTON. Well, I don't think it does, and I would like to have you just answer the question, if you would, Mr. May, because I am trying to understand your testimony.

Mr. MAY. I have never heard of any atrocity or alleged atrocity involving American forces relating to incidents or presumed incidents at My Lai.

Mr. STRATTON. And that is your testimony?

Mr. MAY. During that period.

Mr. STRATTON. And that is your testimony, that you never heard it, period, is that right?

Mr. MAY. That is correct.

Mr. STRATTON. All right. Now, suppose we come in with some testimony of people who say that they discussed this matter with you. What would your statement be then? That maybe they had discussed it with you, and you'd forgotten about it?

Mr. MAY. My statement would be that it is possible that somebody discussed it with me, but—

Mr. STRATTON. You wouldn't say they were lying, then? You'd say maybe you had forgotten, is that it? This is what I am trying to find out.

Mr. MAY. No, what I am trying to make the distinction of is the way people tell you things. In short, how the thing was described. I doubt very much whether—

Mr. STRATTON. Are we trying to hang this on some adjective or some particular locality, so that you heard something, but it wasn't in this precise geographical area, and so you didn't hear that? Or they didn't tell it to you in some particular way? Is that what we're doing here?

Mr. MAY. No. What I am trying to say, sir, is that if someone were to come into my office, or if I were to be at a meeting, and someone said, "We have an allegation, a VC propaganda statement that there was an atrocity here committed by"—

Mr. STRATTON. 400 or 500 people, that is a fairly important thing, isn't it?

Mr. MAY. Nobody ever told me 400 or 500 people were killed.

Mr. STRATTON. Anywhere?

Mr. MAY. In cold blood, by Americans.

Mr. STRATTON. Anywhere, at any time?

Mr. MAY. Anywhere, at any time.

Mr. STRATTON. And you are absolutely certain of that?

Mr. MAY. Yes, sir. In short, what I am trying to say is, if this thing were in fact described to me, as apparently some people say it was, then it was described in such terms that it doesn't appear to be the same incident, as I have heard what seems to have happened there described since I heard about that.

Mr. STRATTON. You are a Foreign Service officer, as I understand it.

Mr. MAY. I am, sir.

Mr. STRATTON. What grade?

Mr. MAY. Foreign Service officer, class 3.

Mr. STRATTON. Class 3. How long have you been in the Foreign Service?

Mr. MAY. Twenty-two years.

Mr. STRATTON. Did you run your organization there in a way that would tend to isolate you from what was going on, so that you only heard those things that you thought were most important? Did you make a point of trying to discourage people from bringing things to your attention?

Mr. MAY. I don't believe I did, sir. In fact—

Mr. STRATTON. You think you knew what was going on in your organization?

Mr. MAY. In most respects.

Mr. STRATTON. Well, now, what was Colonel Guinn to you?

Mr. MAY. Colonel Guinn was my deputy.

Mr. STRATTON. He was your deputy?

Mr. MAY. Yes, sir.

Mr. STRATTON. In other words, he had the full authority that you had, and would exercise it either in your name or in your absence, is that correct?

Mr. MAY. That is correct.

Mr. STRATTON. All right. Now, Colonel Guinn has testified in considerable detail with regard to this propagandist charge of 400 or 500 people. Are you familiar with that?

Mr. MAY. I was shown a document, either before the counsel of this committee or at the Pentagon. I don't recall which. A three or four page translation of a Viet Cong propagandist document, which gave some details, yes, sir, of that type.

Mr. STRATTON. You are familiar that he has indicated that he was aware of this, and received it, is that correct?

Mr. MAY. I have heard that said. I don't know whether it is correct, no, sir.

Mr. STRATTON. I will tell you it is true. We have had testimony to that effect.

Now, he also discussed it—he felt so strongly about it, he discussed it with Colonel Henderson, went all the way down to Duc Pho to discuss it with Colonel Henderson. We have had testimony that he mentioned it in a briefing.

Now, do you mean to say that this could have gone on in your office, and you never heard a single thing about it?

Mr. MAY. Had you asked me this question last October, before I knew about this, I would have testified that it could not have gone on without my knowing about it. But the fact is that it did, and therefore I can only accept the fact that it did go on without my knowing about it.

Mr. STRATTON. Then you must not have known very much about what was going on in your office, did you?

Mr. MAY. Respectfully, sir, if I may say so, we had many problems that took a great deal of our time at that time.

Mr. STRATTON. I'm sure you did. And you have said that you never heard anything about an allegation of 400 people having been killed. How many times did you get allegations of that kind?

Mr. MAY. I never got any, that I recall.

Mr. STRATTON. No. That would be a fairly important thing, would it not?

Mr. MAY. Yes, it would.

Mr. STRATTON. Now, this would come into your office, and it was handled by your deputy, and he thought so seriously about it that he went personally to the commander of the unit concerned, and yet you had so many things going on in your office you just never heard a single thing about it?

Mr. MAY. Well, again—

Mr. STRATTON. Is that your testimony?

Mr. MAY. I don't accept the implied reason that I had so many things going on—

Mr. STRATTON. You said you had a lot of things going on. I find it hard to see how anything more important than this would have come to your attention.

Mr. MAY. Well, like being overrun, the entire city, and the team. I think that was fairly important, too. We are talking about live Americans at that point.

Mr. STRATTON. Well, now, could your deputy go down to call on Colonel Henderson without you knowing about it?

Mr. MAY. Yes, he could, but if I were in town, why, he would inform me, and it is very possible that he told me. I know he says that he did, and I believe it, that he was going down to see Colonel Henderson about some problems.

Mr. STRATTON. And it is very possible that he might have told you about this document, but you just don't happen to recall it, is that true?

Mr. MAY. If he had told me about it, the substance of the part about how many people were allegedly killed, and the date and the time and the unit, I would remember it.

Mr. STRATTON. But if he left out any one of those things, then you wouldn't remember it? Is that your testimony?

Mr. MAY. No, not any one, but if he said, "Look, we've got an allegation of some problems out in the Son Tinh District, I think I ought to go down and see Colonel Henderson and discuss it with him," I'd say, "OK, go ahead."

I doubt that I would cross examine him to tell me in detail what he was going down to see him about.

Mr. STRATTON. If he went down with a document that alleged 400 or 500 civilians being killed, he probably would have mentioned that fact, would he not?

Mr. MAY. He might have. It depends.

Mr. STRATTON. But it is possible that if he didn't give the date, address, and exact moment that it happened, you would have forgotten about it?

Mr. MAY. I think the situation as it existed at the time is somewhat important. We had a number of priorities, one of which I have just mentioned, to try and keep the city from being overrun, like it was almost overrun a month before that.

Mr. STRATTON. I am sure that wasn't your primary job, Mr. May. I think they had the military people in there to try and take care of that, didn't they?

Mr. MAY. I'm sorry, sir, it was one of our primary jobs. We advised the Province chief, who was personally and directly responsible with the forces under him, which we also advised, the RF and PF, to secure the defense of that city.

Mr. STRATTON. Well, I am sure General Koster and some other people were also worried about being overrun, too. Does that mean that they are excused from knowing about some of these allegations?

Mr. MAY. Not at all. I am just trying to put it in perspective, the sort of implication that I am sitting around with nothing to do, and that this is No. 1 priority, an allegation, and therefore, having nothing to do, I would sit there and cross examine Colonel Guinn in detail.

Mr. STRATTON. I don't know what priority it had, Mr. May, but I find it a little incredible that your deputy could have been involved in this thing, and you somehow just never heard a thing about it.

Mr. MAY. Well, I suppose we don't know everything all of our deputies do.

Mr. STRATTON. Are you familiar with the census grievance reports?

Mr. MAY. I have seen a few. Very few. I am familiar with the organization and how it operates.

Mr. STRATTON. This was one of the major sources of information in your office, was it not?

Mr. MAY. One of them, yes, sir.

Mr. STRATTON. What did you do with the—

Mr. MAY. It happened to be a very unsatisfactory and unreliable one in many ways, so much so that we were considering terminating it about that time.

Mr. STRATTON. I see. What did they do? What did they supply?

Mr. MAY. Census grievance had a representative in each of some 150-odd hamlets, mostly in the secure area, or the contested area, and they provided intelligence for the agency on the one hand. That was their primary purpose.

And second: Their visible primary purpose from the Vietnamese side was to give information concerning problems that would affect public confidence in the Province chief and his people, to the Province chief, so that he could act on them.

Mr. STRATTON. Was that your procedure when you got such reports?

Mr. MAY. I didn't get those reports.

Mr. STRATTON. You didn't get them?

Mr. MAY. No, sir. The officer in charge of that unit of my staff dealt directly with the Province chief concerning them.

Mr. STRATTON. Who was that?

Mr. MAY. At that time, [deleted].

Mr. STRATTON. [Deleted]?

Mr. MAY. Yes, sir.

Mr. STRATTON. Well, what was the procedure? What was your organization supposed to do when they came in?

Mr. MAY. Well, we weren't supposed to do anything in particular. As I understand it—and I am not positive this is the way it happened—but I believe this is the way it happened.

This was a Vietnamese organization which we bankrolled and advised, and therefore the documents were Vietnamese documents which they reported up the line to the Province chief.

My RD cadre chief, Mr. [deleted], and his group, received a copy of these, which if they felt something was terribly important, they would bring to my attention. But their primary action was to forward it on to their headquarters in Da Nang.

Mr. STRATTON. Their primary responsibility was to forward it on to their headquarters in Da Nang?

Mr. MAY. Well, they would use it as operational information. They would feed military intelligence into the combined military intelligence unit in Quang Ngai; so that again, one of the mysteries to me is how this didn't surface—to me and to many other people—because it should have gone into the combined military intelligence, which involved every agency in the place.

Mr. STRATTON. This is certainly one of the mysteries to us, and the one thing that is mysterious to me is how many people somehow just don't seem to recall very many things about what happened.

You said that you were busy trying to keep your position from being overrun. If one of these reports had come in indicating that a substantial force of Viet Cong were planning to attack your position tomorrow morning, what would have happened to that report?

Mr. MAY. It would go to the S-2 in the first instance, and probably to Colonel Guinn in the second instance, and he would certainly get in touch with me, and let me know that that was imminent.

Mr. STRATTON. You mean you think you might have then heard about it, is that right?

Mr. MAY. No doubt in my mind, if I were in town I would hear about it.

Mr. STRATTON. I see. Well, now, Mr. May, you said earlier, in response to Mr. Reddan, that you had some kind of procedure—I wasn't quite clear what it was—that if something came to you that was reliable, and the source was right, and so on, you might then pass it along. Otherwise, you didn't do much about it.

What kind of machinery did you have for screening these things, to decide whether there was anything to them or not?

Mr. MAY. Well, all of the sections working for me that received information, each responsible officer would do his own screening as to what was credible, what was important, what was unimportant.

And the important things would come to me, or to Colonel Guinn in my absence, or very possibly, in the case of some agencies which had not yet accepted totally the CORDS system, they might send it directly to their own agency. I can only suspect.

Mr. STRATTON. What procedure did they follow?

Mr. MAY. May I finish this part first? The items that came to me, I would simply exercise my judgment.

Mr. STRATTON. Well, I want to know what procedure you followed in your organization. You didn't have any geiger counter, you didn't have any litmus paper. How did you determine what was good and what was bad, what was true and what was false? Did you have an investigation section that checked all of these things out, or what?

Mr. MAY. Each responsible officer would make the judgment in his own area.

Mr. STRATTON. Without any standards whatsoever?

Mr. MAY. Standards for what?

Mr. STRATTON. Well, you ran the office. I am trying to find out what standards you used for determining whether these things were good or not.

Mr. MAY. Well, the standard would be—can you identify what things you're talking about? Perhaps I can be more responsive.

Mr. STRATTON. You know what we're talking about.

Mr. MAY. All right. Let's take a Viet Cong propaganda leaflet. Usually these were one page. It was usually vague, and didn't say where or when or who. But it would be some very serious negative charge.

And this particular report might come to a member of the District team, in which case the head of the District team would evaluate it. Or it might come to the S-5, or the USIA representative.

Mr. STRATTON. How do you evaluate it? That is what I am trying to find out. If it was vague and didn't mention any numbers or any location, that meant it was no good, is that right? That would be a criterion that would tend to convince you that you needn't worry too much about it, is that correct?

Mr. MAY. Well, and if whatever evidence, whatever factual matter was in there didn't check out with other facts you knew, then you could assume that probably the rest of it also wouldn't check out, either.

Mr. STRATTON. I see. All right. Now, suppose one comes in which is rather specific with respect to date, rather specific with respect to time, and rather specific with respect to numbers. Then what would you do about it?

Mr. MAY. Well, again, it would depend on the sort of thing, but we would certainly take some action.

Mr. STRATTON. This is what we're talking about. You said if it came in without anything very specific, then you would tend not to pay much attention to it. Now you get one that doesn't meet that criterion, but is specific. Now, what do you do about it?

Mr. MAY. We check it out.

Mr. STRATTON. How do you check it out?

Mr. MAY. Well, if we're talking about an alleged atrocity, I have an example which occurred in late December or early January, preceding this incident, in which the allegation was made that American artillery had killed a bunch of civilians in a Ny Han District town. I am not sure if that is in my previous testimony or not. It was before the Peers committee.

So this is a serious accusation. We already knew, had a report on the action from our district team leader, so that we believed there was nothing to this.

Mr. STRATTON. When did this come up, Mr. May?

Mr. MAY. This came up either in late December or early January.

Mr. STRATTON. Prior to the My Lai operation?

Mr. MAY. Yes, sir, several months before.

Mr. STRATTON. How did that come in, do you know?

Mr. MAY. How did the charge come in?

Mr. STRATTON. How did your information come in with respect to the charge, yes.

Mr. MAY. A civilian sitting at my luncheon table made the statement to Senator Kennedy, who was sitting there.

Mr. STRATTON. So you just happened to be there when the charge was made, then. Otherwise you might not have heard about it?

Mr. MAY. I might not have, but—

Mr. STRATTON. And you checked it out how?

Mr. MAY. I went out myself, with an interpreter, a military member of my staff, and I got several representatives of the district team, and we checked on the ground, and we reviewed the reports that the district team had made, verbally and otherwise, and it all checked out.

Mr. STRATTON. You mean the allegation was true?

Mr. MAY. No, the allegation was false.

Mr. STRATTON. How many people—

Mr. MAY. Had not Senator Kennedy been there, and had one of the staff members made some sort of a secret investigation, I would not have checked it out, because the allegation was obviously false, because the allegation was that American artillery had attacked and killed a lot of people in this hamlet.

Mr. STRATTON. How many people?

Mr. MAY. Now, I knew, and everybody on my staff knew, and all the military, anybody who knew anything about anything knew that there was no U.S. artillery located anywhere within artillery range of that area. Therefore, it was an impossibility for U.S. artillery to have done this.

However, it was possible for ARVN artillery to have done it, and which is just about as bad. But meantime, we had had a report from our district team, which was on the job, which was under attack, which was calling in and directing the artillery fire—

Mr. STRATTON. Well, how many people were involved in that one?

Mr. MAY. Oh, I think something on the order of maybe 25 or 30.

Mr. STRATTON. Twenty-five or thirty?

Mr. MAY. A number of people killed, a number of people wounded.

Mr. STRATTON. And you said if Senator Kennedy hadn't been right there, you wouldn't have even bothered to look into it?

Mr. MAY. If I may finish the sentence, we had very firm, hard evidence, with our team members there on the spot, observing, they called in the artillery fire, and we also knew from their report, which I corroborated on the spot, that the destruction to civilian houses was by Viet Cong satchel charges, very selectively. So we have—

Mr. STRATTON. Time is running out, Mr. May.

Mr. MAY. So we have an accusation cut out of whole cloth, which didn't stand up.

Mr. STRATTON. Now, you've got an accusation here that comes to your headquarters, that on the operation of 16 March, in the Son Tinh District, the Americans went crazy, that they used machineguns and every kind of weapon to kill 500 people who had empty hands in the Son My village, Son Tinh District, Quang Ngai Province. There were many pregnant women, some of whom were only a few days from childbirth. The Americans would shoot everybody they saw. They killed people and cows, and burned houses. There were some families in which all the members were killed.

Now, this is pretty specific, isn't it?

Mr. MAY. It certainly is.

Mr. STRATTON. How would you check that out?

Mr. MAY. If I received something like that, since I believe that that named the Americal Division, I would see that a copy went to the Americal Division, so that they could comment on it.

Mr. STRATTON. Would you go down to see Colonel Henderson?

Mr. MAY. No. I am not always too hep on the chain of command. I would probably have gone to see General Young. I might have asked Colonel Guinn to see Colonel Henderson.

Mr. STRATTON. Well, it would be normal, if this came to Colonel Guinn's attention, then, for him to go down and see Colonel Henderson?

Mr. MAY. That's right. Colonel Henderson had command of the U.S. troops in that area at that time.

Mr. STRATTON. Did you ever see anything that was quite as specific or as damaging in terms of propaganda charges, as that particular statement I have just read to you, Mr. May?

Mr. MAY. I have never seen anything remotely resembling that in terms of time, date, and place and unit.

Mr. STRATTON. It is a pretty serious charge, isn't it?

Mr. MAY. Very serious. I would have been tremendously interested, had I seen it.

Mr. STRATTON. Do you think that this could have come to Colonel Guinn's attention without his bringing it to your attention.

Mr. MAY. In the context of the times, I believe it could have come to his attention, without bringing it to mine but——

Mr. STRATTON. Are you familiar with a MACV directive, Mr. May, that provides for how you handle charges of war crimes?

Mr. MAY. I have read that directive.

Mr. STRATTON. What does it say?

Mr. MAY. It says that all such allegations will be reported.

Mr. STRATTON. Right.

Mr. MAY. Yes.

Mr. STRATTON. Now, is a charge an allegation?

Mr. MAY. Yes; it is.

Mr. STRATTON. Does the directive say that if you check it out and that it isn't true, or isn't likely to be true, that you don't have to report it?

Mr. MAY. No.; it says "all allegations."

Mr. STRATTON. All right, Now, this allegation, then, should have been reported to MACV, should it not?

Mr. MAY. According to the text of that instruction.

Mr. STRATTON. Well, now, you tell me that you had one in December, when Senator Kennedy was present.

Mr. MAY. Yes.

Mr. STRATTON. That was an allegation. Did you report that to MACV?

Mr. MAY. I reported it in verbal form to my superior, who is also a member of the MACV organization, which I am, myself.

Mr. STRATTON. Who was that?

Mr. MAY. Ambassador Henry Koren.

Mr. STRATTON. You reported it verbally to him?

Mr. MAY. That is correct, yes, sir.

Mr. STRATTON. Did he just happen to be at that same luncheon with Senator Kennedy?

Mr. MAY. No, sir, he was not present.

Mr. STRATTON. Well, then, how did you report it verbally to him?

Mr. MAY. At Da Nang. Either at Da Nang, in his office, or shortly after he was in Quang Ngai, in mine. I don't recall. But a great deal of the reporting in Quang Ngai, and I assume elsewhere, was done verbally, sir, because we were not staffed to reduce everything everybody heard and said to writing, and to have reports prepared, and to send them.

Mr. STRATTON. But you did carry out the MACV directive, at least verbally, every time you had an allegation of a war atrocity? Is that your testimony?

Mr. MAY. Yes, sir.

Mr. STRATTON. You are not suggesting, are you, Mr. May, that because you had so many other duties that it would have been just too onerous to carry out this directive, so you couldn't bother to write it down every time you heard one of these things? You are not suggesting that because of the pressing other duties you had, you didn't feel it was necessary to comply with this directive?

Mr. MAY. No; quite the contrary. In fact, I expected the members of my team, and myself, to do everything we possibly could in the line of requirements.

But I simply note for the record that we were always understaffed, and therefore our performance necessarily fell somewhat short of the desirable. I never felt that it was totally adequate, which was why I had always asked for selected additional staff, so that we could do a better job.

Mr. STRATTON. And your deputy was well aware of the standing rule, was he?

Mr. MAY. I don't know whether he was or not. I never read that until after I was back in the United States.

Mr. STRATTON. You don't know whether your deputy was aware of the MACV directives and procedures?

Mr. MAY. I don't know the date on that rule, sir, and I don't know whether it reached Quang Ngai or not before the time the incident occurred, but I am quite sure—

Mr. STRATTON. You said you reported the previous one.

Mr. MAY. Sir, I don't need a regulation to have me do something that I think only requires commonsense, which is—

Mr. STRATTON. Well, I am trying to find out whether your deputy had any commonsense, whether you did anything to make sure that he had any commonsense.

Mr. MAY. I do not know whether he read the regulation, but I am quite sure he was aware of the necessity to report important things.

Mr. STRATTON. But if he got an allegation of this kind, and did not report it through his chain of command, through your chain of command, then he was in violation of the directive, is that correct?

Mr. MAY. That would be correct, yes, sir.

Mr. STRATTON. All right.

Mr. LALLY. Mr. May, how frequently did Mr. [deleted] bring to your attention census grievance complaints which his office received?

Mr. MAY. Very rarely.

Mr. LALLY. Now, I assume that he had made some evaluation of the complaints that he did bring to your attention?

Mr. MAY. I can't even recall a specific one brought to my attention. We discussed the problem of census grievances together, several times. As I recall, our feeling was that these would become almost a useless exercise because the province chief was not taking any action on them. And part of the rationale for the census grievance was to get problems to the province chief through his channel, so it didn't—it was much easier for him to act if the problem came through his channel, than if we had to tap him on the shoulder and bring something to his attention and ask him to act on it. It was less offensive to his dignity, to his sense of who was in charge, and so on. But this simply didn't seem to be working.

Mr. LALLY. If one were brought to the attention of your office, by Mr. [deleted]—

Mr. MAY. Yes.

Mr. LALLY [continuing]. It would have been considered unusual by him?

Mr. MAY. If he brought it to my attention, it would be pretty unusual, yes, sir; and I think I would remember it.

Mr. LALLY. Now, if Mr. [deleted] had determined that something was so unusual that it should be brought to the attention of your staff, would it be brought directly to you, or to somebody else on the staff?

Mr. MAY. I think it depends entirely on what it was. He could bring it to Colonel Guinn's attention. He knew and everybody else knew that Colonel Guinn had my total confidence, that during the last half year that I was in-country, Colonel Guinn was in charge almost half the time. And nobody would hold anything back because I wasn't there.

Mr. LALLY. Now, Colonel Guinn was as aware as you were that anything brought from Census Grievance was considered an unusual matter, was he not?

Mr. MAY. I think so. Census Grievance was one of a number of sub-organizations which were directly under Colonel Guinn's command. I divided my team operations into two groups, and Colonel Guinn, in addition to wearing the hat as my deputy, wore the hat as officer in charge of the security half of our team. And one part of that was the RD Cadre and Census Grievance and unit.

So, Mr. [deleted] reported directly to Colonel Guinn on a regular basis concerning his operations which included Census Grievance. So, Colonel Guinn may have seen more of these reports than I did.

Mr. LALLY. Now, would Colonel Guinn's awareness of the fact that Census Grievance brought very few complaints to the attention of your staff, if he had received one, alleging, as he has testified, 1,200 to 1,500 civilian deaths, this would have been a matter which probably should have been brought to your attention, would it not, sir?

Mr. MAY. Probably, yes. There's a matter of judgment, and what happened subsequently, and so on. But I would expect it to be.

Mr. LALLY. Now, is it your testimony that you never were made aware of such a Census Grievance complaint, alleging 1,200 to 1,500 civilian deaths?

Mr. MAY. That's my testimony.

Mr. LALLY. All right, sir.

Now, I direct your attention to another Census Grievance complaint, dated March 18, and ask if you ever recall seeing this complaint?

Mr. MAY. I'm sure I never saw this before.

Mr. LALLY. Now, again, Mr. May, this is a rather specific complaint, is it not?

Mr. MAY. That's rather specific, but if I may offer a comment or two that might help you read this the way somebody out there might read it—

Mr. LALLY. Yes.

Mr. MAY. A force composed of district VC and local guerrillas opposed allied operation. After a fierce battle, the allies killed 320 people. This doesn't say civilians.

Mr. LALLY. No, that's true.

Mr. MAY. Just people. And we have been talking about district VC and guerrillas, so I think it is easy to infer they are still talking about VC and guerrillas. Twenty-seven people were killed at My Lai. See, we are still talking about—you're dealing with people, in the first part. Among this number, there's a hamlet security chief. Again, this is a guy with a military function.

Mr. REDDAN. Mr. May, did your intelligence report show that you had as many as 300 or 400 VC in that particular area?

Mr. MAY. Yes, sir. At all times, I would say at least that many, in that general area of the Batangan Peninsula. They wouldn't necessarily be right there. They moved around, with you in that general area, that was the home area.

To finish on this, sir, only down here in the—near the end, it says the total civilians. That's the first mention that any of these people might be civilians. And guerrillas. But there is no breakdown, and including the young and old, that doesn't tell you very much.

Mr. LALLY. But there is an occasion of civilian deaths?

Mr. MAY. Yes.

Mr. LALLY. And there is information which fixes the location of the incident and the date of the incident?

Mr. MAY. May I continue?

The fact of civilian deaths in connection with military operations, per se, was not and is not, in my mind, a suggestion that an atrocity has occurred. It's a suggestion that—this wouldn't raise a hair on my head. I would simply state that there was fighting going on in a VC area, hardcore area, and the VC were fighting out of hamlets and villages, and there were some civilians got in the way, and I would have been astonished if it were reported that no civilians were killed in a combat, in an area where there was a hamlet or two.

In fact, I wouldn't believe that.

Mr. REDDAN. May I just observe, Mr. May, that your comments on this allegation led me only to one conclusion; and that is, you can rationalize at any time you want, and this is the kindest thing I can say about that testimony.

Mr. LALLY. Mr. May, directing your attention to this item, dated March 22, 1968, from the chairman of the village council, alleging 570 civilian deaths.

Would this have raised a hair on your head?

Mr. MAY. This would indeed. I would have been appalled.

Mr. LALLY. Now, apparently these items raised some concern among the District Advisory Team, which was a subordinate of your organization, was it not, Mr. May?

Mr. MAY. That's correct.

Mr. LALLY. And apparently it raised some concern on the part of your staff, because somebody on your staff requested the district to conduct an investigation of this matter.

Were you aware of that, sir?

Mr. MAY. No, sir.

Mr. LALLY. Did you know that Captain Rodriguez had gone to interview the district chief?

Mr. MAY. No, sir. I assume he's in daily close contact with him when he's acting in charge, but with reference to this incident, or anything like it, I'm unaware. I was unaware. I'm aware now.

Mr. LALLY. Didn't you know, Mr. May, that Americal Division had conducted an investigation of this incident?

Mr. MAY. I did not.

Mr. LALLY. You did not? You were not advised by Colonel Anistranski that such an investigation was being conducted by the Americal Division?

Mr. MAY. I am not aware that I was, no, sir. When you say "such an investigation," at risk of offending you, I have to go back to the realities, as to how people talked to each other, and the way people tend to hold things close to their chest.

And therefore, if Colonel Anistranski says he told me, I can only say that Colonel Anistranski must have told me in a very vague and indirect way, so that the import escaped me entirely.

In other words, for example, that there had been some allegation of serious problems down in our area, or some civilians being wantonly killed, and we're taking care of it, or the general is down looking it over, or something like that.

In which case the problem would be investigated by the organization which has the responsibility in that area, and which is the only organization that has the capability to get in there, anyway, and I suppose the problem was being handled. And from what I would have been told—otherwise, I would remember it—it must have sounded like a very small problem.

Mr. LALLY. Was your secretary's name Mr. Tom?

Mr. MAY. Le Tam.

Mr. LALLY. Did he have any authority to convey materials to Colonel Guinn without your direction?

Mr. MAY. No, he did not. But knowing his personality, he's capable of exercising initiative beyond his authority. He's a very young fellow.

Mr. LALLY. Well, the testimony here yesterday was that Mr. Tam had brought this first census grievance complaint, alleging 1,200 to 1,500 civilian deaths, to Colonel Guinn. Now, is it still your testimony, Mr. May, that that was done without your knowledge and authority?

Mr. MAY. Yes, it is.

Mr. LALLY. And is it still your testimony, Mr. May, that Colonel Guinn did not advise you before going down to Duc Pho of the purpose of his trip in going to see Colonel Henderson?

Mr. MAY. That is my testimony, unless, if I may repeat, unless he told me in some way similar to that which I have alluded to as being the way I might have heard it from Lieutenant Colonel Anistranski, and then have not remembered it because it was not put in a context that would shock me, as these reports do.

Mr. LALLY. That's all.

Mr. STRATTON. Thank you very much, Mr. May. The subcommittee will stand in adjournment subject to the call of the Chair.

[Whereupon the subcommittee adjourned at 12:30 p.m., on Thursday, April 30, 1970.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Camp Smith, Hawaii, Friday, May 8, 1970.

The subcommittee met, pursuant to notice, at 4:30 p.m., in the conference room, Camp Smith, Hawaii, Hon. Samuel S. Stratton (acting chairman) presiding.

Members present: Representatives Stratton, Gubser, and Dickinson.

Staff present: Frank M. Slatinshek, assistant chief counsel, Committee on Armed Services; John T. M. Reddan, counsel; John F. Lally, assistant counsel; Rear Adm. Allan Chrisman; and Charles Halleck, consultant.

BRIEFING BY ADM. JOHN S. McCAIN, U.S. NAVY, COMMANDER IN CHIEF, PACIFIC, ACCOMPANIED BY GEN. RALPH E. HAINES, JR., U.S. ARMY, COMMANDER IN CHIEF, U.S. ARMY, PACIFIC; LT. GEN. CHARLES A. CORCORAN, U.S. ARMY, CHIEF OF STAFF, CINCPAC; AND LT. COL. WILLIAM P. DOYLE, U.S. ARMY, HEAD, PRESENTATION SECTION, J3C22, CINCPAC

Admiral McCAIN. Mr. Chairman and gentlemen, we thought if this met your approval that we would have a 20-minute presentation first on My Lai and, as some refer to it, as the My Song affair. Then General Haines and myself will be available for any questions that you may want to raise subsequent to this presentation.

I would like to say first it is a real pleasure and a privilege on my part and this command to have you all here. It is a real delight, Mr. Chairman.

Mr. STRATTON. Thank you much, Admiral. We are delighted to be here and appreciate the fine job that you always do.

Admiral McCAIN. Thank you, sir.

Mr. DICKINSON. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. DICKINSON. What classification is this briefing? Is it classified?

Admiral McCAIN. This is not classified. This is unclassified. I don't think we have any classified material.

Mr. DICKINSON. Thank you.

You are going to tell us all you know?

Admiral McCAIN. Yes, sir.

I thought after we get through we could go down to the flag mess, the general officers mess and I will talk to you for a half hour on some of these things going on in this section of the world, because there is plenty and it is serious. Very much so.

Colonel Doyle will give the presentation.

**PRESENTATION BY LT. COL. WILLIAM P. DOYLE, U.S. ARMY, HEAD,
PRESENTATION SECTION, J3C22, CINCPAC**

Colonel DOYLE. Mr. Chairman, during this joint CINCPAC and CINCUSARPAC presentation we will outline for you the events that occurred at Son My, and then touch briefly on the operational significance of the subsequent publicity and its effect on morale. We will also describe reporting techniques, troop training policy, command and control systems, and remedial actions taken to avoid another such occurrence.

The action that occurred on March 16, 1968, at Son My was, from our point of view, at the time routine in nature. The message shown on your left is an extract from the MACV telecon of 0945 on the 16th. The 2200 message on the right indicates that contact terminated at 1500 that day.

Part 1 covers the first tactical zone. Operation Muscatine in Son My Province at 0030 of the 16th, Task Force Barker conducted a search and destroy operation with artillery preparatory fire into the objective area. The Charley Company assaulted and at 0751 hours reported sporadic contact with an unknown number of enemy.

Bravo Company was inserted at 0920 at these coordinates, 3½ kilometers southeast of Charley Company. Artillery and gunship supported sporadic contact as of 1500 hours that afternoon. Results, friendly killed was garbled in the telecon. Ten friendly soldiers were wounded, and enemy casualties as shown. Later the same day in the 2200 telecon—

Mr. STRATTON. Is that 61 weapons captured; 61?

Colonel DOYLE. This is six individual weapons.

On the same day, later in the evening, on 2200 telecon they referenced that paragraph and merely reported the contact broke at 1500 hours. We have no further operational reports on the incident at this time.

It was only after the alleged atrocity was reported in the press, along with the ongoing Army investigation, that this combat action was viewed from a different perspective. We make this distinction early in the briefing because it is a key point to understanding of subsequent events. Thus the labeling of an event as a routine action or as a serious incident is completely dependent on the facts available at the time.

To set the stage for the presentation of information in which you have expressed interest, I would like to briefly describe the area and the events preceding and subsequent to the Son My action.

This slide portrays the area of operation of the Americal Division with the major forces disposed at the time of the incident. The division's area of operation encompasses the densely populated provinces of Quang Ngai, Quang Tin and the southern portion of Quang Nam Province.

It is some 150 kilometers south of Hoi An in the southern border of the I Corps tactical zone. The OA extends inland about 5 kilometers.

This area, and the attitude of the populace were effectively described by Bernard Fall in his book "Street Without Joy." The inhabitants were pro Viet Minh in the early days and later closely allied with the Viet Cong local and main force units, and actively supported NVA elements. Free fire zones had been established by the GVN and gener-

ally include everything outside an area 100 meters on either side of Highway 1.

We have a blowup of the Batangan area shown here in the Son My Village outlined in red, and a blowup of Son My in slide 3.

On November 17, 1967, the 198th Light Infantry Brigade relieved the 196th Light Infantry Brigade in the Chu Lai tactical area of operation. The friendly unit on the southern flank of this tactical area of operation was the 2d ROK Marine Brigade with four battalions occupying a tactical area of operation running from the Tra Bong River in the north to a point approximately 8 kilometers north of Quang Ngai City, and from the seacoast—including the Batangan Peninsula—to approximately 25 kilometers to the west. Son My-4 and Pinkville did not fall within this tactical area of operation but fell in an area controlled by elements of the 2d ARVN Division.

A decision was made in December 1967 to move the 2d ROKMC Brigade north to a tactical area of operation near Hoi An. The relief of the brigade was begun by the 198th Light Infantry Brigade [LIB] on December 23, 1967, and was accomplished in four phases. Relief was completed during the last week of January 1968 and included elements of three brigades: 198th LIB—1-52 infantry—3d BDE of the 4th infantry—2-35 infantry, 1-14 infantry—11th BDE—4-3 infantry, TF Barker. During the portion of the time that the 3-4 BDE controlled Muscatine it conducted, in conjunction with elements of 2 RGR battalions and with an area of operations extension, a foray into the Pinkville area. Heavy enemy resistance precluded the friendly force from seizing and occupying the area. The enemy threat of a Tet offensive caused the 3-4 BDE to be moved north to the Tam Ky—Hoi An area and during Tet the 198th LIB controlled operation Muscatine. About 2 weeks prior to the Son My incident the control of operation Muscatine was turned over to the 11th Infantry Brigade: 4-3 infantry west of Highway 1 and TF Barker east of Highway 1.

To further reinforce the type activity that occurred in the Batangan area, I would like to cite four significant actions in the Muscatine area.

December 2, 1967—Binh Son district HQ and town attacked by eight LF/MF/SAPPER companies, destroying the headquarters and overrunning the town.

Mid January 1967—Combined attack by 1-14 infantry and 1-52 infantry at An Thinh 1-2 and 3 triggered heavy contact with over 100 of the enemy being killed by 1-14 infantry—controlled by 3-4 BDE.

June 1968: 5-46 Infantry—198th LIB—attacked the Pinkville by combined assault. Heavy contact resulted with the battalion commander's being shot down and units being pinned down to a strip along the beach. Heavy resistance and a lack of sufficient friendly reinforcements caused a withdrawal from the area.

July 17, 1968: A TF from 1-52 supporting an ARVN drive toward the Pinkville hit an enemy reinforced position protecting a causeway just north of the Pinkville. One company commander was killed, and two wounded. Heavy enemy resistance and a lack of reinforcements caused a withdrawal from contact by the friendly TF.

Mr. LALLY. U.S. infantry units?

Colonel DOYLE. Yes, sir.

This same locale came to the attention of Headquarters USARPAC in late October 1969, when Department of the Army—DA—sent an

official investigator to Hawaii to obtain statements from a witness to an incident at Son My allegedly involving an atrocity. Since his investigation was being controlled by DA, USARPAC provided assistance in locating witnesses.

In early November 1969 the news media published the reports of an alleged atrocity at Son My. It was through this unofficial channel that CINCPAC learned of possible unusual circumstances surrounding the combat action which took place there on March 16, 1968. CINCPAC's first official knowledge of the incident was on November 15 by message from Army Chief of Information, followed by another version from COMUSMACV on the 28th of November.

The impact of the incident upon morale is more difficult to evaluate from Hawaii than at MACV or other subordinate commands located in Vietnam.

However, based on the observations gained during command visits by the CINCPAC and CINCUSARPAC, and by their respective staffs, a broad assessment of the impact of the Son My incident can be made.

The massive press coverage in November may have had a temporary effect on morale due at least partially to the implications that such incidents were not unusual. This was disheartening to the overwhelming majority of Army and Marine infantrymen who had been conducting themselves in accordance with the rules of land warfare and the high standards of the American fightingman. However, it is not believed that there has been any lasting effect on them and their performance in battle.

The Son My incident itself, the pending disciplinary actions against personnel on active duty, the apparent lack of action against certain former service personnel—all these will continue to generate discussion within the military service. We believe that each individual on active duty feels close to the Son My incident in terms of its consequences and its possible repercussions on the prosecution of combat actions where civilians are present. Despite these factors, there has been no discernible degradation in the conduct of group operations from this level.

Although there is some understandable wariness and distrust of civilians encountered on combat operations, troop attitudes toward the Vietnamese populace as a whole remain generally sympathetic and compassionate. Commanders display a greater sense of urgency in the investigation of any suspected irregularity. All personnel realize that they will be held accountable for their actions.

We turn our attention now to the subject of training policy on the treatment of noncombatants.

It is important to realize that from the time a soldier is given basic training, until he is separated from the service, he is regularly exposed to training in the treatment of noncombatants.

Regulations provided basic guidance on the subject of the laws and customs of land warfare as provided for by the Geneva Convention. Training directives at each echelon of command specify annual instructional requirements in this and related subjects. Significant is the fact that instruction on the Geneva Convention is presented by military lawyers or other legally qualified officers. It is deemed so important that the Army has required exceptionally well-qualified personnel to conduct the training, rather than allow it to become a less

specialized period of instruction. There is a rather large inventory of training policy material currently in force on this subject.

Since the Son My incident publicity, there has been a vigorous effort to insure additional troop understanding of the treatment of non-combatants, and the provisions of the Geneva Convention.

For example, General Abrams reinforced the already established requirement that all new arrivals in RVN be provided a thorough orientation on this matter prior to being assigned to their units. The subject material presented to each new arrival includes:

Relationships with the Vietnamese people; rules of engagement; preventing noncombatant battle casualties; and prisoner of war and detainee handling.

In summary, we consider that training directives prescribing policy are adequate and have been adequate. Additional measures instituted since the Son My publicity have served to reinforce already established policies and provide reemphasis.

Reporting of future events similar to Son My depends on early identification of the event as a serious incident. This may seem elementary due to the circumstances that prevail at the site of a combat action in an insurgent environment. It is difficult to label people in the vicinity either as combatants or noncombatants. The enemy has chosen to wage a war in which he makes free use of nonuniformed personnel—both male and female. In addition, persons carrying out operational missions for the enemy may not even be armed. They may be old men and women, or young children. Nevertheless they are a part of the enemy force. Recognizing this, MACV has extended the protection of the Geneva Convention relative to prisoners of war to include categories of personnel normally not entitled to such protection. In particular, current definitions insure that nonuniformed enemy forces, if captured, get the protection of the Convention even though strict application would not require this safeguard. It is also the U.S. policy to observe the provisions of the Geneva Convention relative to protection of civilians.

This slide summarizes the actions taken to avoid future incidents.

If the allegations regarding the Son My action are true, what occurred there was a "grave breach" of the Geneva Civilians Conventions as defined therein. In conventional war circumstances such a "grave breach" should be readily discernible. But again, the Communist method of waging war often clouds the issue.

Testing and improving our command control systems and reporting procedures is of vital and continuing concern both to CINCPAC and USARPAC.

Each day, as they occur, and within minutes of the event, we are kept abreast of significant events in the PACOM area. Notification of both commanders and their principal staff officers takes place regardless of the time, day or night, or their location, at their desk, or away from the headquarters.

Shown here is a typical event in the same format as used for the daily briefing of CINCPAC. This example is designed to illustrate the speed of emergency communications within the PACOM area.

This is over the Sea of Japan. In this case an intercept was made and the aircraft were identified as two Soviet Badgers with tail num-

bers 42 and 45. The launch time is as indicated here. Our receipt time is within 1 minute here at the CINCPAC Command Center.

Shown here is a typical event in the same format as used for the daily briefing of CINCPAC. This example is designed to illustrate the speed of emergency communications within the PACOM area.

We are constantly striving to improve our systems and procedures to reduce the elapsed time between an event and notification of the CINCPAC, his service component commanders, and higher authorities. Reporting systems and procedures, however excellent, are not a panacea. They will not guarantee that an incident similar to Son My will not occur again. These reporting systems are wholly dependent upon the facts reported at the lowest echelon and their evaluation by commanders on the scenes. As we mentioned earlier in the briefing, in the often confused environment of the insurgent battlefield, these facts may not be readily discernible.

With respect to Army reporting procedures, all cases of suspected criminal conduct, wrongdoing or mismanagement, which may result in damaging public confidence in the Army or Department of Defense is transmitted electrically on a priority basis as a "Blue Bell" message directly to HQ DA. This reporting system was in effect on March 16, 1968, as was a command and control system called JOPREP-3 which provides for reports on a flash basis through joint command channels to NMCC. A MACV directive states that:

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."

Gentlemen, that concludes the briefing.

Mr. STRATTON. Admiral, were you going to add something to that?

Admiral McCAIN. No, sir.

Mr. STRATTON. Are we open for questions?

Admiral McCAIN. You are open for questions.

Mr. STRATTON. I have a couple of questions here. I am a little surprised to see that your first indication that CINCPAC had any knowledge with respect to this allegation was in November of 1969 because the chairman of the Armed Services Committee, I know, brought it to the attention of the Army in April of 1969. Doesn't this information filter out from Washington?

Admiral McCAIN. Here is the anomaly of the command structure. The U.S. Army, Air Force, Navy, and Marine Corps supply me with forces with which to execute the responsibility of this command.

There are certain service matters, however, which under circumstances sometimes well defined and other times not, that go up through the service commands themselves to RG, in this case the Department of the Army.

One thing I would like to say, Mr. Chairman. If something like this were to happen again, there would certainly be made every effort to make sure the Command Chief, Pacific, was alerted to something of this sort long before he was at this time. This is no criticism of the system, in fact, which has been underway for many years. That is the only thing that I can say to you, sir.

The responsibility of the investigation of such an occurrence as this, first, would be the responsibility of the individual services under the present structure under which we operate.

Mr. STRATTON. Let me ask a couple of other questions and then I am sure other members will want to ask some, too.

Let me say this. The thing that disturbs me about this particular situation is that I get the impression the directives were on the books, MACV 4-20, or whatever it is, about reporting all allegations of war crimes or atrocities to MACV. The rules of engagement were clear. I get the impression that the enforcement was actually pretty slim and that nobody really followed this up in great detail. There seems to be some evidence that in this general area there was what has been referred to as sloppy activity before the My Lai incident where civilians were not always dealt with strictly according to the terms of the Geneva Convention. What authority did you have as CINCPAC to see to what extent these rules and regulations are carried out?

Is this something that in the nature of the case is pretty much beyond you and you have to leave it up to the area commander?

Admiral MCCAIN. Of course, this is my responsibility in one respect because of the responsibility that I have for the conduct of this command Pacific-wide. However, also, this is the responsibility of the commander in the field. I am not so sure, Mr. Chairman, that there was not prosecution of training these young soldiers in matters of this sort. I would have to take a much closer look at it than has been given right here that this was not prosecuted.

Would you like to add something there, General Haines, on this particular subject?

General HAINES. I would only say, Mr. Chairman, I think the record is clear that throughout the period in which General Westmoreland was the commanding general of MACV, that he made this a constant point in his discussions with his commanders, the necessity to give ample instruction in the Geneva Convention Rules of Land Warfare, required in a series of verbal directives and written directives, adherence to this by all elements of his command.

I think in the case of the Americal Division because of the fact that it was born in war, because of the fact that it didn't have its complete organization until several months before this incident, that if there were any problems relating to implementation they probably existed in this unit. So I don't think that there was any winking at this or any lack of sincere and dedicated command direction in this matter which I feel certain permeated down through the chain of command.

Mr. STRATTON. In other words, your feeling is that as far as MACV is concerned, there was no failure to insist on implementation, but if there were some failure to get the word out, supervise what was going on there, that would have occurred in the Americal Division?

General HAINES. I think the Americal Division, because of the fact that it did not go over as a unit with training in the States before it went over, was subject to certain difficulties in the chain of command other units did not have.

I think that those difficulties could be overcome with proper recognition of them and proper emphasis at command levels down through the divisions.

Mr. STRATTON. One other question. Maybe General Corcoran might perhaps be in a better position to answer this. Either one of you.

I must say that I have been rather surprised in our hearings with respect to what went on out there, at what seems to me to be a very

substantial difference in the kind of control which a division commander exercises over his forces in that particular situation.

I don't know whether it applies to all of Vietnam or just to that division. As to what a division commander exercised in World War II, I was assigned to an Army division in three operations in World War II and I know the commanding general not only knew what was going on, he more or less conceived the operation; he assigned them to the regiments and knew where they were going and what they were supposed to do and oftentimes was out in the field to make sure they were doing it. I get the impression from some of the testimony that we have had that in some of the operations in Vietnam the commanding general is sort of like a chairman of the board; the individual brigade commanders dream up what they are going to do, they go out and do it, and he flies around in a helicopter and takes a little look at what is going on. But as far as any real planning of the operation, riding herd on his individual commanders to make sure that they get their objectives, and so on, it just isn't there.

Could you comment on that difference?

Admiral McCAIN. I would like to comment first on that. I do not subscribe to it, Mr. Chairman, if I may disagree with this. I go out there every 3 or 4 weeks and I deal intimately with a large number of generals, particularly General Abrams.

Right at the start I can assure you, as commander in chief, U.S. Forces in Vietnam, he would not run an organization in this fashion. I will leave this up to General Haines and General Corcoran to answer more specifically to this. These people are in the field and they are working at it all the time.

Charley, do you want to do that?

General CORCORAN. I would disagree rather strongly with that statement. I had the 4th Division in my area. The 4th Division commander knew in detail what his units were doing. He was constantly visiting them, and an assistant division commander.

You must understand that the nature of the war is that the units are widely scattered. It is quite different from World War II. If they throw up the chart to show the area that this Americal Division was spread over. In World War II we might have had five or six divisions in such an area. It is a war of squads and platoons. A commander, to get around on that, has to go by helicopter. There is no other way for him to even come close to meeting his obligations of inspecting his forces.

During the 2 years that I was in South Vietnam it was my observation that the commanders put themselves more at risk on a continuing basis in visiting areas to check what was going on than anything that I have ever seen in World War II or Korea.

Mr. STRATTON. I am not suggesting they don't get around. The question is whether they really exercise any real control either over the planning, original direction of the operations and the following up on whether the plans are carried out. I get the impression—and maybe this is just the Americal Division—that the planning of operations is left pretty much to the individual brigade commander, and the commanding general may sort of get the information and try to keep up with what is going on, but he is not in the immediate control position that I recall was the case in World War II.

General CORCORAN. No, sir. In fact, I would say that the division commander has to be more in it, once again for the reason of this wide area of operations. You are dealing with assets, artillery, helicopters, and you have not only the Hueys, gunships, but also the resupply. It would be impossible for a brigade commander, in my judgment, to completely plan an operation because he has to call upon the division commander for these assets. He has got to get the helicopters from him. The division commander is shifting those assets almost on a daily basis from one place to another.

I am speaking from my experience and my time. I can assure you that not only the division commander but the assistant division commanders, brigade commanders were familiar in detail and had to be because they were constantly in the position of providing assets to the people to do their jobs. They had to make a decision between competing requirements.

Mr. STRATTON. If we were to find that such a situation existed in some particular unit, this would not be a typical situation?

Admiral McCAIN. Mr. Chairman, absolutely not. You would be absolutely amazed at the level of detail I get in these operations myself sitting back here. This is one of the benefits of the modern communications systems.

General CORCORAN. You will find one of the criticisms in a reverse way that has been leveled at many generals in Vietnam: That they are too busy commanding platoons. They are down at that level because a helicopter is available and they get around at a very low level.

Mr. HALLECK. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. HALLECK. I would like to go back to that briefing. I am not altogether sure where I sit in this operation at the moment, but there was a significant statement made in that briefing that this is the funniest, most strange damn kind of a war this country ever fought.

Sam, I go clear back to World War I. I even antedate you. There is no front in this damn thing. The civilians—somebody said females and males all fight—kids and all fight.

Is that true? Is that what you have found in this deal over there?

General CORCORAN. Yes, sir. I will give you a few examples. Perhaps I can make the point better with that.

In Batangan Province, in the southern part of II Corps area, one of the toughest units that was employed by the enemy in that Province was a female heavy weapons company. It had approximately 100 women in it and their mission was to support a main force battalion that was in Ben Hua. In one engagement they came down and, as I recall, they got caught in an ambush and there were a substantial number of them killed. There were some captured. They had their mortars with them. Their mortar rounds were in support. That is one way that they are used.

Women are used commonly for assassination purposes.

Mr. HALLECK. When you go into one of these villages, can you tell for sure who is shooting at you?

General CORCORAN. No, sir, you cannot.

Mr. HALLECK. I don't think there is any justification for shooting a 2-year-old kid. I cannot buy that. This is a different kind of a war from anything we have ever been in. Apparently everybody is shooting back at you. It makes it a little difficult.

If we could get a frontline and soldiers in there we could knock them all off at once. It is not that kind of a deal, the way I understand it.

Admiral McCAIN. That is correct.

Mr. GUBSER. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. GUBSER. There is one thing that concerns me very deeply. I recognize in the briefing you are trying to be as candid with us as you possibly can. One thing about it that disturbs me, it all seemed to be based upon the fact, first, that there was an atrocity on March 16, 1968. That, by the way it is worded, indicates there is guilt. Well, my personal view is that that is probably the case, but I am concerned with the criminality in this thing, that there are people charged with murder, and I am concerned that maybe the attitude or the admission that there was guilt is going to prejudice these people.

I don't know what the answer is, but maybe you could give me a comment on it. It concerns me deeply. These men are on trial probably for their lives. I just wonder if we ought to say there was guilt before it is found by a court.

Admiral McCAIN. I do not subscribe to the fact there was guilt.

You raise a very interesting point, Mr. Congressman, in this entire affair. Of course, the reason for the trial, it is another investigation, will be to clarify the one point that you have just made on this. It has become so common to refer to this thing as a massacre that I suppose everybody has fallen into the trap when it comes to discussing it.

Mr. DICKINSON. Are you suggesting that you are not convinced there was some untoward event where innocent civilians and babies were killed?

Mr. GUBSER. I made this statement; I personally believed it.

Mr. DICKINSON. How else discuss it?

Mr. GUBSER. When they are on trial, I don't think we ought to be saying it.

Mr. DICKINSON. How do you discuss it? How else?

Mr. GUBSER. I preface my statement with that. It bothers me.

General HAINES. If I may comment on this. This is the reason for the very close character of the entire incident. The Department of the Army was notified in April. They put the matter in the hands of the IG initially. The Department of Army IG. His investigation apparently indicated that there was the possibility of criminal actions so it was transferred at this point to the Criminal Investigation Agency operating directly under the Provost Marshal General at the direction of General Westmoreland and the Secretary of the Army. It was when that investigator who was operating under a very close hold basis came to Hawaii to interview some individuals who were here that we first found out about it.

The charges had been preferred against Lieutenant Calley a month before that and there was a very strong effort to prevent any prejudicing of his rights in the case. So I think that that in itself is one of the very strong reasons why, since it was after the fact that Admiral McCain and I were not brought into it personally.

Mr. STRATTON. Any other questions?

Mr. DICKINSON. Yes.

Directing this to all of you. I am very much concerned, and I think the committee is too, on the overreaction on behalf of the military just

as we are, a failure to live up to its obligation if in fact this is true on the part of the military initially.

I am amazed at what was said in the briefing that civilians, which normally would be classified as spies, noncombatants in the normal sense of the word, are accorded the full protection of the Geneva Convention so that you cannot even question them. What are we doing now? I just can't understand this. You catch some old man or woman with a grenade in their pocket and you automatically say we are going to classify him as a soldier and clothe him with all the respect and dignity of a man in uniform? What are we doing now?

Admiral McCAIN. This is a very unusual rough business. As Congressman Halleck pointed out in this thing, you know, you take Lieutenant Calley who commanded, he sees a village and every night when the sun goes down people come out of this village and kill his soldiers, and so forth and so forth. Furthermore, he knows boys and girls from the age of 12 on up are taught to strip a body until there is nothing left, and this sort of thing. He moves in under orders to do something about it and it is understandable from his viewpoint, too, under the full stress of battle, which is something we all know about in this room equal to no other aspect of life. I cannot answer this except each one has to be done on a case-by-case basis.

Do you want to add to that?

Mr. DICKINSON. Is this General Abrams' idea or whose, we are going to clothe these people with Geneva Convention rules of war and not require any more of them than the name and serial number if they had one?

General HAINES. As you are aware, Mr. Congressman, the Geneva Conventions have four articles in them, one of which deals with civilians. The other three, if my remembrance is right, deal with prisoners of war in a military sense. There are certain rules with handling of civilians, as well as prisoners of war. They are generally referred to as detainees in Vietnam. They can be evacuated and questioned, and are, in fact, to prove their guilt or innocence to sort them out.

There is not as sharp a distinction between those who are accorded privileges under the military portion of the Geneva Convention and those under the civilian because of the fact the guerrilla and the porter for the guerrilla and certain other accessories before and after the fact are in very much of a gray zone area. We have tended to lean over backward and give the protection of the Geneva Convention under the military clauses to those people who are not specifically in uniform but who we regard as combatants even if we don't actually find them with a weapon.

Mr. DICKINSON. Is there a difference then in your handling of a guerrilla and one of a regular North Vietnamese soldier in uniform?

General HAINES. No. A guerrilla is generally accepted as a military individual. If he is caught with a weapon, there is no question. It is a problem when this man is just acting as a porter or something and he is a farmer in the daytime. You catch him at night doing something. This is the area in which case-by-case determinations have to be made.

Mr. DICKINSON. I don't want to belabor the point and we will go into this in more detail in Saigon. But one other thing I would like to ask you about. What are the duties, as you understand them, of an

Army combat photographer? Has there been any instruction or change of duty in the past year since the My Lai massacre?

I am particularly talking about this fellow Haeberle that took the pictures. I suppose that you are familiar with his testimony. He just said, from all we can gather, he is absolutely freelance. He never got instructions here and didn't know anything about what to do if he heard of an atrocity. He was never instructed, he said. He volunteered to go on this mission because he understood it was a hot mission. He was not supposed to take pictures of anything except for the hometown press, so far as what he told us. He didn't even have to turn them in unless it was taken with a black and white Army issue camera because he was carrying his own.

Assuming that that is so, and I am not saying we believe it, was that so then? What has happened since then? Are they under any different instructions now?

He got with this group here, incidentally, in Hawaii.

General CORCORAN. Of course, I cannot testify to the accuracy of his statement. Once again, based on my own experience, there was an effort to instruct the people in their duties and where they were to go and look and to whom they were responsible. How effective that works out in each individual case would require a detailed investigation.

I must add that, as you know, particularly in Vietnam, uniformed members who are employed or have duties assigned them as news media and reporters and photographers, have been a source of some criticism directed in terms of censorship.

If there is a news photographer, an Army news photographer in the field not allowed to do what he wants, he may say, "I am being censored" as we had the reporters down at AFN. And there might be a tendency—I am just speculating here—there might be a tendency on the part of some people to lean over backward in that area so that they cannot be accused of censorship.

Mr. DICKINSON. I am probably directing my question to the wrong person anyway because you are remote from this, but what he is doing over there is a matter of concern to us here.

Admiral McCAIN. I can tell you one thing. When you raise this issue you are getting into a very sensitive one that has many ramifications outside of this one specific point.

Mr. DICKINSON. Right.

Admiral McCAIN. As you are well aware.

Mr. DICKINSON. If it takes legislation or whatever it takes, redefinition, we ought to cross some more lines if that is the way you are going to operate.

General HAINES. Generally, Congressman, both correspondents and photographers covering an operation of this type who are uniformed personnel come from the division or some higher headquarters information office. I believe that this sergeant and the correspondent who was with him were both from the division information office.

Mr. LALLY. Brigade office?

General HAINES. Brigade office it might have been in this case. They are generally responsible to the information officer of the brigade for what they do, and that information officer, one would assume, discussed it with them, their duties, and afterward ask for a report.

Mr. GUBSER. As of today, is a uniformed man in the Army allowed to take his personal camera into a combat operation and keep his film?

General HAINES. Yes; there is no prohibition against that. Even a combatant, himself.

Mr. STRATTON. What about classified stuff?

General HAINES. Where there are classified matters, obviously he is not permitted to. Generally speaking, a lot of these young men who are actually in combat have cameras.

Mr. DICKINSON. I think they changed that regulation. We were told they have changed it as to the photographer himself.

General HAINES. As to the official photographer, yes, sir, I think that is correct.

Mr. GUBSER. He cannot carry his own camera?

General HAINES. That is correct, because there is a question about the film and the fact that he is permitted to go out there in an official capacity.

Mr. HALLECK. Just one short question?

Mr. STRATTON. Yes, sir.

Mr. HALLECK. In this darn war how do you tell a civilian from a soldier or combatant? Our guys all wear uniforms. You can tell them. But from the pictures that I have seen, they look like a nondescript outfit wearing pajamas or something. Do the military people have different uniforms? Can you distinguish between them?

General HAINES. There are various levels on this, of course, from the main force unit, local force unit, guerrillas, and then the troop civilian.

There is no question about it, but you get gradations of uniforms all the way down the line here. Actually, we have with every company-sized unit in Vietnam a Vietnamese Army interpreter. We also conduct many of our operations in conjunction with police forces, particularly when we are pulling a cordon search on a village, or go into a village, in which case the U.S. forces generally provide the cordon and the police force to go into it with the idea of questioning the individuals and sort them out. We do everything that we can through coordination with people who speak the language to sort out the combatants and the noncombatants in our operations.

Mr. STRATTON. Could I ask one question of the general at this point?

Under the rules that you have already outlined, what would be the proper way for handling a group of civilians that you would run into in the course of a combat operation who might have been cooking their breakfast out in front of a hootch, might have been inside and come out with their hands up; there are no weapons, little children, and so on, herded into a particular area—what would be the proper way to take care of them in a combat operation, knowing all that we know about the fact that many of these people can be potential combatants and all the rest?

What is supposed to be the rule?

General CORCORAN. The proper way, of course, would be to enroll the assistance of the national police and the district chief if you are going into an operation into a village. This is, at least to my knowledge, common practice.

Mr. STRATTON. You mean a company would have some police along with it?

General CORCORAN. That is correct. As in the early days perhaps in the war when there were not enough national police or not enough well-trained police, they might have to rely on RVN. I would guess that any operation of any size today in South Vietnam will have police

with it and normally some representative of the district chief who understands what is going on in that particular village or hamlet that is involved.

The normal rule is for the American forces to not go into it, if it can be avoided, but rather, that they place the cordon around the outside of the village and it is the GVN administrative officials and the police that go into the village to determine who is there.

Mr. STRATTON. You have read the accounts, I am sure, of what is alleged to have happened at My Lai. You had a company, platoon moving through the village, got these civilians out, herded them into certain areas and then instead of moving them somewhere they just shot them down. There is no question about the fact that this is improper and contrary to regulations, is it?

General CORCORAN. One. I do not know what happened at My Lai.

Mr. STRATTON. I am just saying that if things occurred as they are alleged to have occurred in this particular scenario that I am outlining hypothetically, if they occurred in that way, that would be a clear-cut violation of rules and regulations, would it not?

General CORCORAN. As I understand it, yes, sir.

General HAINES. It certainly would be. One must say, to paint the correct picture as the briefer sought to paint here, that this whole area was known as a free-fire zone during that particular time. There was not a great deal of interest on the part of the district chief and the province chief in the welfare of these individuals because they had been exhorted on many occasions to move out of this area and to resettle in closer to some urban areas.

Mr. STRATTON. That is why I am trying to find out what should have been done with them. General Corcoran said, bring in a—cordon off the village and bring in the district chief, and so on. You cannot do that in the middle of a platoon operation. They are hit in the middle of the village and you cannot cordon it off. I think they did have a couple of RVN police there as a matter of fact, but I am trying to figure out the practical way that this should have been done.

General HAINES. This was the search and destroy operation as opposed to a cordon and search. I think that General Corcoran was talking about a cordon and search in a village, not free-fire zone. This was a free-fire zone here and I think there was no question that the company commander, platoon leaders, and all the individuals concerned were led to believe by everybody in every way that they were going to run into combatants.

Mr. STRATTON. I know, but what I am trying to find out is, what do you do if you have some women and children and kids come out? What do you do in a case like that—shoot them?

General HAINES. No, sir.

Mr. STRATTON. What are you supposed to do?

General HAINES. I think that—

Mr. STRATTON. Whether it is free fire or nonfree fire zone.

General HAINES. You gather them together as they do to get them out of the line of fire. Put them under control of two or three armed personnel and then if there is any question of suspicion on the part of any one of them, you may question them. If you do not feel that they are completely innocent civilians, you may evacuate them back to the district level for detailed questioning as detainees, civilian detainees. That is what should have been done.

Mr. STRATTON. Mr. Reddan?

Mr. REDDAN. General, did the MACV directives in effect back in March 1968 require the reporting by MACV of all civilian casualties that resulted from a military operation?

General HAINES. I am not certain right now, Mr. Reddan, whether they required every civilian casualty. I can read the directive which I have here, but it said nothing that would cast discredit on the military service or in any way violate the rules of land warfare. I would think that interpreted strictly, it would mean a single individual who was killed wantonly should be reported.

Mr. DICKINSON. When you throw that word "wantonly" you change the whole picture. If 17 are killed with artillery free fire, by the rules they should have been reported to MACV. I think that is what we are trying to get at.

Mr. REDDAN. Yes.

Mr. DICKINSON. If we have reason to suspect they were intentionally killed or murdered in the legal sense, but we know they are innocent civilians, would there be obligation on the part of anyone to report that to MACV?

General HAINES. Yes, sir. As a part of the normal operation reporting you report every civilian that is killed.

Mr. DICKINSON. Every civilian regardless of the way he is killed, it is still reported?

General HAINES. That is correct. There is a difference. That would be just reported without this rather elaborate format where there was an intentional killing.

Mr. DICKINSON. I understand that.

General HAINES. Which goes all the way up to the top.

Mr. GUBSER. Would the determination of what should be especially reported possibly be a war crime?

General HAINES. That is what is provided for in this special reporting system which becomes a Blue Bell System.

Mr. GUBSER. That did exist in March 1968?

General HAINES. It did exist.

Mr. REDDAN. General, do you know whether such a report was ever made of the civilian casualties?

General HAINES. As far as I know, there was no report above division level of any civilian casualties in this engagement. I was not in my present job here.

Admiral McCAIN. We came to this thing, Mr. Reddan, after this.

Mr. REDDAN. I wondered if information came to you subsequently which would permit you to say that.

General CORCORAN. I think the slide showed in the briefing was identical to what was received at this level.

Is that correct?

Colonel DOYLE. Yes, sir.

Mr. REDDAN. Did it ever get to MACV?

Mr. DICKINSON. You wouldn't have that knowledge here?

General CORCORAN. We wouldn't.

Admiral McCAIN. I can find out.

Mr. REDDAN. We can find out.

General HAINES. I can tell you from secondhand knowledge, having discussed it with people in MACV, the answer is no. But that is secondhand.

Mr. LALLY. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. LALLY. Our record reflects General Koster was back here at CINCPAC a week or two after he ordered this investigation of the matter. Is there any indication that he advised anybody back here formally or informally that he had this matter under investigation?

General HAINES. I don't remember the circumstances of his being here. It must have been an R. & R.

Mr. LALLY. I believe it was.

General HAINES. I don't believe that he had any official contact with my headquarters.

Admiral McCAIN. I don't think he had them here. The first piece of paper I had was November 13.

General HAINES. This was before we were here. It was not normal for an officer here on R. & R. to check in with headquarters.

Mr. SLATINSHEK. One question, Mr. Chairman. Or it is in the nature of an observation.

Getting back to the duties of a combat photographer, the committee had gotten into that in some detail and they were a little surprised by the apparent lack of definition of their duties and the lack of emphasis on the function of the photographer to supply a historical record of activities. Apparently this has never been made a matter of official requirement.

Going one step beyond that, we looked at a number of photographs, glossy photographs which indicated or reflected Viet Cong atrocities. The compilation of this had been effected by a Member of Congress and he found it very difficult to compile these glossies and apparently the Pentagon had a difficult time supplying it to him.

Apparently they had to go all the way to Vietnam to get them. The question here is: Do you have any organized method, if these photographs are taken, to indicate the Viet Cong atrocities of any kind whether you do provide these to Washington so that they can be made available to those of us in Congress who are interested?

Mr. DICKINSON. Is there a thing set up like it was in the Korean war to investigate and document and record the atrocities of the VC?

Admiral McCAIN. I get the glossies from Vietnam. They come in here at whatever intervals these things are accomplished out in the field of battle. I don't know that this specific point that you are making applies.

Mr. SLATINSHEK. The point I am trying to make here is that the public has been given quite a spread of these pictures in our publications reflecting the alleged atrocities committed by our own groups and yet these same incidents occur and have occurred for years in perhaps greater numbers and greater frequency and yet they don't appear in the press. Part of it, I think, is the failure on the part of the military to make these available. This is an observation. I don't know whether it is true.

General CORCORAN. A real failure is the complete lack of interest of news media of any of the other side's atrocities. There are more atrocities that took place in 1 week in II Corps while I was there than the U.S. forces will do in 10 years.

Mr. GUBSER. I might add, General, following Mr. Slatinshek's comment, if Haeberle was a typical situation he was never, according to

his testimony, asked to do anything except take photographs of individual GI's which would be of hometown newspaper interest. He said that he had no instructions whatsoever to make a combat history record for the archives of the Army. I would say that we are getting enough photographs and you have photographers there who have time to take pictures for their own use and sell them to Life magazine for \$35,000 or \$40,000, or the various media. But we ought to instruct them to take photographs that might be useful to the military service.

General HAINES. Mr. Congressman, I think that you will find as you go down to division level in Vietnam that they have a great wealth of photographic material. They publish brochures and have action reports with the photographers on a regular basis. There is a great plethora of official photography in Vietnam.

Mr. DICKINSON. Of atrocities, Viet Cong and North Vietnamese also?

General HAINES. I am certain that there are some. Let me say in this regard, most of the Viet Cong atrocities occur with respect to the villagers in some isolated village where the U.S. forces are not directly involved. So that the U.S. photographer does not in a normal course of events have firsthand knowledge of those particular occurrences.

Mr. DICKINSON. We ought to set up some sort of a team to do this.

General HAINES. I think more of a team in the provincial district level, RVN, or organization where we have an advisory group.

General CORCORAN. The RVN and GVN have gone into this in great detail and have horror publications that thick, but nobody pays any attention to them. It has been going on for years.

Mr. GUBSER. Apropos of that—off the record.

[Discussion off the record.]

Mr. DICKINSON. Where could we get those pictures?

General CORCORAN. When you get to Saigon, I am sure that the people in MACV can tell you about some the GVN Government has put out about atrocities with descriptions and pictures.

Mr. DICKINSON. I am going after them.

General HAINES. I have seen pictures in the city of Hue with hands tied behind their backs and this type of thing.

Mr. STRATTON. I remember the IV Corps commander when we visited him the first time, we were out here in 1966, had some pictures of atrocities carried out around the Canh To area.

General HAINES. You might be interested in the running statistics on the atrocities on a monthly basis which are still continuing and which have had an upsurge recently on the part of the Viet Cong.

Mr. STRATTON. Anything else?

If not, thank you very much, Admiral and gentlemen. We appreciate the briefing.

[Whereupon, at 5:40 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Camp Smith, Hawaii, Saturday, May 9, 1970.

The subcommittee met, pursuant to notice, at 10:10 a.m., in the conference room, Camp Smith, Hawaii, Hon. Samuel S. Stratton (acting chairman) presiding.

Members present: Representatives Stratton and Gubser. Staff present: Frank Slatinshek, assistant chief counsel, Committee on Armed Services; John T. M. Reddan, counsel, Armed Services Investigating Subcommittee; John F. Lally, assistant counsel; and Charles Halleck, consultant.

Mr. STRATTON. The subcommittee will be in order.

Mr. LAGUNOY, before you sit down it will be necessary for me to swear you in as a witness. Raise your right hand. Do you solemnly swear that the testimony you are about to give before this subcommittee in the matter pending before the subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LAGUNOY. I do.

Mr. REDDAN. Would you please give the reporter your full name and your present address.

TESTIMONY OF LENNY B. LAGUNOY

Mr. LAGUNOY. My name is Lenny B. Lagunoy. Originally my first name is Akuquilno, last and first. Last year I have changed my first name because nobody can pronounce it.

Mr. REDDAN. What is your address?

Mr. LAGUNOY. What is my address?

I live in 94459 Kahualena Street, Waipahu.

Mr. REDDAN. This subcommittee has been given the task of looking into the so-called My Lai incident. You have been sworn and so I must tell you that under the subcommittee rules you are entitled to counsel if you so wish. If you don't, you don't have to have counsel. If you choose to testify without counsel you have, of course, the right to refuse to answer any questions that you feel would incriminate you in any way. In other words, you have all of the constitutional protections and you are entitled to those.

Do you wish to have counsel or do you prefer to testify without counsel?

Mr. LAGUNOY. Well, I prefer not.

Mr. REDDAN. You prefer not?

Mr. LAGUNOY. Without counsel.

Mr. REDDAN. You prefer to testify without counsel?

Mr. LAGUNOY. Yes, sir.

Mr. REDDAN. Fine.

Mr. LAGUNOY, you were in the Americal Division in 1968, were you not, as part of Task Force Barker?

[Mr. Lagunoy nodded affirmatively.]

Mr. REDDAN. What was your rank?

Mr. LAGUNOY. When I got out of the service I was sergeant E-5.

Mr. REDDAN. On March 16, 1968, what were you?

Mr. LAGUNOY. March 16, 1968, I don't actually think I know when I got my rank. I might have been a sergeant or might have been still a spec at that time.

Mr. REDDAN. Were you part of Charley company?

Mr. LAGUNOY. Yes.

Mr. REDDAN. The subcommittee has been informed that during the operation that day a warrant officer landed his helicopter and got out and came over and talked to some people. We are told that you were the first one that he talked to. Do you recall that incident?

Mr. LAGUNOY. Yes.

Mr. REDDAN. Could you tell us what time of the day approximately it was? Morning or afternoon?

Mr. LAGUNOY. Morning time.

Mr. REDDAN. Was it before or after 10 o'clock in the morning, would you say?

Mr. LAGUNOY. I cannot tell.

Mr. REDDAN. About what time?

Mr. LAGUNOY. It was before lunch.

Mr. REDDAN. Before lunch?

Mr. LAGUNOY. Yes, sir, something around that.

Mr. REDDAN. Do you know whether it was on the east side or the west side of My Lai 4?

Mr. LAGUNOY. Where that helicopter landed?

Mr. REDDAN. Where the helicopter landed.

Mr. LAGUNOY. I don't know.

Mr. REDDAN. East would be toward the ocean. The landing zone that you came in on was west of My Lai 4. Had you gone through My Lai 4?

Mr. LAGUNOY. Yes, that is right. We had been there. We were back, our back is on My Lai at that time. When we landed—

Mr. REDDAN. You had gone through the village, hamlet at that time?

Mr. LAGUNOY. Yes. Because we were front security so all we had to do was go in right straight on the security front. We were ready in the front.

Mr. REDDAN. Will you try to recall for us in as much detail as you can what the helicopter pilot said to you when he landed?

Mr. LAGUNOY. I cannot make out any word he was telling me that time.

Mr. REDDAN. Did he tell you why he landed or anything?

Mr. LAGUNOY. It is to the east. The helicopter was to the east and everything was—

Mr. REDDAN. You couldn't hear what he was saying?

Mr. LAGUNOY. I cannot.

Mr. REDDAN. What did he do after he talked to you?

Mr. LAGUNOY. Well, our lieutenant—

Mr. REDDAN. Calley?

Mr. LAGUNOY. Far from us at that time.

Mr. REDDAN. Lieutenant Calley?

Mr. LAGUNOY. Yes. I believe he came near and then he took the helicopter and left.

Mr. REDDAN. You didn't stay there while they had any discussion?

Mr. LAGUNOY. Didn't make any discussion.

Mr. REDDAN. Could you tell from the pilot's actions or the look on his face whether he was mad or whether he was excited or—

Mr. LAGUNOY. Well, he is kind of upset and, well—

Mr. REDDAN. Did he say anything about civilians being killed or anything like that? Civilians that he wanted to protect or anything of that sort?

Mr. LAGUNOY. No. I cannot hear anything he said so.

Mr. REDDAN. Where were you when the helicopter landed?

How far away were you?

Mr. LAGUNOY. Not that far because there are some mountains that were—me and two guys were picked up to set up a place and about 15 meters, something like that, 50 meters—

Mr. REDDAN. You say you were going to set up the place. What do you mean?

Mr. LAGUNOY. Because you see, our main mission objective is to secure the front security and all we have to do is clear the front.

Mr. REDDAN. You were not supposed to set up an LZ for the helicopter, were you?

Mr. LAGUNOY. No, sir.

Mr. REDDAN. You were out there and he landed about 50 feet did you say?

Mr. LAGUNOY. Fifty meters. Something like that.

Mr. REDDAN. You came over to the helicopter?

Mr. LAGUNOY. He called me and I go over there.

Mr. REDDAN. Did he come to you or did you go to him?

Mr. LAGUNOY. He came. We met because—

Mr. STRATTON. Mr. Lagunoy, what were you doing at this particular time when the helicopter came in? You were part of Lieutenant Calley's platoon, is that correct?

Mr. LAGUNOY. Yes.

Mr. STRATTON. You were moving in some direction on some objective?

Mr. LAGUNOY. Well, the objective was already and what—before we started the mission, me and some guys were instructed to secure the front so we don't have to wait at all, so we have to go straight and come up, the squad will take care of everything behind us.

Mr. STRATTON. Your mission was to secure what?

Mr. LAGUNOY. Front security; we got to secure the front.

Mr. STRATTON. You were in the front of the platoon?

Mr. LAGUNOY. Yes, sir.

Mr. STRATTON. Was there some kind of a bunker ahead of you which you were moving toward?

Mr. LAGUNOY. No.

Mr. STRATTON. You were not headed toward any particular object or place at the time that the helicopter came down?

Mr. LAGUNOY. Bunker? You mean enemy position?

Mr. STRATTON. Yes, or someplace where people might be hiding out or something of that kind.

Mr. LAGUNOY. No.

Mr. STRATTON. The rest of the platoon, including Lieutenant Calley, was behind you then; is that right?

Mr. LAGUNOY. That is right.

Mr. GUBSER. Could you explain a little more what front security means?

Mr. LAGUNOY. Front security, whenever you have a mission like that, say this main objective like a village now, and you have front security, security front, and you have the left flank of the security right and left flank of security left. We were to go in front and go straight. Security front so nobody can interfere with anything.

Mr. REDDAN. Did you go around the village to secure the front?

Mr. LAGUNOY. Right through it.

Mr. STRATTON. Were you what they call the point man?

Mr. LAGUNOY. Something around like that.

Mr. LALLY. How many men were with you?

Mr. LAGUNOY. Me, about four guys I think we were there. Kind of spread.

Mr. LALLY. Were they all there when the pilot talked to you?

Mr. LAGUNOY. Yes.

Mr. REDDAN. Do you think any of them could have heard what he had to say?

Mr. LAGUNOY. I don't think so. Because I am more nearer than they. I could not make out anything.

Mr. GUBSER. Was Lieutenant Calley one of the four?

Mr. LAGUNOY. No.

Mr. HALLECK. Where was he at that time?

Mr. LAGUNOY. Behind us. They don't go to—because some were inside the security.

Mr. HALLECK. What sort of a guy was Lieutenant Calley?

Mr. LAGUNOY. What sort of a guy?

Mr. HALLECK. Yes. Was he a nice guy?

Mr. LAGUNOY. Yes.

Mr. HALLECK. Mean?

Mr. LAGUNOY. Well, nice. Some mean. Just an ordinary guy.

Mr. GUBSER. Did he treat you men well?

Mr. LAGUNOY. I think so.

Mr. LALLY. Had you already gone through the village when you met that pilot?

Mr. LAGUNOY. Well, that is right.

Mr. LALLY. You were on the far side of the village from where you landed?

Mr. LAGUNOY. We passed by the village at that time.

Mr. HALLECK. Any women and children when you went through?

Mr. LAGUNOY. Yes. I have seen some women.

Mr. HALLECK. What were they doing?

Mr. LAGUNOY. Some are sitting down. Some are walking.

Mr. REDDAN. Was there any gunfire in the area where you were when the helicopter came down? Were the troops firing?

Mr. LAGUNOY. Any gunfire?

Mr. REDDAN. Yes. Were the American troops firing, were any of your men firing your guns at that time?

Mr. LAGUNOY. No.

MR. STRATTON. Anybody firing at you? Any sniper fire or anything like that?

MR. LAGUNOY. No.

MR. GUBSER. Let us make one change, if I may interject. Let's make sure the witness understands the question. We are talking now about the time when the helicopter pilot landed. Was there any firing going on just before he landed, while he landed?

Was there any firing at all then?

MR. LAGUNOY. You mean just after we landed?

MR. GUBSER. Just at that time.

MR. LAGUNOY. Just at the time—

MR. GUBSER. Did he land while there was firing going back and forth between enemy forces and our forces?

MR. LAGUNOY. I cannot recall. Kind of a lot of shooting all over the place at that time. You have to duck your head.

MR. GUBSER. Did he land in the midst of a fire fight?

MR. LAGUNOY. Fire fight? I don't know actually what happened behind us already.

MR. GUBSER. You don't remember at the time, the very moment he landed, whether there was any firing going on?

MR. LAGUNOY. I cannot remember.

MR. REDDAN. Were you there when one of the Slicks landed, one of the big helicopters landed? Rather, a gunship, were you there when a gunship landed?

MR. LAGUNOY. No.

MR. REDDAN. Did you see any other helicopters land that day?

MR. LAGUNOY. No, except the bubble. That is, the guy.

MR. REDDAN. Just the one time?

MR. LAGUNOY. Yes.

MR. REDDAN. The bubble landed?

MR. LAGUNOY. Yes.

MR. REDDAN. Where were you after the bubble took off? What did you do?

MR. LAGUNOY. I went back to my position and then—actually I was with the machinegun because in that mission it was relieved by another new guy and the machinegun so I got to accompany him.

MR. REDDAN. Did you see any gunner get out of the helicopter along with the pilot?

MR. LAGUNOY. No.

MR. REDDAN. He just got out by himself?

The next day did you come back near My Lai 4 again?

MR. LAGUNOY. Next day? I think we did.

MR. REDDAN. Did you know how close you came to it?

MR. LAGUNOY. We couldn't actually pass by the place we have been that time. Before that day. It is just 100 meters again from there, two hundred something.

MR. REDDAN. You came back the next day within about 200 meters of My Lai 4?

MR. LAGUNOY. Yes, sir.

MR. REDDAN. Did any part of Charley Company go into My Lai 4 again that day?

MR. LAGUNOY. I don't think so.

MR. REDDAN. Was there any reason why they didn't go into My Lai 4 on the 17th, that is the day following the operation there?

Mr. LAGUNOY. I don't know.

Mr. REDDAN. Were you told to stay out?

Mr. LAGUNOY. No.

Mr. REDDAN. I have no further questions.

Mr. STRATTON. Mr. Lagunoy, when the helicopter landed and this pilot got out, did you see where he was headed or what he was concentrating his attention on?

Mr. LAGUNOY. I cannot remember.

Mr. STRATTON. It was fairly unusual for a helicopter to land in the middle of a group that was out on an infantry patrol, wasn't it?

Mr. LAGUNOY. That is right.

Mr. STRATTON. Didn't you stay around or look back to see for what purpose he landed?

Mr. LAGUNOY. No. Because we were told that plenty enemy was there so we have a security front. If any way they could go right through us, we would get blame.

Mr. STRATTON. You were moving along here, as I understand it, and the helicopter landed. You were up here and Lieutenant Calley and the rest of the group were back there. Did you just keep moving ahead?

Mr. LAGUNOY. No. He just stopped over the—we stopped there.

Mr. STRATTON. Stopped?

Mr. LAGUNOY. Yes.

Mr. STRATTON. Didn't Lieutenant Calley come up and start talking to the pilot?

Mr. LAGUNOY. Yes.

Mr. STRATTON. Did they get into a little argument?

Mr. LAGUNOY. I don't know. I cannot—

Mr. STRATTON. You didn't hear any strong words or anything of that kind?

Mr. LAGUNOY. No.

Mr. STRATTON. Did the bubble have its guns trained in the direction of Lieutenant Calley or the rest of your platoon?

Mr. LAGUNOY. No, I cannot remember.

Mr. STRATTON. You don't remember that?

Mr. LAGUNOY. No.

Mr. STRATTON. The pilot of the bubble helicopter, did you see him try to get any Vietnamese civilians out of a hole or bunker, something of that kind?

Mr. LAGUNOY. No. No bunker over there. It was a rice paddy.

Mr. STRATTON. Just a rice paddy?

Mr. LAGUNOY. Yes, rice paddy.

Mr. STRATTON. I see, Mr. Lagunoy, you had been through My Lai 4 before this incident occurred?

Mr. LAGUNOY. Yes. Not actually in the village, though. Just right outside of it because we cannot go right through it. One time I think we got a mission to go past by that village again and we got pinned down seven times a day. We have to backtrack.

Mr. STRATTON. You got pinned down seven times that day or previously?

Mr. LAGUNOY. Previously.

Mr. STRATTON. Is it true that some of the members of your platoon were a little bit sloppy in their handling of some of the Vietnamese civilians that they picked up going through the village?

Mr. LAGUNOY. Sloppy? What do you mean, "sloppy"?

Mr. STRATTON. In other words, instead of really trying to figure out whether they were enemies or not, just killed them. Shot them—women, children, that sort of thing.

Mr. LAGUNOY. I don't know anything actually what happened behind us already that time. I can see the place where we passed by, it has been bombarded before with some kind of artillery or something. You can just see some craters, you know.

Mr. STRATTON. Didn't you see anybody in your company or in your platoon shoot civilians that came out of their hootches when you were going past the village?

Mr. LAGUNOY. No.

Mr. STRATTON. Did you see any ditches with large numbers of bodies lying around?

Mr. LAGUNOY. No.

Mr. REDDAN. You were the first one through the village?

Mr. LAGUNOY. Yes.

Mr. REDDAN. Did you see any bodies when you went through the village?

Mr. LAGUNOY. No.

Mr. REDDAN. You didn't see any evidence that any persons had been killed by artillery fire?

Mr. LAGUNOY. I have seen some bodies laying around.

Mr. REDDAN. I mean on that day. Did you see them?

Mr. LAGUNOY. When we passed by that place I have seen some bodies.

Mr. REDDAN. You were the first one that went through?

Mr. LAGUNOY. Yes, I believe so. First one.

Mr. REDDAN. When you went through there were dead bodies there?

Mr. LAGUNOY. I have seen some.

Mr. REDDAN. How many do you think you might have seen?

Mr. LAGUNOY. Three, something like that.

Mr. STRATTON. Did you see any civilians walking around or coming out?

Mr. LAGUNOY. Yes, I did, too.

Mr. GUBSER. Where were they going?

Mr. LAGUNOY. I don't know what place they were going.

Mr. GUBSER. Down the road?

Mr. LAGUNOY. Some of them. As soon as we ran on the place, some were going out of the place, the village.

Mr. STRATTON. As you were sort of the point man, you came into the village and if you saw somebody coming out, walking away, wouldn't you assume they were VC and shoot them?

Mr. LAGUNOY. It depends.

Mr. STRATTON. Did you shoot any of them?

Mr. LAGUNOY. I did one man. I grabbed the gun. That was just right when we landed. I saw a man holding something and then the machinegunner shot at him but the machinegun jammed but I grabbed the gun and did the firing myself and go straight again.

Mr. STRATTON. Your own rifle?

Mr. LAGUNOY. No; machinegun.

Mr. STRATTON. I see.

Mr. LAGUNOY. Then I give it back to him. I told you I was relieved at that time.

Mr. STRATTON. After you went through the village, before you came back the next day, did you hear any talk about the fact that there had been an unusual number of civilians killed?

Mr. LAGUNOY. Never came across to me.

Mr. STRATTON. How long have you been with Lieutenant Calley?

Mr. LAGUNOY. How long? I cannot remember because we were right in Vietnam. He was a platoon leader and sometimes he comes in and sometimes he goes out. It is like that.

Mr. STRATTON. You had been part of his platoon on other operations in this area before the March 16 operation?

Mr. LAGUNOY. Yes.

Mr. STRATTON. Did he have a reputation of being a little bit rough on Vietnamese?

Mr. LAGUNOY. I have never been near to him. I don't know.

Mr. STRATTON. Sort of beating up prisoners or things of that kind?

Mr. LAGUNOY. I don't know.

Mr. STRATTON. You were asked earlier what sort of a fellow he was. I just wondered whether you would have the feeling that he was a pretty rough kind of a person, aggressive, anxious to try to see how many bodies he could count, that kind of thing.

Mr. LAGUNOY. I don't know because you cannot judge a guy by just how he looks.

Mr. STRATTON. I was wondering how you would judge him, that is all.

Mr. LAGUNOY. I don't know.

Mr. STRATTON. Was he pretty well respected by the members of the platoon?

Mr. LAGUNOY. Some and some not.

Mr. STRATTON. Some not?

Mr. SLATINSHEK. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. SLATINSHEK. Lenny, for purposes of the record I don't think it is quite clear as to the events that occurred when the helicopter pilot landed. What prompted you to go toward the helicopter? Was it a feeling that you ought to find out what he wants or was it that Lieutenant Calley had suggested this to you, or what circumstances prompted you to walk toward the helicopter?

Mr. LAGUNOY. I got a feeling he was going to ask something.

Mr. SLATINSHEK. You felt that obviously it was sort of an unusual action and you didn't have these helicopters landing, this type of bubble landing very frequently?

Mr. LAGUNOY. That is right.

Mr. SLATINSHEK. Did a bubble helicopter land at any other time during the day?

Mr. LAGUNOY. No. That is all.

Mr. SLATINSHEK. This was the only occasion?

Mr. LAGUNOY. That was the only one.

Mr. SLATINSHEK. You approached it?

Mr. GUBSER. Did he wave at you to come over?

Mr. LAGUNOY. Wave at me to come over?

Mr. GUBSER. What made you realize that he wanted you to come toward him?

Mr. LAGUNOY. It seems to come toward, so I go meet him.

Mr. SLATINSHEK. Then when you approached him, apparently you didn't converse because of the noise of the helicopter and all?

Mr. LAGUNOY. That is right.

Mr. SLATINSHEK. Why didn't you try—why didn't you accompany him and walk back to hear what he had to say? Why did you walk away from him? Did you come up to that point?

Mr. LAGUNOY. Yes.

Mr. SLATINSHEK. Therefore you walked away?

Mr. LAGUNOY. That is right.

Mr. SLATINSHEK. Can you tell the committee what transpired after Lieutenant Calley—you obviously kept an eye on him to see what was going on, I would imagine, and you didn't ignore the fact that he was there—could you give us in your own words what your recollection was to what transpired?

In other words, the two gentlemen were discussing something, and could you pick it up from there and fill us in on what happened and immediately afterward?

Mr. LAGUNOY. I never bothered to look at them too long that time.

Mr. SLATINSHEK. Did the helicopter pilot just get back into his helicopter and take off?

Mr. LAGUNOY. No; it took a while.

Mr. SLATINSHEK. A while?

Mr. LAGUNOY. Yes, sir.

Mr. SLATINSHEK. What did he do that you can recall? What did he do? Did he stay there, or did you walk away, or what?

Mr. LAGUNOY. That took for a while and then ran the helicopter and left.

Mr. SLATINSHEK. Did he go anywhere—

Mr. LAGUNOY. The helicopter?

Mr. SLATINSHEK. Away from the helicopter?

Mr. LAGUNOY. No.

Mr. SLATINSHEK. He stayed there? He didn't go anywhere?

Mr. LAGUNOY. No.

Mr. SLATINSHEK. He just had a discussion with Lieutenant Calley, and can you give us an idea how long this might have taken?

Mr. LAGUNOY. Well, about 1 minute, 30 seconds, something.

Mr. SLATINSHEK. Then he turned and went back to the helicopter?

Mr. LAGUNOY. Yes.

Mr. SLATINSHEK. That is all I have.

Mr. GUBSER. How long would you guess that it took from the time that you landed at the landing zone that morning to get through the village to the point where the helicopter landed? When you landed, you landed about 7:30 a.m., in the morning?

Mr. LAGUNOY. That is right, 7:30 a.m.

Mr. GUBSER. How long would you estimate or guess that it took you to get through the village to the time when the helicopter landed?

Mr. LAGUNOY. It wouldn't take long.

Mr. GUBSER. Hour or hour and a half?

Mr. LAGUNOY. At least you have got to look around if something might hit you. I have to knock off, take precautions, about an hour or hour and a half.

Mr. GUBSER. While you were going through or right on the edge of the village, were you under fire at all? Were you fired upon?

Mr. LAGUNOY. Start before we entered the village?

Mr. GUBSER. While you were going through the village?

Mr. LAGUNOY. Well, a lot of firing, I don't know from the enemy or our own men.

Mr. GUBSER. You don't ever remember any bullets landing near you that were obviously aimed at you?

You say that you had shot one person with a machinegun, right?

Mr. LAGUNOY. Yes; that is about 100 meters away from the village and special place we get down from the helicopter.

Mr. GUBSER. Did you personally do any firing besides that time?

Mr. LAGUNOY. After that, I didn't any more because all I see is—

Mr. GUBSER. After you saw the helicopter pilot land and get out and talk to Calley and yourself, then what did you do after that?

Mr. LAGUNOY. We waited for another—for a order to move again. That is when they get—

Mr. GUBSER. Were there any prisoners or suspects brought up to the area that you had secured?

Mr. LAGUNOY. Yes.

Mr. GUBSER. Very many?

Mr. LAGUNOY. Oh, about six, five of them.

Mr. GUBSER. Just five or six?

Mr. LAGUNOY. Or something.

Mr. GUBSER. You didn't ever see a group of prisoners, say 25, 30, or maybe 40 brought up to the area where you were?

Mr. LAGUNOY. No.

Mr. GUBSER. Did you then, after you left that area and got the order to move on—where did you go?

Mr. LAGUNOY. We went on straight again. I don't know. We go straight. I don't know what direction toward the—

Mr. GUBSER. Toward the ocean?

Mr. LAGUNOY. I think so.

Mr. GUBSER. You were going to assume your night position that night?

Mr. LAGUNOY. Yes.

Mr. GUBSER. Did you ever at any time see any prisoners taken or suspects brought to you during the rest of the afternoon?

Mr. LAGUNOY. I cannot remember if they get some guys because we slept in a cemetery that night. I don't know if they get some more guys. Usually they, whenever they get prisoners like that—

Mr. GUBSER. Did you ever see any civilians shot by GI's?

Mr. LAGUNOY. I have not seen a single one.

Mr. GUBSER. Did you say that you saw three bodies when you were moving through the village?

Mr. LAGUNOY. Something.

Mr. GUBSER. But did you ever see a large number of bodies at any time?

Mr. LAGUNOY. No.

Mr. GUBSER. Did you ever see the photographer that was on the mission?

Mr. LAGUNOY. No; I have not been near him.

Mr. GUBSER. Did you remember Haerberle?

Mr. LAGUNOY. I cannot.

Mr. GUBSER. You never saw anybody taking any pictures at all?

Mr. LAGUNOY. No.

Mr. GUBSER. Do you remember what orders were given you when you were briefed before this mission? I guess you were briefed the night before?

Mr. LEGUNOY. That is right.

Mr. GUBSER. Who all was there at that briefing?

Mr. LAGUNOY. Who briefed us?

Mr. GUBSER. Yes.

Mr. LAGUNOY. A company commander.

Mr. GUBSER. Captain Medina?

Mr. LAGUNOY. Captain Medina.

Mr. GUBSER. Lieutenant Calley of course was there?

Mr. LAGUNOY. Yes.

Mr. GUBSER. Do you remember what was said at that briefing?

Mr. LAGUNOY. Well, since the place is hot and every time you pass by the village we got pinned down—

Mr. GUBSER. You had been to My Lai 4 before?

Mr. LAGUNOY. Not actually on the spot.

Mr. GUBSER. You had been in the area?

Mr. LAGUNOY. Just the outskirts of the place. They killed some guys from us. That night I got a call that we were told that the place was really hot. Come from higher headquarters. Captain told us.

Mr. STRATTON. In other words, you expected that there would be a good deal of fighting to get in there?

Mr. LAGUNOY. That is right.

Mr. STRATTON. When you got there, did it turn out there was as much fighting as you had expected there would be?

Mr. LAGUNOY. Well, at first, just as soon as we landed, I thought there it is because I can hear a lot of firing all over the place.

Mr. STRATTON. I don't understand the answer there.

Mr. LAGUNOY. I mean, we have been shoot out. We came to extra resistance from—and we landed the place.

Mr. STRATTON. When you went through the village, you didn't run into very much resistance, did you?

Mr. LAGUNOY. No.

Mr. STRATTON. It was not as hot as you expected it to be?

Mr. LAGUNOY. That is right.

Mr. GUBSER. What were you told about what you were supposed to do at this briefing the night before? Were you told that you were supposed to clean it out?

Mr. LAGUNOY. Well, previously we had been ordered to spare the non-fighting ones.

Mr. GUBSER. Ordered to what?

Mr. LAGUNOY. Spare, don't kill the nonfighting ones.

Mr. GUBSER. Civilians? Don't kill civilians or noncombatants?

Mr. LAGUNOY. Noncombatants.

Mr. STRATTON. They actually told you that the night before?

Mr. LAGUNOY. Well, that night is—they kill everything that moves. "Be on your toes" and "The place is hot."

Mr. GUBSER. When was that? To make sure I understand, are you saying that at the briefing the night before this operation which took place on March 16, you were told to kill anything that moves? Is that true?

Mr. LAGUNOY. Well, they destroy that place, that is all.

Mr. GUBSER. You were not told to kill anything that moves?

Mr. LAGUNOY. No.

Mr. GUBSER. When you used that term a little while ago were you referring to some other time? When you said "kill anything that moves," were you referring to some other time besides March 16?

Mr. LAGUNOY. No, I am not.

Mr. GUBSER. You didn't hear those words actually stated at any time, or did you? Were you ever told to kill anything that moves?

Mr. LAGUNOY. Well, we guys—

Mr. GUBSER. Don't be nervous. We are your friends.

Mr. STRATTON. Just try to tell us the truth of what happened.

Mr. GUBSER. Tell the truth. Don't worry about it.

Mr. LAGUNOY. I believe that was the word at the time. Destroy the place, kill everything that moves.

Mr. GUBSER. You believe that maybe this did refer then to this March 16 operation? You are not sure, is that the idea?

Mr. LAGUNOY. I am not too.

Mr. GUBSER. It is possible that it could have been told to you?

Mr. LAGUNOY. I think that is—we were getting casualties all the time.

Mr. GUBSER. It seems to be in your mind that at some time or another you had been told this, is that correct?

Mr. LAGUNOY. Yes.

Mr. GUBSER. Tell me, when were you inducted in the Army?

Mr. LAGUNOY. Fort Shafter.

Mr. GUBSER. When was that?

Mr. LAGUNOY. June 20, around there, 1966.

Mr. GUBSER. You were about due to get out at the time of this My Lai operation, were you?

Mr. LAGUNOY. I got about 4 months more left. No, 3 months.

Mr. GUBSER. Where did you do your training? Where did you get your basic training?

Mr. LAGUNOY. Fort Ord, Calif.

Mr. GUBSER. Were you ever told anything about the rules of engagement and what you were expected to do insofar as killing noncombatants and civilians is concerned?

Mr. LAGUNOY. Ordered to do?

Mr. GUBSER. Did he ever talk to you about that when they were training you? Did you have any lectures or classes on that?

Mr. LAGUNOY. I cannot remember any lectures.

Mr. GUBSER. Did you think that you were ever told that you had to be careful not to kill civilians?

Mr. LAGUNOY. Some of us in the war, all told us self-defense and how to kill. These things.

Mr. GUBSER. You don't ever remember any specific training that you were given as to warning you against killing noncombatants?

Mr. LAGUNOY. I cannot remember.

Mr. GUBSER. You certainly knew, didn't you, that you shouldn't do it?

Mr. LAGUNOY. That is right.

Mr. GUBSER. Earlier you said that you were not to kill nonfighters?

Mr. LAGUNOY. Noncombatants, yes.

Mr. GUBSER. That is all I have.

Mr. LALLY. At your briefing on the night before the operation, was anything said about whether there would be noncombatants in the village?

Mr. LAGUNOY. No; never been specified to us.

Mr. LALLY. Let me ask you: Did anybody say that they expected all the women would be going to market by the time you landed?

Mr. LAGUNOY. I think we heard that.

Mr. LALLY. Did he tell you that at the briefing?

Mr. LAGUNOY. No, not actually. I have heard about everybody talking about the incidents after that and all, you know—

Mr. LALLY. What did they say at the briefing about noncombatants, if anything?

Mr. LAGUNOY. Well, kill the fighting ones, that is—but he didn't specify any civilians or that.

Mr. LALLY. He didn't say whether you would find them there or not?

Mr. LAGUNOY. Civilians or not, or children, something.

Mr. LALLY. At the briefing did he say what you should do if you found noncombatants in there?

Mr. LAGUNOY. No.

Mr. LALLY. When you went through the village in the front security, were there any hootches burning at the time you went through there?

Mr. LAGUNOY. No.

Mr. LALLY. None at all?

Mr. LAGUNOY. None at all. We went right through it.

Mr. LALLY. I believe that you testified you saw about three or four bodies when you went through?

Mr. LAGUNOY. Yes; I believe I have seen some bodies laying around.

Mr. LALLY. They looked like they were artillery casualties?

Mr. LAGUNOY. Yes. Somebody got killed. Kind of messed up.

Mr. REDDAN. Blown up, blown apart?

Mr. LAGUNOY. That is right.

Mr. LALLY. Not small-arms casualties?

Mr. LAGUNOY. I believe not.

Mr. LALLY. When the helicopter landed just the pilot got out of the ship?

Mr. LAGUNOY. Yes.

Mr. LALLY. Were you able to see the crew members?

Mr. LAGUNOY. About the helicopter, I think, but they won't leave the gun.

Mr. LALLY. They were still in the ship?

Mr. LAGUNOY. Yes, still in the ship.

Mr. LALLY. Could you see what they were doing?

Mr. LAGUNOY. No. I cannot remember any more.

Mr. LALLY. Did they appear to be pointing their guns at you?

Mr. LAGUNOY. No combat like that. We don't gave—only is your friend and they are pointing guns at you any more. Except the enemy. Of course, you get him.

Mr. LALLY. Was there any enemy in your front when the helicopter landed?

Mr. LAGUNOY. Not while I was seen—

Mr. LALLY. Nobody was shooting at you at that time?

Mr. LAGUNOY. Nobody.

Mr. LALLY. That is all.

Mr. REDDAN. Has anyone in the Army talked to you about this matter?

Mr. LAGUNOY. Yes; I was interviewed last October.

Mr. REDDAN. By whom?

Mr. LAGUNOY. I cannot remember the name.

Mr. STRATTON. Some Army person, you mean?

Mr. LAGUNOY. Civilian.

Mr. STRATTON. Was it a—

Mr. LAGUNOY. Washington.

Mr. STRATTON. It was a newspaper person connected with the Army?

Mr. LAGUNOY. No. I cannot remember. He said he was on his way to Vietnam, too. He told me that I am—I don't know what number I am interviewed already at this time.

Mr. REDDAN. Did he identify himself as an Army investigator?

Mr. LAGUNOY. I think so.

Mr. REDDAN. I have no further questions.

Mr. STRATTON. Have you talked to anybody else about this other than this person?

Mr. LAGUNOY. No.

Mr. STRATTON. Did you talk to any newspaper people or—

Mr. LAGUNOY. Yes; they keep on coming to get me. They want me to come to television and all those, but I mean it is kind of hard to go over there to talk so—

Mr. STRATTON. Did you tell the Army investigator anything other than what you have told us? Did he discuss certain things that we have not gone into?

Mr. LAGUNOY. I believe he go exactly the same as you are asking me now.

Mr. STRATTON. We are trying to find out what actually happened there. Is there any other information that you have that we have not asked you about that you think would be helpful to us?

Mr. LAGUNOY. I cannot remember at the moment.

Mr. STRATTON. Is your birthplace the Philippines?

Mr. LAGUNOY. That is right, sir.

Mr. STRATTON. Did you know Captain Medina at all?

Mr. LAGUNOY. Yes; I knew him.

Mr. STRATTON. What was your impression of Captain Medina?

Mr. LAGUNOY. Well, he knows combat. He never get lost. That is all.

Mr. STRATTON. Never got lost?

Mr. LAGUNOY. Yes.

Mr. STRATTON. OK.

Mr. Lally.

Mr. LALLY. Did you testify before the General Peers group?

Mr. LAGUNOY. General Peers group? No.

Mr. LALLY. Did they ask you to testify?

Mr. LAGUNOY. Well, I received three—just one subpoena already. That is sergeant of the platoon. I suppose to go to Texas but no specified date yet. On Captain Medina, too. He called me from Washington, D.C. last—I don't know what month is that, but I requested—I don't know what the rank of that guy is, from the service called me home. I am kind of far. I cannot make it. And he—just about 3 days left, and Captain Medina was interviewed that time. Excused me from going.

Mr. GUBSER. Did you ever, after the operation on March 16, hear any talk among your buddies about the killing of civilians at My Lai 4 that day? Was there any talk among the troops?

Mr. LAGUNOY. Talk? No; I cannot remember any more.

Mr. GUBSER. You don't remember ever hearing any of your buddies talk about how many civilians got killed or how many noncombatants got killed?

Mr. LAGUNOY. No.

Mr. GUBSER. You didn't see any noncombatants get killed, did you?

Mr. LAGUNOY. Except when we go through. That is what I told you about. Because I believe they hit the place with artillery before we landed that morning.

Mr. GUBSER. Gunships went through, too?

Mr. LAGUNOY. I think so. Yes. Escorted us. Two gunships escorted us.

Mr. GUBSER. Were you surprised when this hit the newspapers and there was talk of massacre?

Mr. LAGUNOY. Yes.

Mr. GUBSER. Did you realize that when you read it in the newspapers and heard it on television that you had been there?

Mr. LAGUNOY. Yes. I cannot believe what exactly happened coming from the newspapers now.

Mr. GUBSER. You think there was a massacre?

Mr. LAGUNOY. I don't know.

Mr. GUBSER. Thank you.

Mr. STRATTON. Any other questions?

If not, thank you very much, Mr. Lagunoy.

Mr. STRATTON. Sergeant, before you sit down, I will administer the oath. Raise your right hand, please.

Do you solemnly swear that the testimony you are about to give before this subcommittee in the matter pending before the subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF SGT. ROBERT K. GERBERDING

Sergeant GERBERDING. I do, sir.

Mr. STRATTON. Please be seated.

Mr. REDDAN. When you appeared before us previously in Washington you received a copy of this subcommittee's rules at that time, did you not?

Sergeant GERBERDING. No, sir.

Mr. REDDAN. Then I will explain to you that under the subcommittee rules you are entitled to counsel once you are sworn to testify before this subcommittee. You don't have to have counsel. This is a matter of preference by you. Do you wish counsel?

Sergeant GERBERDING. No, sir.

Mr. REDDAN. Also, the fact that you are sworn does not deprive you of any of your constitutional rights. If any question is asked you that you feel would incriminate you, you are entitled to refuse to answer on the grounds of that amendment to the Constitution.

Would you give the reporter your full name and your present address, sir.

Sergeant GERBERDING. Robert K. Gerberding. My address is 4602 Likini Street, L-i-k-i-n-i, Honolulu, Hawaii.

Mr. REDDAN. Sergeant, back on March 16, 1968, what was your assignment?

Sergeant GERBERDING. I was the brigade intelligence NCO.

Mr. REDDAN. That was the 11th Brigade?

Sergeant GERBERDING. That was the 11th Brigade.

Mr. REDDAN. Who was your immediate superior there?

Sergeant GERBERDING. Lieutenant Colonel Blackledge, sir.

Mr. REDDAN. Lieutenant Colonel Blackledge was the S-2 for the brigade?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. As you know, we are given the job of looking into this so-called My Lai incident. We are particularly concerned with the allegation that there were civilian casualties on that day as a result of the operation of the Task Force Barker at My Lai 4.

We are also interested in learning everything that we can about how these allegations may or may not have been investigated by the Army as a follow-on procedure.

Did there come a time when you heard allegations that there had been civilian casualties at My Lai 4?

Sergeant GERBERDING. Yes, sir. I heard about it when we, like I said previously to you, we, or our headquarters made a reply to General Koster based on a correspondence we had received from on—or we have seen from the Son Tinh adviser, Captain Rodriguez at that time.

Mr. REDDAN. Did General Koster send that correspondence to you with a covering letter of his own?

Sergeant GERBERDING. The correspondence did not come to me direct, sir, but I understand that we received correspondence and our brigade commander conducted an investigation and made a report to General Koster that there were 20 some-odd casualties as a result of artillery fire and small-arms fire unavoidably—

Mr. REDDAN. You are not charged with anything, are you, by the Army?

Sergeant GERBERDING. I have not heard anything yet, sir.

Mr. REDDAN. Did you ever see the letter from General Koster or a copy of it?

Sergeant GERBERDING. No, sir. I only handled the reply to General Koster. I have seen correspondence but nothing signed by General Koster.

Mr. REDDAN. Did you see any correspondence from anyone in the division with respect to this so-called My Lai incident?

Sergeant GERBERDING. No, sir.

Mr. REDDAN. Anyone from the brigade?

Sergeant GERBERDING. The correspondence from Colonel Henderson, the brigade commander.

Mr. REDDAN. From Henderson back to Koster?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. You say that you received at least a brigade-level communication, an allegation from the district chief, was that it, or the province chief?

Sergeant GERBERDING. This was the district adviser which came to us from the Americal Division apparently.

Mr. REDDAN. What was the subject matter of this document or documents?

Sergeant GERBERDING. In general terms, sir, it stated that the Vietnamese district chief at Son Tinh reported to him, the U.S. district adviser, that as a result of the U.S. operation at the area on March 16, a large number of civilians, approximately 400 women, children, old men, were killed by U.S. forces.

Mr. REDDAN. Did you see these documents?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. Were there any attachments to these documents? Was there any covering letter?

Sergeant GERBERDING. It was a Vietnamese letter written in Vietnamese, which apparently was the correspondence from the district chief translation by Captain Rodriguez, I think, and some propaganda material, VC, Viet Cong propaganda, and I believe that was all.

Mr. STRATTON. Sergeant, so that I can understand clearly, this was the first information that you had received about these alleged civilian casualties. Is that correct?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. This, as I understand it, is a letter that came in with a Vietnamese document, a translation by Captain Rodriguez, and it came in with a covering letter addressed to whom?

Sergeant GERBERDING. To whom it was addressed I don't know. I presume it was addressed to the brigade commander.

Mr. STRATTON. It would have come through you then because of your connection with the Brigade S-2, is that correct?

Sergeant GERBERDING. No, it would not have come through me.

Mr. STRATTON. How did it come to you? Had it gone to the brigade commander first and then was it referred back to you? Is that the way it went?

Sergeant GERBERDING. No. The first time I seen it, the arrival at our headquarters. I did not know, sir, the method of transmittal. I seen it when I was directed to prepare the reply for a letter to General Koster. Then I received a whole package, a folder with all the material in it.

Mr. REDDAN. Who gave you that?

Sergeant GERBERDING. The folder I received from Colonel Blackledge, S-2.

Mr. REDDAN. Sergeant, I will show you a copy of two documents. One is dated Son Tinh, 11 April 1968. It is in English and the other is a Vietnamese document. I will ask you if those are the documents that you received.

Sergeant GERBERDING. This I don't know anything about. I seen one which had more information on it, longer letter, and had a Captain Rodriguez' signature on there. Not this one here. I never heard this.

Mr. LALLY. Sergeant, is that a document captioned "Statement," 14 April, and signed Rodriguez, is that the document you refer to?

Sergeant GERBERDING. Yes, sir, that is the one. This is the one that I am talking about.

Mr. REDDAN. We will mark that exhibit 1 of this date.

Mr. STRATTON. May I just again, to make clear—do you recall from whom the incoming correspondence came, Sergeant?

Sergeant GERBERDING. I presume it came from division headquarters, sir.

Mr. STRATTON. Did I understand that there was a report from a district chief or a Province chief that was part of the correspondence?

Sergeant GERBERDING. Sir, when you say "district chief," do you mean a Vietnamese district chief or the—

Mr. STRATTON. I am trying to understand this. It was my understanding there had been a report from a Vietnamese district chief or Province chief with respect to a large number of innocent civilians killed that day. My inquiry is whether it was your impression that this correspondence had been initiated by that Vietnamese district chief or Province chief.

Sergeant GERBERDING. From what I understand, sir, the Vietnamese district chief of Son Tinh, which covered the area My Lai, and so on, made his report to Quang Ngai Province chief and I sent a copy to his U.S. counterpart, district adviser, Captain Rodriguez, who forwarded it through his advisory channels to the Province adviser, U.S. adviser to the Province chief, who in turn turned it over to the Americal Division. We received the entire thing from the Americal Division to the 11th Brigade saying these allegations were made, and a short letter by General Koster saying conduct an immediate investigation to explain the allegations made in this correspondence by the local Vietnamese chiefs.

Mr. STRATTON. I understand. So there was a letter attached from General Koster to Colonel Henderson?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. Saying in effect, "We received these allegations; look into them and find out what there is to it?"

Sergeant GERBERDING. Yes, sir.

Mr. HALLECK. I wonder, Mr. Chairman, if I might ask this: In that area were there a lot of Viet Cong in there?

Sergeant GERBERDING. The intelligence reports we have, sir—when you say "a lot," let me answer the question this way. We knew of one Viet Cong battalion, a main force battalion who was operating there as their home base, plus a large number of local type guerrillas who lived there who are civilians by day, guerrillas by night.

Mr. HALLECK. You say this report came in or apparently started from the district chief. Do you have any way of knowing whether he was a loyal South Vietnamese or maybe VC sympathizer?

Sergeant GERBERDING. I would like to answer your question in this fashion: That area, the Batangan Peninsula, was Communist dominated for over 20 years. It is very unlikely to consider anybody who lives there as pro-Vietnamese or progovernment. And the reports that we had, rumors, and various other indications that the Son Tinh district chief was pro-Communist. If he was not, he wouldn't be alive today.

Mr. HALLECK. In other words, if the enemy, Viet Cong or the North Vietnamese, wanted to make it appear we had been guilty of some great atrocity there, the likelihood would be that the people that forwarded this maybe were not too sympathetic with our cause?

Sergeant GERBERDING. Well, we had little support from the people in that area, sir. Very little support. Of course, the majority of the casualties suffered by the 11th Brigade were in that area, Batangan Peninsula.

Mr. HALLECK. They were considerable, I take it?

Sergeant GERBERDING. Well, you might say it was not a large percentage but it was high. It was not caused by active combat. It was

caused by mines, booby traps, and various other hidden devices which it was impossible to stop, by the Vietcong alone unless they had help by the civilian population, forced or voluntarily, because nobody came out there and dug miles of trenches and punchy pits unless an entire village of 2,000 or 3,000 people helped them to do it. How they do it, either by force or by sympathizers being sympathetic to the Viet Cong cause.

Mr. HALLECK. That is all.

Mr. STRATTON. Mr. Reddan, go ahead with the chronology.

Mr. REDDAN. As I understand your testimony, Sergeant, this letter came down from General Koster with these documents and these were turned over to you. Is that right? By Colonel Blackledge?

Sergeant GERBERDING. The answer which was written by the colonel—the report of investigation written by Colonel Henderson was given to me.

Mr. REDDAN. This is what I want to get straight on the record, because I think that the record will reflect a few minutes ago you testified that the letter from General Koster was given to you. Did you get that letter or didn't you? Did you ever see it?

Sergeant GERBERDING. The entire package, yes, sir.

Mr. REDDAN. That included a letter from General Koster, is that right?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. This was in April 1968, is that correct?

Sergeant GERBERDING. Sir, I do not know the precise date. I believe sometime in April, sir.

Mr. REDDAN. The so-called Henderson report was dated April 24, 1968?

Sergeant GERBERDING. It was the latter part of April, yes, sir.

Mr. REDDAN. This correspondence from General Koster would have had to precede that date?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. This was handed to you by Colonel Blackledge. And what did he tell you to do at that time?

Sergeant GERBERDING. Type it, sir.

Mr. REDDAN. Did he have a handwritten reply that you were supposed to type up? Is that it?

Sergeant GERBERDING. Yes, sir. It was the handwritten notes on lineal pad by Colonel Henderson.

Mr. REDDAN. Colonel Henderson wrote out his report in longhand?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. Colonel Blackledge gave it to you to type up?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. Or to have typed? Did you type it yourself?

Sergeant GERBERDING. No, sir. My clerk typed it.

Mr. STRATTON. Who was that?

Sergeant GERBERDING. Spec. 5 Bailey, sir.

Mr. REDDAN. After it was typed up, were there any attachments to it? In other words, you typed up Colonel Henderson's report. And did it have any attachments?

Sergeant GERBERDING. Yes, sir. We attached—we had some Communist propaganda leaflets attached to it. Some of which we had found, I believe. I don't know where they came from.

Mr. REDDAN. I show you a document which is entitled, "Report of Investigation by Colonel Oran K. Henderson, 24 April, '68" and ask you if that is the document that you had typed up in your office.

Sergeant GERBERDING. Yes, sir, this is the one that I had typed up.

Mr. REDDAN. That is a page and a half about. It indicates it has two enclosures. There is one enclosure which carries the heading, "American Devils Divulge Their True Form." Was that one of the enclosures attached to the report?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. That is one. And then there is another enclosure which is just entitled, "Statement." That is dated April 14, 1968.

Sergeant GERBERDING. I believe this was attached to it, sir.

Mr. REDDAN. That was attached to it?

Sergeant GERBERDING. Yes, sir. I won't swear to it. The enclosure I didn't pay much attention to because I had only the letter typed and attached the rest of it. I do know the name Rodriguez sticks in my mind and it did mention the propaganda leaflets we had attached to it.

Mr. REDDAN. This will be marked exhibit 2 as of this date, the Henderson report.

After this was typed up, Sergeant, what did you do with it?

Sergeant GERBERDING. The folder was given back to Colonel Henderson. It was approved, signed, and I received a package back for dispatch to General Koster.

Mr. REDDAN. Was it marked in any special way?

Sergeant GERBERDING. Well, "eyes of the CG only."

Mr. REDDAN. Did you put that on yourself?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. May I just interrupt at this point?

When Colonel Blackledge gave you this draft in Colonel Henderson's handwriting, what did he tell you about the way in which he wanted you to handle this particular file and this document?

Sergeant GERBERDING. It was classified naturally and typed and it will be going to the CG of the Division. Handle it, treat it as confidential matter like all classified material we handle in the brigade unit.

Mr. STRATTON. Did he say anything more than that?

Sergeant GERBERDING. I believe he said—well, he told me to get the best typist that I have and just make sure it is not—

Mr. GUBSER. What?

Sergeant GERBERDING. Make sure this is not discussed with everybody. In other words, if you handle correspondence which goes to a CG or a general, regardless of what the contents of the correspondence is, you have to remind your clerks, and so on: Keep your mouth shut of what you are doing. It is not—anything which goes to the CG is normally an important piece of correspondence; it is nobody's business for clerks to go around and telling, "I just typed a letter to General so-and-so about such and such." He just emphasized the point, this is general-type correspondence and treat it on a personal, confidential basis; not to discuss the contents of the letter.

Mr. GUBSER. That was true of all correspondence going to a CG?

Sergeant GERBERDING. Yes, sir. Right, sir.

Mr. STRATTON. I think that you testified previously when the staff was questioning you that he had warned you that there was not to be

too much publicity about it. Is that about the same thing that you are saying now?

Sergeant GERBERDING. If I used the term "publicity," what I meant, not to discuss it. Of course, like I said just now, any correspondence which goes to, addressed to a CG directly is of a confidential nature or it would not be addressed to a CG. It would go to a staff.

Mr. STRATTON. I want to try to understand this, Sergeant. I don't want you to be interpreting things. Did Colonel Blackledge say specifically: "As you know, all correspondence going to the general is not to be discussed"? Or did he say: "Here is something; I just want to remind you that this is confidential and we don't want any discussion about it"?

Sergeant GERBERDING. Sir, I don't remember the exact wording now, but he might have emphasized the point that it is a confidential correspondence, which he did not have to tell me in the first place because I have handled this all my life—this type of correspondence to higher ranking officers—and I know how to treat it.

In other words, I do not make any public announcements of its contents. I do inform the clerks who type it that this is a special type of correspondence which they only type and forget they have seen it, or type it afterwards, after it is completed.

Mr. LALLY. Was the form of address on this envelope unusual: "For eyes only of the General"?

Sergeant GERBERDING. It does go into the correspondence. The envelope is marked. It is marked "Confidential," which means it is placed in a double-sealed envelope and the inner envelope marked "Confidential." The outer envelope is plain, just addressed "CG, American Division, by courier, eyes of the CG only."

Mr. LALLY. Was this unusual to address anything "for eyes of CG only"?

Sergeant GERBERDING. No, sir. We have received several pieces of correspondence. I cannot remember—count how many—which are items of special interest for the CG or for the commander.

Mr. LALLY. Not all your correspondence going to the Commanding General was addressed for eyes of CG only, was it?

Sergeant GERBERDING. Sir, I did not handle all of the correspondence which went out.

Mr. LALLY. All of the correspondence which you prepared which went to the Commanding General, was it customary to address it "for eyes of Commanding General"?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. You say that this was marked "Confidential." I don't know whether you are talking about confidential in the loose general sense or whether you are talking about confidential in the sense of a security classification.

Sergeant GERBERDING. Security classification, sir.

Mr. STRATTON. Confidential is not really very high in the security classification: is it?

Sergeant GERBERDING. No, sir. There was nothing—all our correspondence pertained to enemy action or friendly forces, unless it involved major plans or operations, was classified confidential. It was a practice to classify anything of military importance as confidential, group 4.

Mr. STRATTON. If you had something marked "eyes only," that would be a much higher classification, far more limited distribution, would it not?

Sergeant GERBERDING. No, sir. It would not be a higher classification. It could have been completely unclassified and still be marked "eyes of the CG only."

Mr. STRATTON. OK.

How did you, yourself, handle this particular file once you had typed it up, Sergeant?

Sergeant GERBERDING. The original copy was sent by courier to the Americal Division. The draft papers, handwritten notes, were given back to Colonel Henderson and I maintained a file copy in my possession in my office.

Mr. STRATTON. How did you handle this differently from the way you would handle normal correspondence that you might type up?

Sergeant GERBERDING. I didn't understand your question. You mean how did I handle what differently?

Mr. STRATTON. What kind of treatment did you give to this particular file, and was it different from what you might do in handling normal correspondence marked Confidential?

Sergeant GERBERDING. The file copy? I maintained it in my desk at that time.

Mr. STRATTON. In your personal file, is that correct?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. This was unusual; was it not?

Sergeant GERBERDING. No, sir. Since I knew what the report was that I wanted to keep it out of the files where anybody could see it.

Mr. STRATTON. You wanted to keep it out of the files where anybody could see it?

Sergeant GERBERDING. Several people in my office had access to the files. Since the basic correspondence, the original correspondence was addressed for eyes only, I did not want anybody to go into my files and pull this out, specific folder, and read the piece of correspondence.

Mr. REDDAN. Did you do this on your own or at the direction of Colonel Blackledge? Think very carefully before you answer that question.

Sergeant GERBERDING. I think that I did this on my own initiative, sir.

Mr. REDDAN. How many times did you have the report typed?

Sergeant GERBERDING. I think we typed it twice, sir. The first one had some mistakes on it. Then we retyped it.

Mr. REDDAN. Anybody correct the mistakes?

Sergeant GERBERDING. I went over it.

Mr. REDDAN. Did you correct them in your own handwriting? Did somebody else correct them?

Sergeant GERBERDING. Well, I went over it and Colonel Blackledge read the report, letter, and then we had it retyped. This was not good enough to go to the CG.

Mr. REDDAN. Did Colonel Blackledge make any corrections in it himself?

Sergeant GERBERDING. I do not recall, sir.

Mr. REDDAN. The copy that you put in your desk, was it a corrected copy of the first typed version or did you put a carbon copy in your desk?

Sergeant GERBERDING. A carbon copy, sir.

Mr. REDDAN. Did you keep more than one copy?

Sergeant GERBERDING. Only one copy, sir.

Mr. REDDAN. I will show you a copy of the Henderson report dated April 24 and it has on the top the legend "File. RKB." Do you know whose initials they are and how they got on there?

Sergeant GERBERDING. I marked things for file and the Colonel sometimes marked things for file. Maybe I might have—

Mr. REDDAN. Is that your handwriting or the Colonel's?

Sergeant GERBERDING. It is hard to tell from these initials, sir. It could be mine or it could be the Colonel's. I do not recall who marked it. I would say I normally marked all correspondence but it also could be Colonel Blackledge marked this.

Mr. REDDAN. Does that look like your handwriting?

Sergeant GERBERDING. I would say it is not, sir.

Mr. REDDAN. If those initials on there are RKB—

Sergeant GERBERDING. Which is Richard K. Blackledge.

Mr. HALLECK. Could we have that marked? That exhibit ought to be marked.

Mr. REDDAN. We are going to mark them but I want to get him to identify the whole thing. There is another page here.

This document here also has these attachments to it that you have already identified. If you will notice, on page 2 of the second attachment there are two corrections made to the copy. Did you make those corrections, and if you didn't, do you know who did?

Sergeant GERBERDING. No, I did not change anything on the enclosures. I have not touched the enclosures. No change made by me. We did not retype or change any enclosures. I only typed the original report, sir.

Mr. REDDAN. We will have this document, which is the copy of the so-called Henderson report, with the initials RKB on it, marked Exhibit No. 3 as of this date.

Is this the copy that you kept in your desk?

Sergeant GERBERDING. No, that is not it. I believe mine was on green paper.

Mr. REDDAN. This has a letterhead on the top. This would not be a carbon copy, would it? You would not normally make a carbon copy on letterhead, would you?

Sergeant GERBERDING. No, sir. There wouldn't be no—let me see now. No, the carbon copy would be without letterhead, sir. Just the office symbol like this.

Mr. REDDAN. Like the exhibit, Henderson report, you previously identified and which we have marked as an exhibit here?

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. You will note on that first Henderson report you identified, page 2 of the first enclosure contains the corrections in typing which were in page 2 of the second enclosure on Exhibit No. 3 in pencil or pen. Apparently the carbon copy that you kept in your desk was typed after Exhibit 3. Is that right?

Are you sure that you didn't retype the enclosure?

Sergeant GERBERDING. No, sir, I had no enclosure retyped. The only thing I typed is this here initial. We didn't type any enclosures.

Mr. REDDAN. Can you tell from the written corrections on page 2 of Enclosure 1 of that report who put those in there?

Sergeant GERBERDING. No, sir. This is not my writing.

Mr. LALLY. Does it appear to be Colonel Blackledge's writing?

Sergeant GERBERDING. By those four letters, sir, I cannot tell.

Mr. LALLY. Can you tell from the initials, the file initials, whether it appears to be Colonel Blackledge's writing?

Sergeant GERBERDING. I can only say by reading the letters RKB, assuming that was his writing, Richard K. Blackledge.

Mr. STRATTON. Sergeant, if I understand the meaning of your testimony here just a moment ago to Mr. Reddan, the document which he showed you was a photostatic copy of the original document which you testified earlier had had certain errors and certain changes had been made in pencil and then the document was retyped and what he showed you was the initial typed version which had to be corrected. Is that my understanding?

Sergeant GERBERDING. No, sir. I did not identify an original typed correspondence or a second correspondence. I identified the letter which was sent forward to the CG.

Mr. STRATTON. You testified—I don't want to confuse you here—you testified earlier that this letter which was typed up in response to Colonel Blackledge's instructions contained some errors which had to be corrected and then the letter had to be retyped again.

Sergeant GERBERDING. Yes, sir. Right, sir.

Mr. STRATTON. My question is this: The document which Mr. Reddan showed you a moment ago, was that a photostat of the initial typing job which had to be corrected, or was that a photostat of the final smooth version which actually did go forward to division headquarters?

Sergeant GERBERDING. I say that was the final, the second retyped version, sir, because if I had the letter retyped I would have destroyed the first draft, first letter. I do not keep a corrected letter on file and second one because that would be a poor procedure.

Mr. STRATTON. What did you keep in your desk drawer, a carbon copy of the first typing job or a carbon copy of the second one?

Sergeant GERBERDING. The final one which went forward, sir.

Mr. STRATTON. The final one?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. The carbon and the original of the first typing job you say were destroyed?

Sergeant GERBERDING. I am pretty sure, sir.

Mr. REDDAN. You say that you didn't retype any of the enclosure?

Sergeant GERBERDING. No, sir.

Mr. REDDAN. I have showed you two versions of this enclosure. One contains pencil corrections and the other has the corrections in it typed. Who would have typed this if you didn't have it typed in your shop?

Sergeant GERBERDING. I do not know, sir. We only type—I only had the original letter typed.

Mr. REDDAN. Do you know, Sergeant, whether or not the document that went forward to the commanding general contained an enclosure with penciled corrections in it?

Sergeant GERBERDING. I do not know, sir.

Mr. REDDAN. Is it possible that it did go forward to the commanding general in that form?

Sergeant GERBERDING. It could have been, sir. Like I said to you previously, sir, I did not pay any attention to enclosures, only attaching this to the basic letter. My main job or assignment was have the reply typed to the division commander. That is it. As far as proofreading the attachments or enclosures, this was not my concern. There they were only attached and went along. As far as correctness, accuracy, spelling, this was not my job, not my concern.

Mr. REDDAN. Sergeant, I will show you these two copies of exhibits 2 and 3 again. You will notice at the top of the page exhibit 3 has the initials XICO. What does that mean?

Sergeant GERBERDING. That is the brigade commander's. XI is for brigade and CO is the office symbol.

Mr. REDDAN. The next one, exhibit 3, has additional letters following the XICO. What do they mean?

Can you read them?

Sergeant GERBERDING. It looks like BA and IM. This I don't know, sir. This was signed by Colonel Henderson and therefore his office symbol was on there. It was written for him.

Mr. REDDAN. This one would have also been written for him because that is XICO, too?

Sergeant GERBERDING. Yes, sir. But this is incorrect because you cannot use the CO office symbol and somebody else's staff section symbol. It cannot be done.

Mr. REDDAN. I think we ought to get this straightened out, then, because the document which has the XICO, with the four other letters following it, is the one that you identified as being the carbon copy which you kept in your desk.

Sergeant GERBERDING. No, sir. This is not the carbon copy in my desk. My carbon copy was on green paper.

Mr. REDDAN. This is a retyped copy. This is a photostat here.

Sergeant GERBERDING. This is not the one. I did not have this kind of a stamp. This is not the kind of stamp I used in my shop. We did not have this kind of stamping.

Mr. REDDAN. This is a true copy. Let me ask you this—

Mr. STRATTON. Mr. Reddan, isn't it possible that the true copy that you have just referred to is something that was typed up from the original document by someone in an effort to have a copy and that actually although they have it labeled "true copy," it may have not been a fully accurate copy of the original?

Mr. REDDAN. The only difficulty is, Mr. Chairman, the document which carries Colonel Blackledge's initials also carries penciled changes to enclosure 1. This document that has Colonel Blackledge's initials on it, I believe that you testified, Sergeant, is not the one that you filed, because this has a letterhead, Department of the Army letterhead. Your green copy would not have had the Department of Army letterhead written along the top, would it?

Sergeant GERBERDING. Sir, it could. We did not have letterhead stationery at all times. It may have been that we have used plain bond paper. That is a possibility. I do not recall at this time the heading if we used letterhead or not, if we typed it, or on this printed letterhead. This I do not recall.

Mr. STRATTON. In any event, Sergeant, you wouldn't have had the letterhead printed on your carbon copy?

Sergeant GERBERDING. It wouldn't be printed, no, sir.

Mr. REDDAN: This is the point, Sergeant; this is not the letter that you filed in your desk, as I understand it? You say that yours was a green carbon copy?

Sergeant GERBERDING: Right, sir.

Mr. REDDAN: Did the green carbon copy have file RKB written on it?

Sergeant GERBERDING: Sir, I do not remember at this time. However, I do know that this office symbol is incorrect, the one that you showed me, the six-digit symbol. That is incorrect.

Mr. REDDAN: When you received this material to file you received it from Colonel Blackledge?

Sergeant GERBERDING: Yes, sir.

Mr. REDDAN: Did he specifically tell you not to put this in the regular files?

Sergeant GERBERDING: He may or he may have not told me. At any event, it would not have been necessary to tell me.

Mr. REDDAN: You had files in your office in which you kept classified material?

Sergeant GERBERDING: That is right.

Mr. REDDAN: So that you could have kept it safe in your files?

Sergeant GERBERDING: Well, no, sir. It was safe as far as access is concerned because my office was located in the TOC area, the restricted area. However, any officer in the brigade staff could go into my filing cabinets. In other words, S-3 personnel, S-2, there were half a dozen officers and key NCO's who could go into my file.

Mr. REDDAN: Did you have access to the safe, S-2 safe?

Sergeant GERBERDING: Yes, sir.

Mr. REDDAN: You have the combination to it?

Sergeant GERBERDING: Yes, sir.

Mr. REDDAN: Did you ever put any copy of this report in that safe?

Sergeant GERBERDING: No, sir.

Mr. REDDAN: The only copy that you had was in your desk?

Sergeant GERBERDING: Right, sir. Our safes were not locked because there was no need to lock it.

Mr. STRATTON: What kind of a desk did you have, Sergeant?

Sergeant GERBERDING: A normal government-issue steel desk, sir.

Mr. STRATTON: What kind of a lock did that have on it?

Sergeant GERBERDING: Little key. Center drawer lock.

Mr. STRATTON: In the center drawer?

Sergeant GERBERDING: No. The right bottom drawer.

Mr. STRATTON: The center drawer locked the entire desk?

Sergeant GERBERDING: Yes, sir.

Mr. STRATTON: Obviously this was much less secure from a security point of view than would have been a safe or a locked filing cabinet, would it not?

Sergeant GERBERDING: Let me explain to you, sir. My office was located in a restricted area, a tent. The only people that had access to it were people who worked in the War Room, Command Center, and in the S-2 and S-3 tent. No other unauthorized personnel could come in. The place was guarded by MP's, military police. However, we did not have to secure material in these offices like you would do here where janitors come in and other people and go into the safes. Of course, the place was secure. Who else could possibly come in there? No outsiders. It was not from a viewpoint of protecting this material in the safe

from theft or unauthorized people. It was no way they could come in there. Anybody that approaches that area gets his head shot off. My desk, as far as protecting somebody, an item in there was safer than the safe itself because all of the officers could go in there, and during their performance of work—work 24 hours a day on shifts and safes were open day and night. However, my desk was untouched. Nobody could go into my desk when once I locked it.

Mr. STRATTON. This secure, restricted area that you are talking about also contained the S-2 files, did it not?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. It also contained the S-2 safe, did it not?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. The same people who had access to this particular secure, restricted tent could have seen this document if this were placed in the files or in the safe?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. You put it in your desk primarily because you didn't want anybody else taking a look at it?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. It is your recollection that that instruction probably came to you from Colonel Blackledge?

Sergeant GERBERDING. No, sir. Not to put it in a desk. He might have said treat it as confidential, private confidential. I am not talking about the security classification but I am talking about the overall classification assigned a piece of sensitive correspondence.

Mr. STRATTON. It is fairly obvious that you were not concerned about this from the point of view of security. You were concerned about keeping it away from the attention of as many people as possible.

Sergeant GERBERDING. That is correct.

Mr. STRATTON. That is why you put it in your desk even though from a strict security point of view it was less secure?

Mr. HALLECK. The safe was unlocked. It would not be very secure.

Mr. STRATTON. That is the securest item from the point of view of security in the system.

You still have not answered that question. The point was that you wanted to get it out of circulation so that nobody could see it?

Sergeant GERBERDING. That is correct, sir.

Mr. REDDAN. When did you leave Duc Pho?

Sergeant GERBERDING. January 1969.

Mr. REDDAN. Who was your replacement?

Sergeant GERBERDING. Master Sergeant Camell.

Mr. REDDAN. Was this document still in your desk when you left?

Sergeant GERBERDING. Yes, sir. I pointed out this folder to him and showed him items I kept for reference and pointed out this particular piece of correspondence to him.

Mr. REDDAN. What did you tell him about this correspondence?

Sergeant GERBERDING. That I prepared this back almost a year ago. This was treated as a sensitive piece of correspondence and I showed him the folder. "Here it is. What you do after I leave it is up to you. You are in charge. I could care less."

Mr. REDDAN. Did you tell him anything further about this particular piece of correspondence?

Sergeant GERBERDING. I don't believe I did, sir.

Mr. REDDAN. Did you have any discussions with him concerning the My Lai incident?

Sergeant GERBERDING. No, sir.

Mr. REDDAN. Specifically, did you tell him that this matter was not dead yet, there probably would be further investigation of this matter?

Sergeant GERBERDING. I don't believe that I made a statement like that because, as far as I am concerned, this incident was closed when this piece of correspondence was filed.

Mr. REDDAN. Did you tell him how to handle it?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. Didn't you tell him not to put it in the normal file?

Sergeant GERBERDING. I told him my procedure was to have it in my desk and what he does with it after I leave is his business. I told him why it was in my desk, because of the sensitivity at that time, and, sir, this is OK. You tell your replacement, "This is what I have done. I am telling you what happened during this year. When I leave, you are in charge and what you do is your business."

Mr. STRATTON. You just testified this occurred in April of 1969?

Sergeant GERBERDING. 1968, sir.

Mr. STRATTON. You said that Sergeant Camell replaced you about a year after you had written this document.

Sergeant GERBERDING. No. He replaced—arrived in November, sir. I departed 1968. I departed in January of 1968.

Mr. REDDAN. 1969.

Sergeant GERBERDING. 1969.

Mr. STRATTON. In January of 1969 you told him that you had kept it in your desk and it was sensitive and should not be put in the normal files and he could be guided by his own judgment. Is that correct?

Sergeant GERBERDING. Well, I probably had done this in December because he took over. He assumed my position there sometime in December.

Mr. STRATTON. Why was this still so sensitive some 8 months after the actual document had been sent to General Koster marked "eyes only"?

Sergeant GERBERDING. As far as I am concerned, the item stays until the operation is terminated or the organization is discontinued. There is no specific deadline saying 4 months after it is written the sensitivity classification is removed.

Mr. REDDAN. What was the nature of this sensitivity that you referred to, Sergeant?

Sergeant GERBERDING. Well, sir. I considered the personal correspondence between two commanders a sensitive item.

Mr. REDDAN. Come now. If you invited him down to have lunch that is not sensitive. If you sent him an invitation to visit him, that is correspondence between two commanders. That is not the criteria. There is something else. What makes a piece of correspondence sensitive?

Sergeant GERBERDING. Sir, reports of investigation, since this was a report of investigation, I considered this being a sensitive item.

Mr. STRATTON. How many other documents marked "eyes only" did you have in your desk instead of in the normal files?

Sergeant GERBERDING. That was the only one, sir.

Mr. STRATTON. How many had you had previous to that time?

Sergeant GERBERDING. I had some official Army correspondence, reports, and so on, which were marked, "eyes of CG or CO only."

Mr. STRATTON. How many had you had?

Sergeant GERBERDING. I would say about four or five pieces of correspondence.

Mr. STRATTON. Did you have a little section in your desk marked, "for eyes only"?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. In other words, this particular document was a pretty special document, wasn't it?

Sergeant GERBERDING. In what respect?

Mr. STRATTON. Because it was one of a very small number of documents that was not put into the files but was put into your particular desk.

Sergeant GERBERDING. Sir, I felt it would be the best place to keep without any clerk, private, second lieutenant, captain or major, whoever it would be, pulling it out and saying, "What is this? What happened here? Why was this made? What took place?"

Continuously a replacement arrived, new people come in, and at that time it was dispatched in April. It was marked, "for eyes of CG only." If it stays in my desk until I leave, only the people know about it who are handling this correspondence. What happens after I leave I could care less.

Mr. STRATTON. This was all done on your own initiative; are you trying to suggest that?

Sergeant GERBERDING. Yes, sir.

Mr. STRATTON. The colonel had already told you that it was to be kept out of circulation, hadn't he?

Sergeant GERBERDING. I don't think he used the term, "keep it out of circulation." He might have mentioned to me the fact that treat this as an item of sensitive correspondence which, like I said before, he would not have had to tell me because I know how to treat correspondence of that type. I have handled this for 23 years, sir.

Mr. STRATTON. Where was Colonel Henderson in December 1969? Had he left the brigade?

Sergeant GERBERDING. You mean 1968?

Mr. STRATTON. 1968, yes.

Sergeant GERBERDING. He had departed, sir.

Mr. STRATTON. Where was General Koster at that time? Had he departed?

Sergeant GERBERDING. He had departed, sir.

Mr. STRATTON. There would be no real reason for continuing to keep it in your desk, would there?

Sergeant GERBERDING. Yes, sir. The sensitivity marking, as far as I am concerned, had not terminated.

Mr. STRATTON. Isn't it true, Sergeant, that the real reason that this was kept in there was so that if anybody tried to look into this particular incident in the future, the relevant document would just not be where one would normally look in trying to find correspondence going through the division?

Sergeant GERBERDING. That statement of yours, sir, I cannot accept and I cannot accept your question for this reason: As far as I am concerned—and I am speaking, expressing my personal opinion right

now—at that time, in my opinion, nobody had any idea or thought that there would be an investigation. We conducted a normal operation. It was completed. The incident took place. It was answered and that was it. Nobody in the 11th Brigade I don't think at that time assumed that we will have a military, congressional or civilian or private investigation and should hide material.

Mr. STRATTON. Sergeant, that does not have any relation to the question that I asked you. The question I asked you, wasn't that document put into your desk so that if somebody at some later time should be looking around for it, it wouldn't be where you would normally try to find division and brigade correspondence?

Sergeant GERBERDING. He would find it just the same way, if it were filed in the filing cabinet, because all he had to do was ask the chief NCO, the intelligence sergeant, "I am looking for this piece of correspondence from the CO to the CG." He would pull it out of his desk—faster than going through 12 filing drawers trying to find it.

Mr. SLATINSHEK. Mr. Chairman.

Mr. STRATTON. Yes, go ahead.

Mr. SLATINSHEK. Sergeant, did you, prior to this incident, have a request for investigation of an allegation of one kind or another from division headquarters to your headquarters?

Sergeant GERBERDING. A different incident?

Mr. SLATINSHEK. In other words, have you had occasion, prior to this time, to have a report made on an allegation or inquiry coming down from division headquarters?

Sergeant GERBERDING. No, sir.

Mr. SLATINSHEK. Is this the first time this ever occurred?

Sergeant GERBERDING. Yes, sir.

Mr. SLATINSHEK. You had never responded or inquired into any allegation concerning casualties?

Sergeant GERBERDING. No, sir.

Mr. SLATINSHEK. You had none subsequent to that?

Sergeant GERBERDING. No, sir.

Mr. SLATINSHEK. The uniqueness of this investigation prompted the handling that you gave it?

Sergeant GERBERDING. Not the uniqueness of the investigation, sir. Just that it was my personal decision to have a little more safeguard of this particular item. Not because of what was in it, not because it was stated in there such-and-such number of people were killed. I could care less how many people were killed.

Mr. SLATINSHEK. You are saying that it was simply correspondence between the commanding general and your headquarters and therefore it was to be given special treatment?

Sergeant GERBERDING. Right.

Mr. SLATINSHEK. Had there been any other correspondence between the commanding general and your headquarters?

Sergeant GERBERDING. Not through my office, sir.

Mr. SLATINSHEK. Other than this paper, you had never had any requests come down through channels for which you prepared a reply going back to the commanding general? You had never had anything like that before or since while you were in that duty assignment?

Sergeant GERBERDING. Not to the commanding general directly. No, sir.

Mr. SLATINSHEK. You say not to the commanding general directly. You have been in the Army for 23 years. Don't you consider it somewhat extraordinary that a request would come down from a commanding officer of the division to a lower echelon and would not go through channels?

Sergeant GERBERDING. Well, sir—

Mr. SLATINSHEK. In the 23 years you have operated in this area, have you had occasion to have special treatment of this kind given to correspondence?

Sergeant GERBERDING. I have handled correspondence of this type before; yes, sir, between commanders.

Mr. SLATINSHEK. It has not gone through channels?

Sergeant GERBERDING. Well, sir; this is considered a command channel from the commander to the next commander. That is a channel, sir.

Mr. SLATINSHEK. This is the way ordinary correspondence between your office and the division would be handled? It would not go through intervening echelons?

Sergeant GERBERDING. There was no other echelon, sir, from brigade to division. That is the next step.

Mr. SLATINSHEK. The commanding general does not see every piece of correspondence that comes from the brigade?

Sergeant GERBERDING. That is correct, sir.

Mr. SLATINSHEK. It goes to someone else?

Sergeant GERBERDING. It goes from staff office to staff office—

Mr. SLATINSHEK. Precisely.

Sergeant GERBERDING [continuing]. Who prepares it.

Mr. SLATINSHEK. Precisely. In this case it didn't do that?

Sergeant GERBERDING. No, sir. Because when a commander signs a piece of correspondence and he addresses it to another commander, it does not go through a staff office. It is signed for the commander by the particular staff officer who prepares it.

Mr. STRATTON. It went to your staff office in this case, and you, not the commander.

Sergeant GERBERDING. Well, sir, a brigade, full colonel, does not sit down and type his own letters. It has to be done by somebody.

Mr. STRATTON. You were in the S-2, as I understand it, not the commanding officer's headquarters. Not his own staff.

Sergeant GERBERDING. If he does not have a staff, sir, he does not have a staff.

Mr. STRATTON. He does not have anybody to type his own stuff?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. Are you familiar with the MACV directive that indicated that all allegations with respect to atrocities, civilian deaths, et cetera, should be reported directly to MACV?

Sergeant GERBERDING. I have never seen it, sir.

Mr. STRATTON. You have never seen it?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. You never heard of it when you were in the 11th Brigade?

Sergeant GERBERDING. No, sir.

Mr. STRATTON. This report that you typed up dismissed the allegation—and the enclosure—did it not, as being unwarranted?

Sergeant GERBERDING. It dismissed the allegation? That is correct.

Mr. STRATTON. It concluded, I believe, that the civilian deaths in question were caused by either crossfire or artillery prep, is that correct?

Sergeant GERBERDING. That is correct.

Mr. STRATTON. Since "dismissed" is a rather unpleasant allegation and was a result of a rather careful investigation, isn't this something that ought to be known rather than something that ought to be hidden?

Sergeant GERBERDING. Well, the further disposition of that is not my responsibility. It was not my place to decide what should be done after that, sir.

Mr. STRATTON. I understand that. But I am trying to find in a somewhat different way why this was so sensitive. Here was a forthright statement which laid at rest what had been a very unpleasant rumor. Wouldn't it be to the interests of the division and the brigade that the forthright statement dismissing this allegation should be generally known?

Sergeant GERBERDING. No, sir. I would say no because it would only add to the propaganda value to the enemy. Why should it be discussed, distributed all over the brigade?

Mr. STRATTON. If we dismiss the allegation, then everybody knows that it is propaganda.

Sergeant GERBERDING. Well, sir, we didn't dismiss anything. We made a reply and stated what was happening, what was investigated, and that is it, as far as I am concerned; our brigade closed the case.

Mr. STRATTON. That is right. Colonel Henderson's report was designed to answer this allegation as saying there is no substance to it.

Sergeant GERBERDING. That is correct.

Mr. STRATTON. Therefore, we don't need to be disturbed by it?

Sergeant GERBERDING. That is correct.

Mr. STRATTON. I would think that would be something that the division and the brigade would want to get around. There was a good deal of rumor going around on this subject. A lot of people were talking about it. Wouldn't it be to the interests of the brigade and the division to get this forthright expression of denial generally known?

Sergeant GERBERDING. I don't see to whom, sir.

Mr. STRATTON. Any other questions?

Mr. LALLY. I have a question.

Sergeant, in your earlier testimony, referring to this statement dated April 14 of Captain Rodriguez, was Captain Rodriguez' name on the statement which you saw?

Sergeant GERBERDING. I believe it was; yes, sir.

Mr. LALLY. Directing your attention, Sergeant, to the report of Colonel Henderson, I note that the copy of the statement attached to that report does not bear the signature line of Captain Rodriguez. Do you know whether that signature line was removed in your Headquarters?

Sergeant GERBERDING. No, sir. We have not touched any statement, any enclosures.

Mr. LALLY. It is your recollection that the copy of the statement bore Captain Rodriguez' signature line?

Sergeant GERBERDING. Yes, sir.

Mr. LALLY. Sergeant, was Task Force Barker given an intelligence briefing prior to the March 16 operation?

Sergeant GERBERDING. Yes, sir.

Mr. LALLY. Did you know who gave that briefing?

Sergeant GERBERDING. I am pretty sure that Colonel Blackledge made the briefing. All briefings were given by the respective staff officers.

Mr. LALLY. Would you have prepared this briefing for Colonel Blackledge, Sergeant?

Sergeant GERBERDING. No, sir.

Mr. LALLY. He would have prepared it himself?

Sergeant GERBERDING. Yes, sir.

Mr. LALLY. You were not present when he made the briefing?

Sergeant GERBERDING. No, sir.

Mr. LALLY. Do you know whether it was anticipated that civilians would be encountered by Task Force Barker in this operation?

Sergeant GERBERDING. Well, sir, we were operating in a populated area which means you will always encounter civilians.

Mr. LALLY. Was there any consideration given in the timing of the operation to attempt to avoid civilians; do you know?

Sergeant GERBERDING. Sir, in this respect I was not involved. I was Intelligence. You are talking about operational aspects which are now three functions, Planning and Operations.

Mr. LALLY. Thank you, Sergeant.

Mr. STRATTON. Mr. Gubser?

Mr. GUBSER. No questions.

Mr. STRATTON. Mr. Halleck?

Mr. HALLECK. No questions.

Mr. REDDAN. Sergeant, would you wait outside, please; we may want to talk to you a little bit later.

Sergeant GERBERDING. Yes, sir.

Mr. REDDAN. If we don't need you, we will let you know.

Mr. STRATTON. Thank you.

Colonel, before you sit down, we will swear you in.

Raise your right hand. Do you solemnly swear that the testimony you are about to give before this subcommittee in the matter pending before the subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF RICHARD K. BLACKLEDGE

Colonel BLACKLEDGE. I do.

Mr. STRATTON. Please sit down.

Mr. REDDAN. Please give the reporter your full name and your address.

Colonel BLACKLEDGE. My full name is Richard K. Blackledge. My address is 47-433 Lulani Street, Kaneohe.

Mr. REDDAN. You are a retired colonel; is that right?

Colonel BLACKLEDGE. Retired lieutenant colonel.

Mr. REDDAN. When did you retire?

Colonel BLACKLEDGE. 31st day of January, this year.

Mr. REDDAN. Colonel, this subcommittee has been directed to make an inquiry into the so-called My Lai incident of March 16, 1968, and all collateral matters pertaining thereto. All witnesses are sworn. You have been sworn and I just wanted to tell you that having been sworn,

under the rules of the subcommittee you are entitled to counsel if you wish. Do you wish counsel?

Colonel BLACKLEDGE. No, sir.

Mr. REDDAN. The questions that will be put to you during your testimony will be recorded and if any question is asked you which you feel would incriminate you, you are entitled to exercise your constitutional rights. Do you understand that?

Colonel BLACKLEDGE. I understand that, yes, sir.

Mr. REDDAN. It is your desire to testify without counsel?

Colonel BLACKLEDGE. That is correct.

Mr. REDDAN. Have you testified before the Peers group?

Colonel BLACKLEDGE. Twice.

Mr. REDDAN. Did you have counsel in your appearance before them?

Colonel BLACKLEDGE. I did not.

Mr. REDDAN. In March 1968 what was your assignment?

Colonel BLACKLEDGE. I was the S-2, which is the intelligence officer of the 11th Infantry Brigade.

Mr. REDDAN. How long had you been in that slot?

Colonel BLACKLEDGE. Quite a while. When the brigade was formed here in Hawaii, I came in from Korea August 1966 and took that job.

Mr. REDDAN. How long did you remain in that position?

Colonel BLACKLEDGE. We all went to Vietnam in November 1967 and I left and went to another job in Vietnam in May or June 1968. I was promoted out of my job and they had to find a lieutenant colonel's job for me at a higher echelon.

Mr. REDDAN. Calling your attention to the March 16, 1968, operation of Task Force Barker, would you please tell the subcommittee in what manner, if any, you participated in the preparation of that operation.

Colonel BLACKLEDGE. Well, yes. We provided to the brigade commander, brigade S-3, and to the battalion, who cooperated together in the setting up of the exercise, information which we received from all sources which would tend to indicate that this was or was not a good time and place to commence an operation. We had at this particular time working for us—and I say that loosely—an ex-company commander of a battalion, Viet Cong battalion, which had been operating in the area. He had been wounded seriously in the Tet offensive and had sent people to tell the governmental authorities that he wanted to surrender. He knew he would die if he didn't get medical aid.

When we discovered he was in the hospital at Quang Ngai, we sent people to interrogate him. We received information from him which indicated that we now knew pretty well directly routes and areas that his battalion was accustomed to working in. To be specific, which streams they walked along, and so on, which was much better intelligence information we would normally have on a unit.

I think this had a lot to do with our having set up this operation.

Mr. REDDAN. Did you attend any of the briefings prior to the operation?

Colonel BLACKLEDGE. I think that, of course, we had briefings every single day.

Mr. REDDAN. I mean in connection with this March 16 operation.

Colonel BLACKLEDGE. I cannot specifically say that I attended a briefing which directly was concerned with this operation and this operation alone. Although in our daily duties before all operations we

kept discussing the area that we knew they were going to be working in. Of course, our intelligence-gathering effort was each day pointed as much as possible toward gathering information that would apply to the areas that we were most interested in.

I don't recall any particular time when we all sat down and talked about this particular operation. Although I feel there must have been such talks.

Mr. REDDAN. Do you recall whether you participated in the intelligence briefing the day before this operation? Intelligence briefing of Task Force Barker and the company commanders.

Colonel BLACKLEDGE. I did not brief company commanders in Task Force Barker; no.

Mr. REDDAN. Did you brief Colonel Barker and Colonel Henderson?

Colonel BLACKLEDGE. I am sure that I briefed Colonel Henderson. Colonel Barker I feel was probably present when I briefed Colonel Henderson because it was normal to bring in the battalion commander when the briefing was going to concern his area of operation. Normally what you do is send down to the battalion S-2 and the information that I had which he could then collate with the information he had independently gathered, and really it was a battalion decision as much as it was brigade to determine where they were going to go next. Because we had three separate battalions all looking over their own areas and looking for the best place to screen or sweep the next day or so.

Mr. REDDAN. On the day of March 16, did you participate in any way in the Task Force Barker operation?

Colonel BLACKLEDGE. I would say only in that I was probably going in and out of the Brigade Tactical Operations Center listening for information which would indicate that they had struck oil or had not struck oil. We were back 50 miles away but we certainly kept our ears glued to the radio hoping they would come up with something which would lead us to still further—

Mr. REDDAN. You are speaking of Duc Pho?

Colonel BLACKLEDGE. That is right, yes.

Mr. REDDAN. Did you hear any messages that day or any indication that there were civilian casualties involved in the My Lai operation?

Colonel BLACKLEDGE. Not specifically, no. I do know from my experience there that on most operations of this size that there were almost invariably a few.

Mr. STRATTON. Colonel, excuse me. Did I understand you to say that you, during this operation, were back at Duc Pho?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Didn't you testify earlier to the staff that you were in the helicopter with Colonel Henderson over the assault area?

Colonel BLACKLEDGE. This was considerably after. This was either the second or third day. In other words, the first day, 16th—no, we were not out there. But either the 17th or 18th, I am not sure which day it was—did go out to the area. In other words, the operation was still in progress at that time.

Mr. STRATTON. You identified, located the time of this flight, according to the testimony that I recall, between 1000 and 1400 on the 16th.

Colonel BLACKLEDGE. Well, if I did, I was in error.

Mr. STRATTON. You were in error?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. During the entire day of the 16th you were not over the objective area; you were back at Duc Pho?

Colonel BLACKLEDGE. That is my recollection, yes, sir.

Mr. STRATTON. That is your recollection?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Are you sure about it?

Colonel BLACKLEDGE. Well, I will have to admit, sir, that I was sort of hazy, but the Peers committee more or less told me that that was the day we went out. So now that I think about it, I do know that the operation had been in effect, had been going on for some time before I got into the helicopter and could easily have been the second day.

I do feel they are correct in that it was at least a day later.

Mr. STRATTON. If I understand it correctly, your testimony before the staff was that you were in a helicopter over the objective area on D-day, March 16, but after you appeared before the Peers committee you decided it was not on that day, it was a couple of days later?

Colonel BLACKLEDGE. Well, they more or less told me that it was a couple days later. I was sort of hazy about it, to tell you the truth. When I got to thinking about what they had said, as far as they knew it was either the first or second day after. Then I began again to realize what I had seen was more or less an aftermath of the thing. When we sat down, it had been in operation for some time. Considering the fact that it had been in operation for some time, and the troops had been moving, I did feel that they were correct in that; it was at least the day after.

Mr. REDDAN. Colonel, what did you see when you went out there?

Colonel BLACKLEDGE. Well, Colonel Henderson was—had asked me to go along with him. He got on the radio and radioed ahead and asked the company commander to pop smoke, show where he was. I heard him say that and I heard a Roger on it. I looked down and there were several areas where smoke was whispering up. I didn't see any active fires. That was one of the reasons that I feel it was probably the second day because I feel the first day there I should have seen active fires because—

Mr. STRATTON. Wait a minute. I am getting a little confused here. Mr. Reddan, were you asking him about what—

Mr. REDDAN. What he saw when he went out there, regardless of what day it was. What did he see. This is what I want to find out. We may be able to fix a date by what he saw.

Mr. STRATTON. Go ahead.

Colonel BLACKLEDGE. This was one of the prime things that I have been thinking about. Since what I saw was really just a few burning embers, not even burning but smoking remains in certain areas where there had been houses, it did look as though they had been burned down the day before, not the same day when I looked at other places that I had seen. And so—

Mr. REDDAN. Did you fly over My Lai 4?

Colonel BLACKLEDGE. To tell you the truth, I was called into the helicopter without any previous briefing. I went with the colonel, didn't take a map, and was not really exactly sure where I was, except that when I once sat down in the potato patch with the colonel and say who the company commander was we were visiting, I knew something of how the operation was set up and I knew generally speaking where I was. And not only that, but the helicopter flew out

into an area where I was able to somewhat orient myself, generally speaking.

To answer your question, I do not believe we were in My Lai 4. I believe we were at least a kilometer away to the northeast or northwest.

Mr. REDDAN. You picked another spot. You are talking about now when you were sitting on the ground talking to Captain Medina?

Colonel BLACKLEDGE. That is right.

Mr. REDDAN. I will pick you up on this other later.

What was said to Captain Medina and what did he say?

Colonel BLACKLEDGE. Since I really didn't know why I was there, I didn't say much at all except "How are you doing?" and "Have you picked up any information that we can use or capitalized on at this time?"

He gave me a negative reply on that. I already asked the battalion S-2 the same information, I believe. But the colonel went out to talk to Captain Medina and asked him how the operation was going. He launched into a discussion on noncombatant casualties: "Are you sure that the—have you seen any enemy soldiers? How are they dressed? Are you sure that all of the casualties were combatant? How do you tell combatants from non-combatants? What are you doing about non-combatants that might have been injured?"

Questions like that, which indicated to me he had a great deal of concern for the possibility that noncombatants had been injured. He wanted to assure himself that everything was being done to properly care for them if they had been.

Mr. REDDAN. What did Captain Medina tell him?

Colonel BLACKLEDGE. He told him, as far as he could tell by radio reports it appeared to him that about between 20 and 26 or 28 people had been hit and that he had called for medical evacuation for them. That his troops were doing what they could to avoid hitting noncombatants.

Mr. REDDAN. You heard this conversation?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. How long did this take?

Colonel BLACKLEDGE. We were on the ground for perhaps 15 minutes.

Mr. REDDAN. About what time of day was that?

Colonel BLACKLEDGE. My recollection is it might have been somewhere toward noontime. When I said between 1000 and 1400, that is as close as I can. I cannot refine it more than that.

Mr. REDDAN. After you took off what did you do?

Colonel BLACKLEDGE. That was another thing that was hazy. That morning we did two things. We landed at the battalion LZ Dottie where the battalion has the headquarters, and went out to the company. I was unsure of whether we did one first and then the other.

Mr. REDDAN. At any time during that day did you fly over My Lai 4?

Colonel BLACKLEDGE. I feel that we—since we flew over that whole area and circled a number of times, we probably went over My Lai 4. I didn't recognize it as such at the time. As you look down at the ground there are a lot of little hamlets scattered all over the countryside. I was not that familiar where I could point down and say that hamlet is such and such and that is such and such.

Mr. REDDAN. Did you have any conversations with Colonel Henderson as to why he was flying in that area?

Colonel BLACKLEDGE. No. This was right after he had taken command. Colonel—General Lipscomb had not been in the habit of taking me out with him. He turned over the command to Colonel Henderson on the 15th. I only felt, when he asked me to get in the helicopter, it was going to be a new day in that the new commander was going to take his S-2 out with him more than the old commander had, which made me feel wanted, you might say.

Mr. REDDAN. You say that you got the impression from Colonel Henderson's questioning of Medina he was quite concerned about possible civilian casualties at My Lai 4? Then you got in the helicopter and took off and you flew over in circles around a hamlet?

Colonel BLACKLEDGE. We actually circled in a very large circle. I would say probably it included 20 or 30 hamlets.

Mr. REDDAN. At that time you saw smoking hootches?

Colonel BLACKLEDGE. In several places.

Mr. REDDAN. At what altitude were you flying?

Colonel BLACKLEDGE. I would say about 1,500, between 1,500 and 2,000 feet.

Mr. REDDAN. Did you ever get down to 500 feet?

Colonel BLACKLEDGE. I don't think we did expect when we were descending to the potato patch and rising up out of the potato patch.

Mr. REDDAN. Did you testify under oath that you did circle at about 500 feet?

Colonel BLACKLEDGE. I said that I know doggoned well we didn't get under it, because there was a requirement to not go below that altitude.

Mr. REDDAN. When you landed you had to go below that altitude.

Colonel BLACKLEDGE. We are permitted to land. That was landing in a secured area.

Mr. REDDAN. Did you see any open graves?

Colonel BLACKLEDGE. No, sir. As a matter of fact, one thing that Colonel Henderson asked Captain Medina was: "Are there any bodies near here that I can look at myself?"

Captain Medina answered: "No, sir, there are not."

Mr. REDDAN. How did he know that?

Colonel BLACKLEDGE. Captain Medina was saying that he had set himself up a perimeter with his headquarters-type people where he was operating the operation by radio more than anything else. He could not get out to where his platoons were, and information was coming in to him primarily by radio.

Mr. REDDAN. Colonel, that answer seems to go over in space somewhere.

Colonel Henderson, you say, asked Medina if there were any bodies that he could look at. Medina finished telling him that 20, 28 civilians had been killed?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. Only a short distance from where you were at that time.

Colonel BLACKLEDGE. In order to protect the Colonel, he would have to pick up his entire CP and move with it. That would be the only way he could have gotten into the—

Mr. REDDAN. Did he tell the Colonel?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. What did he tell him?

Colonel BLACKLEDGE. He told him there were no bodies in the immediate area where we were right then and if the Colonel wanted to go to where they were, this would require moving the CP in order to provide him protection on the ground. Perhaps call in additional troops, perhaps one of the platoons to provide protection as well.

Mr. REDDAN. Are you sure that he told him all this?

Colonel BLACKLEDGE. That is my recollection; yes, sir.

Mr. REDDAN. This is not something that you are just——

Colonel BLACKLEDGE. Coming up with on my own? No, sir; I don't believe it is.

Mr. REDDAN. I want you to be sure, careful about this. Colonel Henderson wanted to know; he was concerned with what had taken place at My Lai 4?

Colonel BLACKLEDGE. I never heard the term My Lai 4 while I was out there.

Mr. REDDAN. He was concerned with what had taken place during the operation that took place the day before or some before that.

Colonel BLACKLEDGE. That was information——

Mr. REDDAN. Wait a minute.

If Captain Medina was involved and as a result of which there were allegations of civilian casualties, this is what you went out for, to talk to Medina?

Colonel BLACKLEDGE. No, sir. I didn't know why we went to Medina——

Mr. REDDAN. Did you finally find out that is why you came out, to talk to Medina? Did Colonel Henderson talk to him about anything else while he was out there?

Colonel BLACKLEDGE. He talked to him about how the operation was going on; where his people were moving to; but it seemed to me he was dealing quite a bit on this particular subject.

Mr. REDDAN. That is right. Zeroed in on this and paid so much attention to it that you felt it was terrifically important to him.

Colonel BLACKLEDGE. I felt it was certainly important; yes, sir.

Mr. REDDAN. When he finished, he said to him: "Are there any bodies that I can see?"

Colonel BLACKLEDGE. That is one of the questions that he asked him; yes, sir.

Mr. REDDAN. The fighting had taken place at this hamlet that they had come through?

Colonel BLACKLEDGE. Well, they had moved through quite a few hamlets.

Mr. REDDAN. This is where the civilian bodies would probably be; isn't that right?

Colonel BLACKLEDGE. One of the places, I would say; yes, sir.

Mr. REDDAN. Name the places that you can think of where there might have been civilians?

Colonel, I get the definite impression that you are not—even though you are under oath here—not making a very real try at giving us your best recollection on this. This was your new commanding officer. This was a new day. He was going to take you into his confidence and you got into the helicopter and sat there and trying to give us the impression that you hadn't the slightest idea where you were going, why you were going there and what you did when you got there, where you knew later on just exactly what Colonel Henderson had in mind.

Frankly, this does not quite wash. If you were my S-2 and I was a new commanding officer, I would expect you to take more interest in what was going on. I am sure that you did take more interest in it.

Colonel BLACKLEDGE. Let me explain that to you.

Mr. REDDAN. If you will.

Colonel BLACKLEDGE. First of all, when I jumped into the helicopter I didn't have much time. He just walked into my office and said, "OK, get your gear together, I am going to take you with me."

Fine. I got in the helicopter and we went north. He said, "We are going to LZ Dottie." That is fine because, in other words, what he was doing was giving me a chance to have a face-to-face conversation with the battalion S-2 which I always looked forward to.

Mr. REDDAN. You knew Task Force Barker had been in that operation?

Colonel BLACKLEDGE. That is right.

Mr. STRATTON. You knew where the operation was, didn't you?

Colonel BLACKLEDGE. Right. At the time I got in the helicopter I had no idea we were going to go out and see what companies. That didn't occur to me. Even when I did find it out, when he said, "OK, we are going to go out to Charley Company," I still felt at that time we were going to set down because he wanted to talk to one of the company commanders. I thought that was grand, too. I would get a chance to talk to a company commander.

When we get on the ground, he more or less took over the conversation and once I had asked a couple of questions, which was about all I could do from my standpoint, I just lay on the ground alongside them and let this conversation wash over me, climbed in the helicopter with the colonel, and we went off. I didn't think much more about it at the time.

Mr. STRATTON. You were aware of the fact that this company was engaged in the My Lai 4 operation, were you not?

Colonel BLACKLEDGE. Yes, sir. We called it the My Lai 4 operation. It was an operation covering a lot more than that one little hamlet.

Mr. STRATTON. This was a pretty important operation, wasn't it?

Colonel BLACKLEDGE. It was. Of course, they are all. We had quite a few.

Mr. STRATTON. It was expected to be a major confrontation with the Viet Cong there?

Colonel BLACKLEDGE. We were hoping it would be.

Mr. STRATTON. Your plan expected what kind of opposition they were going to run into, isn't that true?

Colonel BLACKLEDGE. I would like to say that we make as educated guesses as we can toward finding enemy units.

Mr. STRATTON. Your primary responsibility in the operation was the status of the enemy forces and what they are going to run into?

Colonel BLACKLEDGE. Yes, sir. But unfortunately I cannot guarantee the presence of a battalion attack—

Mr. STRATTON. I am not suggesting that you can guarantee anything. The question of what you are going to run into in your particular field of interest?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. You should have been pretty much interested in how they were making out with the Viet Cong and the nature of the area they were operating in.

Colonel BLACKLEDGE. I was definitely interested in those.

Mr. REDDAN. You are also interested in the results of the operation?

Colonel BLACKLEDGE. Absolutely.

Mr. REDDAN. Did you learn how many Viet Cong were supposed to have been killed?

Colonel BLACKLEDGE. Yes, sir. They were coming up with numbers over a hundred, if I recall.

Mr. REDDAN. This would be a sizable piece of the 48th Battalion, wouldn't it?

Colonel BLACKLEDGE. If indeed it was the battalion.

Mr. REDDAN. Or Viet Cong at all, a sizable piece?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. You would be also interested in the number of weapons captured?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. Did you know how many had been reported?

Colonel BLACKLEDGE. It was a very small number.

Mr. REDDAN. Did this raise any question in your mind?

Colonel BLACKLEDGE. No, sir. Some questions, but not that much because I had also had a recollection of a previous operation where one of our forces had gotten into trouble in that same area. We had sent another platoon to get them out and they had overrun a group of Viet Cong and jumped, because they were in full pursuit, jumped over all kinds of weapons used against them.

As soon as they had run out chasing Viet Cong because they had gotten away from them, disappeared down into the ground, they turned around and came back over the same area and could find no weapons at all. In other words, these people have a way of coming up out of the ground, grabbing weapons and disappearing with them.

Mr. REDDAN. Is this what happened here?

Colonel BLACKLEDGE. I don't know, but this could have been a repeat of what happened before.

Mr. REDDAN. Is this a rationalization that you are making here today or did you make it way back then?

They didn't chase any Viet Cong that day, and you know it.

Colonel BLACKLEDGE. Here is the thing, sir. You know that now.

Mr. REDDAN. You knew this then. They were in that village and you knew it and you knew that they didn't go through that little hamlet for more than 2½ hours. They stayed in that spot. They didn't run across the countryside chasing Viet Cong. If you were the S-2, you knew it or should have known it.

Colonel BLACKLEDGE. Here is where we come to a parting of the ways.

Mr. REDDAN. Good.

Colonel BLACKLEDGE. Perhaps I should have known it, but the fact is I did not. If I was a poor S-2—

Mr. REDDAN. Colonel Henderson didn't tell you anything about that while you were in the plane?

Colonel BLACKLEDGE. No, sir.

Mr. REDDAN. Did he talk to you at all?

Colonel BLACKLEDGE. Not about this in particular. As a matter of fact, I was rather surprised that his conversation took the turn it did when we got to the ground. That is why I didn't enter into the con-

versation. I felt this was a side of the operation which didn't directly concern me.

Mr. REDDAN. When did you next——

Mr. STRATTON. Just a second.

You say this was a side of the operation that didn't concern you. You are talking about the colonel's inquiry with respect to civilian casualties?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. You are the S-2 of the brigade. You are telling us that you went out on this trip 2 days after the operation took place. That means that you had in your possession at least a day or a day and a half earlier the disparity between the number of Viet Cong body counts and the number of weapons. Is that true?

Colonel BLACKLEDGE. I would say that is true; yes, sir.

Mr. STRATTON. If you were S-2 this should have concerned you as much as it concerned the brigade commander, shouldn't it?

Colonel BLACKLEDGE. Well, sir, I think that you probably have to look back over the records before you would understand that we many, many times had a similar disparity.

Mr. STRATTON. I am not talking about whether you got a disparity or not. You said this didn't seem to concern you at all. You talk as though this was some area of the operation that you had not the slightest interest in. This, as a matter of fact, is right in your area of interest?

Colonel BLACKLEDGE. The colonel was discussing whether civilian casualties were being properly cared for.

Mr. STRATTON. He was concerned about the number of civilian casualties, wasn't he? That is what you testified before.

Colonel BLACKLEDGE. He asked how many there were and was given this answer.

Mr. STRATTON. You testified before that he was concerned as to whether women and old men and children were included in the Viet Cong body count?

Colonel BLACKLEDGE. That is right. He wanted to know whether the body count included noncombatants; if so, how many.

Mr. STRATTON. The validity of the enemy body count is one of the first requirements of the S-2 of any organization, is it not?

Colonel BLACKLEDGE. That is certainly true, yes, sir.

Mr. STRATTON. How can you tell us that you were not very much interested and didn't pay attention when the conversation got to that subject?

Colonel BLACKLEDGE. I didn't say I paid much attention. I am repeating the conversation, I was lying there within a few feet.

Mr. STRATTON. You said a moment ago when he got to this subject you were not concerned about it?

Colonel BLACKLEDGE. When we got on the subject of whether they were receiving proper medical care, and so on.

Mr. REDDAN. Wait a minute, Colonel. Were they talking about wounded civilians or dead civilians?

Colonel BLACKLEDGE. This is another thing. You say so many were killed. That was something else that I didn't say. I said that——

Mr. REDDAN. What did Captain Medina tell him?

Colonel BLACKLEDGE. Between 20, or 26 to 28, according to my recollection, were hit. That was the term I recall him saying, "hit." That developed into: "What is being done for them?"

Mr. REDDAN. What did Captain Medina say?

Colonel BLACKLEDGE. He said that he called for medical evacuation.

Mr. LALLY. For 28?

Colonel BLACKLEDGE. This is my understanding.

Mr. REDDAN. Did you ever check to find out whether there had been any medical evacuation?

Colonel BLACKLEDGE. No, sir.

Mr. REDDAN. Who would have had the responsibility for the medical evacuation? Brigade?

Colonel BLACKLEDGE. We had the responsibility, I am sure, to call for it. The closest medical facilities to that area were really up at division headquarters. This area happened to be closer to the division and the medical facilities there than it was to Duc Pho and your little brigade hospital. This particular battalion got a lot of support frequently out of the division because they were closest to the division than to us.

Mr. REDDAN. Had the wounded been lying back there all this time? What did you say, a day or two after the action?

Colonel BLACKLEDGE. I didn't gather that the people were still lying out there as of the time. The point was that the people had been hit and the medical evacuation had been called for. Whether it had been actually accomplished or not I didn't get out of the conversation. I think perhaps I assumed this had been.

Mr. REDDAN. He wanted to know whether or not any of the casualties, 128 killed, contained women and children. Isn't that right?

Colonel BLACKLEDGE. The answer to that was no. This was the valid body count. Then he asked about how many noncombatants had been hit. That is where the figures 20 to 28 came up, or 26.

Mr. REDDAN. Did Medina indicate there had been casualties caused by artillery prep?

Colonel BLACKLEDGE. I don't recall that he specified how they were—

Mr. REDDAN. When you appeared before us before, you told us that Medina indicated that there had been civilian casualties perhaps caused by artillery preparation. Is that your present recollection?

Colonel BLACKLEDGE. Well, I am just thinking now. There had been an artillery preparation in this operation.

Mr. REDDAN. I meant before the Peers group.

Colonel BLACKLEDGE. Yes.

My present recollection of the conversation is not that he had specified probably caused by artillery. Whether I did recollect it then, or whether I inserted it myself out of my own feeling, this could have been why they were caused, I don't know.

Mr. STRATTON. Colonel, did I understand you to testify a moment ago that this conversation between Colonel Henderson and Captain Medina took place while you were lying in a bunker?

Colonel BLACKLEDGE. No, sir. In a potato patch out on top of the ground. It looked to me what looked like a potato patch.

Mr. STRATTON. You were prone?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. After this time, when was the next time that you heard any allegation concerning possible civilian casualties as a result of this March 16 Task Force Barker operation?

Colonel BLACKLEDGE. The first time that I heard any allegation—and I didn't really hear it; I read it—was in an intelligence report which came from some agency in Quang Ngai. There was a huge number of agencies, either Vietnamese or American or combined intelligence-type agencies, all working side by side up there. They all turned in a number of reports daily. That came into them from their various agents' networks. The first report I received, and I best recall, was something approaching a month later, was to the effect that the VC were going among the population propagandizing Americans had slaughtered hundreds of people in this particular area on this particular day.

In reading over that, I recalled that we had run an operation there and so I knew the Americans they were talking about were none other than Task Force Barker. And I, therefore, took the report and showed it to Colonel Henderson.

Mr. REDDAN. From whom did that come to you?

Colonel BLACKLEDGE. I do not recall which agency put it out. As I say, I was out on automatic distribution from a number of agencies all of which put out these reports. They hectographed them and sent them to everybody interested. I just was on the distribution list and received them from so many places every day. I got a stack that high [indicating]. Where this particular report came from, which particular agency, I do not know. I am quite sure it was in Quang Ngai City.

Mr. REDDAN. When you got this report why did you take it to Colonel Henderson?

Colonel BLACKLEDGE. Well, because I could tell by matching up the area and the date that they were talking about the 11th Brigade; to wit, Task Force Barker and the operation that we had conducted at that time. I felt he ought to see the report.

Mr. REDDAN. In a matter that you and Colonel Henderson were discussing with Captain Medina?

Colonel BLACKLEDGE. That probably entered into my mind. I am not sure that I really tied them up at that time. I don't think that I ever thought to myself at the time I received that report that this was anything more than Viet Cong propaganda because my conversation with the colonel at that time was, sir: "Boy, they are telling big whoppers now. Look at this one."

Mr. REDDAN. They were talking about civilian casualties, and Mr. Lally will show you a document.

Mr. LALLY. I show you, Colonel, a document signed by Lieutenant Tonh, district chief, dated April 11, 1968, and ask if this is the document to which you previously referred.

Colonel BLACKLEDGE. No, sir, it is not. In fact, I never saw this one until I appeared before the Peers committee. The kind of documents that we got at the top had various information concerning the agency that had prepared the report. There was a little paragraph about the size of this first one here and it was in the space of about 2 or 3 sentences to the effect Viet Cong were going among the population propagandizing that a number of hundreds, and it seemed like 400 or 500 civilians, had been wantonly slaughtered by Americans at this place in this location.

Mr. REDDAN. You say this came to you first and you took it to Colonel Henderson?

Colonel BLACKLEDGE. Yes, sir, came to me in the automatic distribution.

Mr. REDDAN. Tell us the approximate date of that.

Colonel BLACKLEDGE. The closest that I can come was that it was several weeks later and I would say—I told the Peers committee—I would say about a month. That is the best that I can do.

Mr. REDDAN. About the middle of April?

Colonel BLACKLEDGE. Perhaps; yes, sir.

Mr. REDDAN. That is about it?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. What did Colonel Henderson tell you when you told him this?

Colonel BLACKLEDGE. Something to this effect: Yes, sir, we are aware that division headquarters is also on distribution for these reports coming out of Quang Ngai Province.

He said: "Division is already aware of this. We are looking into it. We are asking the Vietnamese authorities to check into it and make sure it is nothing more than Viet Cong propaganda," or words to that effect.

Mr. REDDAN. Who was making the investigation?

Colonel BLACKLEDGE. My understanding was that division was making the investigation at that time.

Mr. REDDAN. Who had the responsibility for the investigation? Did he tell you that?

Colonel BLACKLEDGE. No; he did not.

Mr. REDDAN. Did you ever see a copy of the report of the investigation?

Colonel BLACKLEDGE. Task Force Barker made a combat report on the operation.

Mr. REDDAN. Not combat report. I am talking about an investigation of the allegation of the civilian casualties.

Colonel BLACKLEDGE. I believe that the colonel did forward a letter having to do with this particular incident, indicating that Vietnamese authorities had verified that no such incident had taken place, or words to that effect.

Mr. REDDAN. Did he do this on his own or did you do this in response to something he had gotten from General Koster?

Colonel BLACKLEDGE. That is something that I did not know. At the time it went across my desk, I thought that he was doing this as a part of the investigation or as input into the investigation that the division was conducting. I was later told by the Peers committee that, no this was not the case. Brigade had been asked by the division to conduct the investigation. Something which I did not know at all while I was there.

Mr. REDDAN. Were you ever shown a copy of a report—copy of a letter from General Koster to Colonel Henderson ordering him to make this investigation?

Colonel BLACKLEDGE. No, sir.

Mr. REDDAN. Did you ever turn over a copy of such a letter to your staff sergeant?

Colonel BLACKLEDGE. I know that we had to maintain a folder of information that—I didn't know what was in the folder, but one of

the things that could have been in there was perhaps some information concerning this incident.

Mr. REDDAN. Why did you think that? You didn't know what was in the folder?

Colonel BLACKLEDGE. No; I didn't.

Mr. REDDAN. Why do you think that was in there?

Colonel BLACKLEDGE. Now, I say perhaps because the Peers committee made such a big thing about it.

Mr. REDDAN. I don't care what the Peers committee did. I am asking you what you knew about this from your own operation. I want to warn you, Colonel, you are under oath before this committee and I don't know how the Peers committee feels about things of this nature. This committee requires precise and truthful answers to the questions. I feel that you should know that it is just as much a violation of your oath not to tell the truth, to evade or give partial answers as it is to tell a deliberate falsehood.

Colonel BLACKLEDGE. In an effort to give the most information I can, I sometimes have to give—

Mr. REDDAN. I assume that is so, but I feel that in all fairness to you, I want you to know exactly what your position here is before this subcommittee.

Colonel BLACKLEDGE. May I say something?

Mr. REDDAN. Yes.

Colonel BLACKLEDGE. Sir, I know that it is frustrating to you for me to come back with what seem to be evasive answers. I wish that I was able to be more specific. Here it is now better than 2 years later and I am doing my best to come up with answers on things that happened on a certain day which, to me at the time was the same, not exactly the same, but very similar to many, many other days that were out there in Vietnam. We had operations, many of them, before this, and operations, many of them, after. Some of them not as significant perhaps but—

Mr. STRATTON. We understand all of this, Colonel. Let us address ourselves to the specific questions and I think that Mr. Reddan is quite accurate; he is pointing out to you that you are testifying under oath before a congressional committee. Whether you are retired or on active duty has no bearing on what this committee will do with respect to testimony presented before us. Let's get back to the question here and see if we can get the answer to the question.

Mr. REDDAN. I will present another question at this point, Mr. Chairman.

When did you first see a copy of this so-called Henderson report?

Colonel BLACKLEDGE. Well, since I left the brigade in May it would have been either in—sometime during the month of April, I would say.

Mr. REDDAN. April when?

Colonel BLACKLEDGE. That I couldn't pin down.

Mr. REDDAN. What year?

Colonel BLACKLEDGE. Of the same year that this happened.

Mr. REDDAN. You saw a copy of it in April 1968?

Colonel BLACKLEDGE. Yes, sir.

Mr. REDDAN. Did you see a handwritten copy of it?

Colonel BLACKLEDGE. That I don't recall.

Mr. REDDAN. Did Colonel Henderson give you a handwritten copy of this report and tell you to have it typed up?

Colonel BLACKLEDGE. Sir, to answer you very specifically, I now believe that he did, but I answered the very first time that he did not. When I was shown my own initials at the top of the typewritten copy, then I knew then myself that I had seen the typewritten copy.

Mr. REDDAN. I am asking you first about the handwritten copy. Did you see a handwritten copy?

Colonel BLACKLEDGE. My own recollection was that I did not. I don't feel it would be an untruth to say he probably did hand it to me in view of what I later found out.

Mr. REDDAN. Let us start over again, Colonel, and get some of these answers sorted out. Did Colonel Henderson give you a handwritten copy of his report and ask you to have it typed out?

Colonel BLACKLEDGE. Just flat from my own recollection, I don't recall.

Mr. REDDAN. Do you deny it?

Colonel BLACKLEDGE. I don't deny it, because I later was given additional information which indicated to me that he did.

Mr. REDDAN. It does not spark any recollection?

Colonel BLACKLEDGE. It does not spark a recollection, no.

Mr. REDDAN. Did you take this handwritten copy to your sergeant and tell him to get it typed up?

Colonel BLACKLEDGE. I was told that I did. I don't disbelieve it.

Mr. STRATTON. Colonel, may I just interrupt here one second. There is no question in your mind that you recall getting reports through Vietnamese channels of the murder from 400 to 500 civilians in the My Lai area?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. No doubt about that? Do you have a clear recollection of that?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. There is no question in your mind either that you discussed this allegation with Colonel Henderson?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. And that you recall it was the operation in which there was a body count of 128. Is that correct?

Colonel BLACKLEDGE. That is right, sir.

Mr. STRATTON. There is no question in your mind that you also discussed, talked to Colonel Henderson and that he told you that an investigation was being made?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. That is very clear in your mind?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Yet you now tell us that when Colonel Henderson comes up with a report of his investigation of this matter, which you have been discussing with him, you just don't have any recollection of his having given you that report or not?

Colonel BLACKLEDGE. Yes, sir. That may be the part that is hard to swallow.

Mr. STRATTON. It is hard to swallow.

Colonel BLACKLEDGE. Yes. If I saw such a report and it only reiterated what he told me, I would have thought nothing strange about the fact he is putting down on paper what he told me. Actually, my recollection may have come partly from seeing the report and partly from talking to him. At this stage of the game, I am just unable to sort

that out completely. I do recall talking to him because I can visualize the tent there and him standing there and telling me this while I talked to him. I think the written report just didn't stick in my memory.

Mr. STRATTON. I think it is important for you to realize, Colonel, that you are testifying before this committee for the first time and the important thing is to tell us the truth, not to try to find some way that you can square what you say here with something that you may have told somebody else.

Go ahead, Mr. Reddan.

Mr. REDDAN. Colonel, I show you a photostatic copy of the so-called Henderson report, dated April 24, 1968. You will note on the upper right-hand corner of the first page "Printed File," and then three initials. Whose?

Colonel BLACKLEDGE. Those are my initials.

Mr. REDDAN. Did you put those on there?

Colonel BLACKLEDGE. It looks like the way I print. I feel those are my own initials.

Mr. REDDAN. Look at the first enclosure and page 2 of the first enclosure and at the bottom of the page you will see there two corrections made in the copy. Did you make those corrections?

Colonel BLACKLEDGE. I may have. Let me look at my printing here. I just can't identify that printing, sir, nor do I recall this particular page here.

Mr. REDDAN. How did your initials get on that?

Colonel BLACKLEDGE. Sir, when I saw my initials on it, I assumed that when this was produced that a copy of it was to be left in my files and that it was put across my desk for me to look over before it went out. I marked that copy "File" and other copies went forward back to the Colonel to be signed or whatever.

Mr. REDDAN. That is not a copy. That is a photostat of an original. If you look at that first page, you see that has the letterhead of the company. That is not a carbon copy.

Didn't you have that report typed twice?

Colonel BLACKLEDGE. That doesn't ring a bell with me at all, sir.

Mr. REDDAN. If we have testimony that says that you did have it typed twice—

Colonel BLACKLEDGE. I didn't deny it. I couldn't. I don't have any recollection of it.

Mr. REDDAN. What did you do—what would you have done with that report?

Colonel BLACKLEDGE. When I look at this right now I would say there are probably more than one copy. This was a carbon—

Mr. REDDAN. Why do you say that is a carbon? It has the letterhead at the top. Did you ever have a carbon with letterhead at the top?

Colonel BLACKLEDGE. Yes, sir. All of our paper, the letterhead is to be typed on the same as the paper. We started from scratch and put the letterhead on it, went on to carbon as well.

Mr. STRATTON. Typed on there?

Colonel BLACKLEDGE. Yes, sir. I believe it was.

Mr. REDDAN. Isn't that a printed letterhead?

Colonel BLACKLEDGE. No, sir. I don't think so.

Mr. REDDAN. You are sure about that piece of testimony?

Colonel BLACKLEDGE. It looks like all other reports we turned in. When we started, we didn't have any letter paper that I know of.

Mr. REDDAN. What would you have done with that report that has your initials on it?

Colonel BLACKLEDGE. I would have given it back to Sergeant Gerberding and told him to put it in the file or else he was going to do that and I took one copy off and stuck it in my out basket with a mark "file" on it and he would have put it in the file.

Mr. REDDAN. Colonel, maybe it will help you a little bit if I can tell you that there are two copies. There is a carbon copy of this, Sergeant Gerberding had it in his desk drawer. He didn't put it in the file. Do you have any idea why he didn't put it in the file?

Colonel BLACKLEDGE. No, sir. Here again, you are telling me something that was also told me by the Peers committee. So I know that he told them that and they told me that and asked me the same question. I didn't know why he put it in his drawer. Although they further said that he told them that he put this in the drawer because he felt that it was something that shouldn't be put in an open file.

Mr. REDDAN. Did you tell him, tell Sergeant Gerberding to keep this confidential?

Colonel BLACKLEDGE. That I don't recall. I was told by the Peers committee he told them that I told him that. I cannot deny it either because I don't have any recollection of it.

Mr. STRATTON. You recall turning this over to Sergeant Gerberding to get it typed up, don't you.

Colonel BLACKLEDGE. No, sir; I don't recall anything about this report. I initially said I didn't even remember it until I was shown my own initials. Then of course—

Mr. STRATTON. You remember a casual conversation with Henderson about the question of civilian casualties and the propaganda charges, but the specific detail on the talks on them you have no recollection of whatsoever? A specific document?

Mr. STRATTON. Is that the testimony that you want to remain in the record?

Colonel BLACKLEDGE. That is about the size of it. That is it. That is what I told the Peers committee.

Mr. REDDAN. We are not interested in what you told the Peers committee. Don't be trying to make this record consistent with what you told them. If your best recollection is different at this time, give us your best recollection. Don't try to keep these records uniform.

Colonel BLACKLEDGE. No, sir. I don't want to keep them uniform. I am saying to you that I was faced with this same problem of being shown my own initials and suddenly realize that I was incorrect in having said previous to that time that I had not seen this report. When I look at the report, I say to myself, "Gee, this is close to what the colonel told me." If I had anything to do with it, it only backed up what he had told me. So I wouldn't have thought it strange to be put on paper the same way he told me. Although, as I point out, it is more detailed here.

Mr. STRATTON. Sergeant Gerberding was your sergeant in the S-2, is that correct?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. If he typed up this report he would have had to type it up on your order, would he not?

Colonel BLACKLEDGE. Normally most things that were done were done on my order. Although it would not have been untoward for

someone senior to me to have asked him to do it. I am not trying to weasel out on that because I feel that if he says that, and he recalls that I am the one that told him, then I trust his recollection because he is a pretty sharp character. If he says I gave it to him, then I agree with him more likely than that. I cannot deny it because I don't recollect it.

Mr. STRATTON. How was this report to be handled?

Colonel BLACKLEDGE. Looks to me as though it would get back to the division commander.

Mr. STRATTON. Under any special kind of treatment?

Colonel BLACKLEDGE. Well, we have it marked confidential which would indicate it has got to be handled with—about everything we had over there was confidential.

Mr. STRATTON. Confidential is nothing in the military, you know that.

Colonel BLACKLEDGE. Right.

Mr. STRATTON. This confidential document wouldn't require any unusual treatment, would it?

Colonel BLACKLEDGE. No, sir.

Mr. STRATTON. This document was given rather special treatment, wasn't it?

Colonel BLACKLEDGE. This is what Sergeant Gerberding has testified. I don't recall it.

Mr. STRATTON. You don't recall anything about it?

Colonel BLACKLEDGE. No, sir.

Mr. STRATTON. If he testified that this was to be marked, "for the eyes of the commanding general only," would that be a correct statement?

Colonel BLACKLEDGE. There again, I just don't recall it whatsoever. However, I hate to keep saying this, but I was worried that this was the case by the Peers committee. So I have heard the statement before and the terminology before, but it just didn't ring any bell with me.

Mr. STRATTON. You say that if Sergeant Gerberding said this was the case, that this would probably be the case. Is that right?

Colonel BLACKLEDGE. Yes, sir. If he has direct recollection, I have enough respect for his intelligence, and so on, that I wouldn't—how could I dispute it if I don't recall one way or the other?

Mr. STRATTON. If he said that he marked it in this way at your instructions, that would also be something that you would be inclined to agree with, too; is that right?

Colonel BLACKLEDGE. I certainly couldn't disagree with it.

Mr. STRATTON. How would this normally be handled in your office? You would send the original to the commanding general. What would happen to the file copy?

Colonel BLACKLEDGE. Sir, this is not a usual letter. The file symbol up here is XICO, which means that is being sent by the brigade commander. If I were to, most all of my correspondence would have a different XIRM. XICO would appear to me that we are being asked to type up something for the CO. I would return back to him all the copies of what he wanted typed up.

Mr. STRATTON. Return back to the CO?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Didn't he have his own stenographer? Why does he have to come to you to get these things typed?

Colonel BLACKLEDGE. Sir, I don't recall that he had his own.

Mr. STRATTON. Then you provided typing services for the CO?

Colonel BLACKLEDGE. Whenever it was classified we normally had to provide the typing services; yes, sir.

Mr. STRATTON. Then you—

Colonel BLACKLEDGE. Either we or the S-3. They also had people that could work on classified material.

Mr. STRATTON. You were all in the same restricted area, weren't you, S-2 and 3?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Wouldn't the files that would normally house copies of communications of this sort be located in that same restricted area?

Colonel BLACKLEDGE. Yes, sir. I would say so.

Mr. STRATTON. Wouldn't the normal thing be to put the copies into those files?

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. Do you know whether that is what happened to this particular document?

Colonel BLACKLEDGE. No, sir.

As I say, I don't even recall the whole doggoned document so I cannot say that I know what files it was put into. I can say this would be a normal course of events with files.

Mr. STRATTON. If Sergeant Gerberding testified that this was not put into the files but was put into his desk drawer so that not too many people would see it, do you dispute that?

Colonel BLACKLEDGE. That he said this was at my insistence or on his own?

Mr. STRATTON. Just answer the question. Would you dispute his testimony that this, as a matter of fact, was not placed into the ordinary files in the S-2-3 restricted area but was put into his own desk drawer so that not too many people would see it?

Colonel BLACKLEDGE. I have no recollection of it at all, sir.

Mr. STRATTON. You wouldn't dispute it, though?

Colonel BLACKLEDGE. Well, I know that he testified such.

Mr. STRATTON. If he testified that he did this at your insistence and direction, would this be something that you would also accept?

Colonel BLACKLEDGE. Well, I am a little bit at a disadvantage, having no recollection whatsoever. I am certainly not disputing that because I cannot say I know one way or the other. I do feel it would be unusual to put a classified document in the sergeant's desk, which is not a normal classified container.

Mr. STRATTON. You knew it would be. You know your desire was there not be much publicity given to this whole matter. You were aware of that, weren't you?

Colonel BLACKLEDGE. No, sir. As a matter of fact, I was not even aware of that. I felt that the division was conducting the investigation, that the Vietnamese authorities had reported back that there was no substance to the reports. And a report like this, if I had seen it, would have been just a backup, you might say, or a résumé of that same information.

Mr. STRATTON. Here is the report that the division is conducting. You initialed it?

Colonel BLACKLEDGE. Yes, sir, a report to the division.

Mr. STRATTON. You don't initial things without even reading them, do you?

Colonel BLACKLEDGE. No; if I initialed it I am sure that I read through it.

Mr. STRATTON. This is the response to the allegations. This didn't make any impression on you at all?

Colonel BLACKLEDGE. It is certainly making an impression now, but at the time I cannot recall it did, no, sir.

Mr. STRATTON. Did you tell us that you saw hootches burning in My Lai 4 when you flew over them?

Colonel BLACKLEDGE. In the general area that I later came to consider to be right around My Lai 4, and several other areas close by there, I saw places smoking where obviously there had been hootches before, but from what I could see they were completely down, already burned to the ground. There were just some smoking bamboo or wood or something causing some smoke to rise from those areas.

Mr. STRATTON. Would they be smoking 24 hours after the assault?

Colonel BLACKLEDGE. Yes, sir. I don't see any reason why they wouldn't unless there was rain.

Mr. STRATTON. Did Colonel Henderson tell you that he had ordered Captain Medina to go back into My Lai 4 to determine how the civilians in question had been killed?

Colonel BLACKLEDGE. No, sir.

Mr. STRATTON. Any other questions?

Mr. LALLY. When you went up to Dottie with Colonel Henderson that morning, what did you do at Dottie?

Colonel BLACKLEDGE. At Dottie?

Well, I believe that I went into the Tactical Operations Center and spoke with the Battalion S-2 and other people that were there in the Tactical Operations Center; talked to people that were working in there on the radio, and so on.

Mr. LALLY. Where was Colonel Henderson at this time?

Colonel BLACKLEDGE. He was not with me a good part of it. To the best of my recollection, he was either talking to Colonel Barker or with other people.

Mr. LALLY. In the TOC?

Colonel BLACKLEDGE. I just don't recall his location, but I do recall that he was not with me for a while. This came to a certain time when he came and said to me, "Let's go. We are going to go now." It was not a matter of—I really didn't pay too much attention to what he was doing. I was given by him permission to go and talk to the S-2, and the understanding was that he would let me know when it was time to go.

Mr. LALLY. Do you recall General Young being there that morning?

Colonel BLACKLEDGE. We went to Dottie on several occasions and I do recall General Young being there on those occasions. As I say, this was closer to division headquarters than our place. General Young was normally, if he wanted to talk with the colonel, able to meet him there a lot better than having to come down—

Mr. LALLY. Let's be more specific. On this particular date do you recall General Young being there?

Colonel BLACKLEDGE. I feel he was there that day. He was there that day because I have a slight recollection.

Mr. LALLY. After Colonel Henderson got finished meeting with General Young, wasn't he a bit agitated?

Colonel BLACKLEDGE. Not any more than usual to me. He is always a pretty highstrung, fast-moving type individual. I didn't notice that he was any more agitated than he ever was. In fact, I didn't think that he was agitated.

Mr. LALLY. After his meeting with General Young, did he ask you what you knew about the Task Force Barker operation?

Colonel BLACKLEDGE. No, sir.

Mr. LALLY. Did he ask you whether you got reports of civilian casualties?

Colonel BLACKLEDGE. No, sir. My first indication he was at all interested in noncombatant casualties is when we were lying there on the ground and the conversation turned to that while I was—

Mr. LALLY. Directing your attention to the period before the March 16 operation, in the briefing for Task Force Barker, whether it was oral or a written memorandum, do you know whether any consideration was given to civilians that might be encountered by Task Force Barker in the operation?

Colonel BLACKLEDGE. I don't recall anything being said about it in particular.

Mr. LALLY. Did you expect there would be civilians in this village or in the villages that were going to be attacked?

Colonel BLACKLEDGE. There were civilians living all through the area all the time. My normal expectation would be, yes, there are civilians living out there.

Mr. LALLY. Was any suggestion made about the timing of the operation to avoid civilians, if you recall?

Colonel BLACKLEDGE. I don't recall. I would say this: There is only one way to avoid civilians; that is, warn them in advance that—by one means or another—that an operation is about to be conducted in the area. There were several ways this was done from time to time. For instance, some of our Air Force pilots would drop smoke in an area before they actually went in and started a preparation so that civilians would have time; when they saw the smoke they would understand something was about to happen right there and they had better go someplace else.

Mr. REDDAN. Viet Cong have the same understanding of the smoke signals?

Colonel BLACKLEDGE. They probably did.

Mr. LALLY. Was such a signal given to the civilian population prior to this operation?

Colonel BLACKLEDGE. That I couldn't tell you.

Mr. LALLY. I direct your attention, Colonel, to the enclosure to the Henderson report which is captioned "Statement." I believe it is enclosure 1. Do you ever recall seeing that document previously?

Colonel BLACKLEDGE. I saw this when I appeared before the Peers committee. That was the first time.

Mr. LALLY. You don't recall seeing it in Vietnam?

Colonel BLACKLEDGE. No, sir, I do not.

Mr. LALLY. I show you, Colonel, another document, again captioned "Statement," dated April 14, 1968, and bearing the written signature of Captain Rodriguez. Do you recall seeing that in Vietnam?

Colonel BLACKLEDGE. No, sir.

Mr. LALLY. You do not?

Colonel BLACKLEDGE. I saw it at the Peers committee.

Mr. LALLY. For the first time?

Colonel BLACKLEDGE. Yes, sir.

Mr. LALLY. That is all.

Mr. STRATTON. Mr. Gubser?

Mr. GUBSER. No questions.

Mr. STRATTON. Thank you very much, Colonel. We will excuse you now.

Colonel BLACKLEDGE. Yes, sir.

Mr. STRATTON. The committee will stand adjourned.

[Whereupon, at 1:30 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Saigon, Vietnam, Tuesday, May 12, 1970.

The subcommittee met, pursuant to notice, at 10:20 a.m., at the Conference Room, MACV Headquarters, Saigon, Vietnam, Hon. Samuel S. Stratton (acting chairman) presiding.

Members present: Representatives Stratton, Gubser, and Dickinson.

Staff present: Frank Slatinshek, assistant chief counsel, Committee on Armed Services; John T. M. Reddan, counsel, Armed Services Investigating Subcommittee; John F. Lally, assistant counsel; and Charles Halleck, consultant.

Participants: Gen. Creighton W. Abrams, USA, Commander, U.S. Military Assistance Command, Vietnam (COMUSMACV); Lt. Gen. Frank T. Mildren, USA, Deputy Commanding General, USA, Vietnam, (USARV); Brig. Gen. L. V. Greene, USA, ACofS, J1, MACV; Brig. Gen. William E. Potts, USA, ACofS, J2, MACV; Brig. Gen. W. R. Kraft, Jr., Deputy, ACofS, J3, MACV; Col. R. P. Scoggins, USA, Special Assistant, CORDS, MACV; Col. L. H. Williams, USA, SJA, MACV; Col. R. M. Cook, USA, IG, USA; Lt. Col. E. L. Trobaugh, USA, CO, 2d Battalion, 7th Calvary, 1st Calvary Division (Airmobile); Lt. Comdr. F. R. Ball, USN, SJA, II FFV; and Col. J. F. H. Cutrona, Public Information Officer, Headquarters, MACV.

General GREENE. Mr. Stratton, we have prepared a briefing this morning in response to the requirements of your message. It is basically broken into two parts, as can be seen from the agenda in the inside of the folder, addressing specific problems that you brought up in the message; and then, time permitting, some updating of the current situation here in Vietnam.

The first presenter is Colonel Williams.

I might also say, in your message you specifically requested some members of the staff, by position, to be present. The J-2 is present, General Potts: the representative of J-3; General Kraft, is on my right here. And your message indicated J-5. We thought you intended that the classification role development people be here and Colonel Scoggins represents the CORDS element.

Mr. STRATTON. You don't have a J-5 as such?

General GREENE. We have a J-5, but in Operations and Plans.

General ABRAMS. It does not have a civil affairs function. It is purely a long-range military and planning element.

Mr. STRATTON. Very good.

General ABRAMS. I might say, too, I think you mentioned the chief of staff?

General GREENE. The chief of staff with whom you have already had a visit this morning.

General ABRAMS. He is quite new in this area, and so is General Cole, acting J3. General Kraft is the acting deputy. General Cole has been here such a short time, I don't think he would be very good for that at this time.

Mr. STRATTON. That would be fine.

STATEMENT OF COL. L. H. WILLIAMS

Colonel WILLIAMS. Good morning, gentlemen. I am Colonel Williams, staff judge advocate, headquarters, MACV.

Prior to your arrival, the Department of the Army, acting for the Department of Defense, transmitted a proposed itinerary, a list of persons you desired to see, and a list of subjects that you desired briefings on. Included therein was a paragraph containing specific questions on the My Lai incident. My briefing concerns that paragraph. I will answer the questions in the message that I mentioned stated you desired answers to, insofar as this headquarters can provide them.

That there was a My Lai incident first came to the attention of this headquarters in June of 1969 when it began to receive requests for bits of information concerning certain allegations involving elements of the Americal Division on March 16, 1968.

Some of these came to headquarters, USARV and some directly to this headquarters.

On October 25, 1969, U.S. Army, Vietnam, furnished this headquarters with a copy of the Department of the Army investigation. This was the first time this headquarters became aware of the full scope of the investigation. As you know, the investigation was conducted by representatives of the Department of the Army, and this headquarters, which is a joint headquarters, only assisted in supplying needed details, as requested.

With respect to the overall impact of the incident on operations and personnel, senior commanders have been queried and here are the results: Commanders generally believe that troop morale has not been adversely affected by revelation of the My Lai incident and that, although there may have been a temporary drop as a result of unbalanced press coverage, there has been no lasting impairment. This is because troops in the field are preoccupied with their own problems and do not feel responsible for operations in which they played no part.

Other commanders believe that soldiers are now more prone to question their leaders' wisdom and judgment under combat conditions, and that troop morale will be affected by such questioning and hesitation or uncertainty on the part of junior officers. Commanders at all levels are trying to prevent such incidents. This is being done by more careful planning of operations and thorough briefing of troops to insure that rules of engagement are followed.

There does exist some apprehension among officers that they may be unfairly blamed for operational incidents. This has resulted in a lessened aggressiveness, particularly in aviation units. There also appears to be uncertainty in the minds of some officers, which affects their morale, as to the extent they will be backed up by the Army in all matters. This may affect retention rates among officers.

Other than the above, morale and attitudes of commanders do not appear to have been adversely affected by news of the My Lai incident.

Planners and commanders are attempting to avoid fighting in or near populated areas where possible. Except for these factors, there has not been any significant degradation in the conduct of ground operations as a result of the My Lai incident. There is also probably a greater sense of importance and urgency to investigate any suspected irregularity or incident.

With respect to the question as to the adequacy and training of our troops in the treatment of civilian noncombatants, the Peers committee stated:

In 1968, the then existing policies and directives at every level of command expressed a clear intent regarding the proper treatment and safeguarding of noncombatants (p. 12-7).

This headquarters has, nevertheless, thoroughly reexamined its existing policies and directives on the subject.

Let me state briefly, as a preface, that all military personnel coming into the country are briefed on the Geneva Conventions by their own military services prior to arrival and after arrival here. The Army has a regulation requiring all commanders must insure that such briefing has been accomplished and entered on individual service records.

As to the briefing at this headquarters, my chief of international law—a Navy commander—does the daily briefings at this headquarters, as did his predecessor. Each individual coming into country is also given a copy of the "Nine Rules" and of "The Enemy Is In Your Hands." In addition, commanders are required to follow published rules of engagement of this headquarters so as to preclude indiscriminate firing or actions which needlessly endanger noncombatants. The rules of engagement apply equally to artillery, tanks, mortars, naval gunfire, riverine forces, and air and armed helicopter support.

In addition, this headquarters has defined in simple terms what war crimes are and specifically stated that all such acts are prohibited and will be punished.

I will send around MACV DIR 27-5.

After reexamination, it was determined that the existing policies and directives of this headquarters, respecting the treatment of civilian noncombatants, if followed, are adequate, and that the failure to follow them is a "people failure" which would not be remedied by the distribution of new or different materials. The next item requested is what changes have been instituted in troop training concerning noncombatants occasioned by the disclosure of the incident at My Lai. This training is conducted by USARV. On March 31, 1970, General Mildren directed the following:

One. Instructions on the Geneva Conventions and related matters will be by JAG and provost marshal officers, wherever possible.

Two. The Geneva Conventions will be taught separately from the code of conduct to emphasize their importance.

Three. All commands will present lesson material emphasizing its own operational environment and situations peculiar to its area of operation, and use hypothetical situations likely to be encountered in a guerrilla warfare environment.

Four. Commanders will review all training programs to insure increased knowledge of responsibilities under the Geneva Conventions.

Turning next to the question whether this headquarters considers that adequate measures have been taken to assure prompt and complete reporting of future possible incidents. The governing directives of this headquarters are MACV DIR 335-12 and MACV DIR 20-4, are applicable to all U.S. forces in Vietnam, and require an investigation into all "alleged or possible violations" of the Geneva Conventions.

MACV DIR 335-12 requires a spot telephonic report to the MACV Command Center as soon as possible. MACV DIR 20-4 requires formal written report. It states—paragraph 2—

Applicability. This directive is applicable to all alleged or possible war crimes violations of the subject Geneva Conventions, inflicted by hostile forces upon U.S. military or civilian personnel assigned in Vietnam, or by U.S. military personnel upon hostile military or civilian personnel.

It further provides—paragraph 4—that—

It is the responsibility of all military personnel having knowledge or receiving a report of an incident or of an act thought to be a war crime to make such incident known to his commanding officer as soon as practicable.

The prior directive in effect in March 1968 contained the same wording. USARV has recently revised its regulations governing reporting and investigation of firing accidents and incidents, the spot reporting of significant information, and the reporting of serious incidents, all with the view to broadening the categories required to be reported.

Subsequently, full reports of investigation of alleged war crimes, after review by senior commanders, are transmitted to this headquarters where they are reviewed. Thereafter, two copies of each report are transmitted by this headquarters to the Judge Advocate General of the Army, the executive agent of DOD for such matters. As you can see, such a system precludes coverup of a war crime once reported.

As to a lack of reporting or coverup, the basic problem again becomes a "people" problem. As noted in the Peers report, there was a coverup at a low level by persons having a duty to report. No change of wording in a directive will eliminate such failures to report. I believe that almost all war crimes, including those involving only a few people at the platoon level, are properly reported and investigated.

There were 7 war crimes reported in 1967, 9 in 1968, 8 in 1969, and 4 up to now in 1970. As may be seen, these have been reported both before and after My Lai under the directive you have which calls for such reporting. Let me give you a typical case. On November 3, 1969, Staff Sergeant Neal H. Lawhon of the 101st Airborne Division, while on patrol, cut both ears off a dead Viet Cong. Upon return of the patrol, this was reported at the critique by another member of the patrol to Lieutenant Johnson, the platoon leader. It was further reported in due course. A full report of investigation was completed by the Division Inspector General 7 days later on November 10, 1969. It was personally signed and transmitted to this headquarters on the same day by the Commanding General, 101st Airborne Division, in accordance with MACV DIR 20-4. Thereafter, Sergeant Lawhon was tried by a special court-martial and, in consideration of his age—19 years—his previously unblemished record, the fact that he had been beaten up by another sergeant upon his hearing of the incident, and

that his basis for the act was the recent decapitation of a close friend of his by the enemy, the sentence adjudged was a reduction to private and a forfeiture of \$50 per month for 3 months.

Almost all war crimes in Vietnam have involved acts by one person upon one person, and were induced by the stress of war reacting upon persons of varying qualities. As the London Times recently observed, "Under the stress of war, men sometimes do atrocious things. These are called atrocities." Such crimes are not indicative of the state of discipline in a command but are aberrations falling outside of normal indicators.

Are there any questions?

I will be followed by Lieutenant Commander Trobaugh, 1st CAV, who will discuss the broadcast of a CBS correspondent covering of Charlie Company, 2/7th CAV, which alleged that it refused to move down a road; and Lieutenant Fred Ball, SJA, II FFV, who will discuss the case of Lieutenant Duffy.

Mr. STRATTON. Thank you, Colonel.

The time is running out and we have a number of questions I think on some of these things. I think there is an area that we would like to explore a little bit.

This MACV 20-4 was in effect at the time of the My Lai incident. Words that you just read say that everybody has to report any war crime or any incident thought to be an atrocity. We have discovered in the testimony that we have had that the only excuse that we get for the failure of any word of this to get to the proper authorities was that people say: "Well, we looked into it and we didn't think this was a war atrocity."

How have you changed this so that the area of discretion is not as great? I can see that there is perhaps a technical out for some of these people. There were allegations of 500 people being killed. That is literally, which were investigated. That was supposedly an allegation of an atrocity, and in an investigation under this directive even the investigation is supposed to be coordinated with MACV.

The answer is: "We didn't think this was really an atrocity because it was just preparatory fires," or something or other.

What have you done to really avoid a repetition of this kind of thing?

Colonel WILLIAMS. There is some more material, sir. May I give you that?

Mr. STRATTON. I think we just would like to try to get the answer to the question.

Colonel WILLIAMS. Right at this point?

Mr. STRATTON. Give us that answer, if you have got it there.

Colonel WILLIAMS. Yes, sir.

Three directives of USARV have recently been revised. They require a reporting and investigation of all firing accidents or incidents. They require the spot reporting of significant information and they require the reporting of all serious incidents.

All of these have been revised with a view to broadening the categories required to be reported and to open up new channels of reporting.

General MILDREN. The main point is any civilian deaths must be reported.

Mr. STRATTON. Any?

General MILDREN. Yes, sir. Incidents or accidents.

Mr. GUBSER. Is that new?

General MILDREN. That is clarified now. That was not in effect as far as USARV was concerned in 1968.

Mr. DICKINSON. As distinguished from the Viet Cong?

General MILDREN. That is right. If there is a doubt, it is a civilian.

Mr. DICKINSON. You don't lump in 128 Viet Cong and it turned out half were women and children?

General MILDREN. Under the rules we have now, they have to be reported.

Mr. DICKINSON. These were not in effect then?

General MILDREN. They were very fuzzy. The USARV regulation that required the report that he mentioned, it was accidents or incidents. It was not clarified that it would be civilian deaths or accidents of short rounds even with military.

Mr. REDDAN. How about the Americal Division requirements for reporting civilian deaths due to artillery fire?

General MILDREN. It is clarified now.

Mr. REDDAN. I mean as of that time.

General MILDREN. I do not know. I could find no regulations back to 1968. As a matter of fact, our records are retired, as you know, as they are rescinded each year. We had a hard time even finding the USARV regulations for January 5, 1968. That was in effect at this time.

Mr. DICKINSON. While they are debating that, let me ask: If a person were killed and it is questionable whether he or she was a Viet Cong or not, say it was a woman but with a mortar tube strapped to her back or carrying a round or a weapon; would she then come under this provision and be reported as a civilian?

General MILDREN. If she is carrying a weapon or something strapped to her back, I think, obviously we would declare that an enemy.

Mr. DICKINSON. Would this be true if she or a child were carrying a grenade?

General MILDREN. I think so.

Mr. DICKINSON. Not reported as a—

General MILDREN. It is a matter of judgment to me. That is a hard one to analyze.

Mr. DICKINSON. Of course, as you recognize, this has been part of the problem.

General MILDREN. I know.

Mr. DICKINSON. Growing around this.

Are there combatants where they were not supposed to be, even if they didn't have a weapon; possibly they were in a group where there was a group with a weapon? What we are trying to do is see what sort of handle you have put on this thing to require better reporting. You say it is a matter of discretion. I am sure it is, but we want to know where you draw the line.

General MILDREN. The nature of this war makes it very difficult, as you well understand, to determine who the enemy actually is.

Mr. STRATTON. If I understand it now, you have a requirement that in any operation, if there are any civilians killed, this has to be reported?

General MILDREN. That is right.

Mr. STRATTON. There were x number of Viet Cong and x number civilians killed?

General MILDREN. This report on any incident or accident involving civilians must be sent telephonically within 12 hours, as far as USARV is concerned, and a written investigative report sent in within 30 days.

Mr. STRATTON. In other words, if they list any civilians, does this mean that there has to be a big investigation?

General MILDREN. Certainly, if I were the unit commander I would investigate it.

Mr. REDDAN. Does that directive define what a civilian is? Again, is it left to the commanding officer, to his discretion as to whether or not this is a civilian?

General MILDREN. I would say it is his discretion whether he is a civilian or not. I don't know how you could define what a civilian is from U.S. Army Vietnam.

Mr. REDDAN. I don't think so either. Doesn't that get you where you were before? Reporting procedures are discretionary, not mandatory?

General MILDREN. I guess so.

Mr. STRATTON. Let me ask this question. I think we get bogged down in this. There is no question, is there, on the part of anybody here that if what was alleged to have occurred at My Lai occurred, that this is completely improper and unwarranted and illegal? Isn't that true?

General MILDREN. That is right.

Mr. STRATTON. If you have a bunch of kids and women who come out with their hands up, they are herded into an area, presumably waiting to be evacuated, and somebody comes along and states, "Get rid of them. I told you to get rid of them. Waste them"—or whatever the word was—and they are shot down in cold blood. There is no question about the fact that that is incorrect, isn't it?

General MILDREN. Absolutely right.

Mr. STRATTON. Then can't we define some area of what we are talking about? If that is not proper, is that a different thing from shooting a woman who is carrying a mortar tube or a kid who appears to be running maybe with a grenade in his hand?

It seems to me we have to try to find some area in here so that we can make this division and so that we don't get back to the position that we were in the My Lai operation where they have got 128 VC reported killed and everybody at headquarters agreed that all but four or five of them were women and children but automatically lumped as VC. I think that is the question Mr. Reddan asked. How do you try to take care of these things?

I think there is a tendency when we are discussing it to say that this is a different war; how do you tell who is civilian and who is not a civilian?

Clearly, the kind of thing that is alleged at My Lai is not the sort of thing that you could say is hard to determine was improper and incorrect.

General MILDREN. If the circumstances are as you have outlined, there is no doubt about that. That is on this side of the fence. Certainly on the other side, somewhere in between there is a fuzzy area that I am not sure that you can define. Troops are attacking an area where there is definitely a lot of enemy firing back at them and we are suffering casualties. Put yourself in the place of that young lieutenant

down there. He knows that he is losing troops and he is going to exert the maximum amount of firepower and effort against that operation.

When you overrun that area, you find that there are some personnel there that could be civilians—could be. How do you write a definition of what that is? You don't know what they were doing in there.

Mr. REDDAN. General, once they come under your control, does it make any difference whether they are VC or civilians?

General MILDREN. No. Under our control are you going back to these people here?

Mr. REDDAN. No, My Lai 4. This is instead of talking generalities. I think that because of the shortness of time we ought to talk about this specific case. Here they had a group of people under their control for a considerable time, if what the Army tells us is correct. I don't see where it would make any difference whether you define them as civilians or VC. Can you justify what the Army says took place there?

General MILDREN. No, obviously you cannot.

General ABRAMS. I will go even further, sir. If what is alleged to have happened occurred, there is no regulation and there is no way to write a regulation that would prevent it. What you have is a people problem, not a regulation problem.

Mr. STRATTON. You have two things, don't you, General?

You have also the question of reporting. According to MACV 20-4 directive, it is the responsibility of all military personnel having knowledge or receiving a report of an incident or act thought to be a war crime to make such incident known to the commanding officer as soon as possible.

Somewhere here in the next paragraph:

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, MACV, and will make pertinent collateral information available to the appointing authority and investigating officers.

If you get a document that says 400 or 500 civilians were murdered in cold blood, that is clearly an act that is a war crime and there really isn't any alternative under this to make the proper report, is there?

General ABRAMS. No. The other thing is that—you see, if any people come into our custody, any people, men, women, children, Viet Cong, NVA or whatever they may be, once they are in our custody you cannot kill them anyway. There is no problem of definition about whether they are Viet Cong, Viet Cong sympathizers, or families, or Viet Cong anything, or just ordinary common garden variety civilians.

Mr. HALLECK. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. HALLECK. One short observation or question.

General, you commented on the fact this is a different kind of a war from anything we were ever in before, so far as I know. I would like to have just a little more attention paid to that, a little more explanation of that.

Nobody can condone cold-blooded murder because, as an oldtime practicing lawyer and prosecuting attorney, there are a hell of a lot of legal homicides where there is a defense. I don't suppose if what happened at My Lai really, if those allegations are all true, that is completely indefensible. Somebody ought to suffer for it.

On the other hand, assuming that maybe those facts are not altogether that way, and having regard to what undoubtedly are all the inherent difficulties in fighting this war, where apparently soldiers, enemy, and all are mixed up with civilians. I guess they might have SAM sites in Hanoi right in the heaviest populated areas?

General ABRAMS. There are some of them there.

Mr. HALLECK. Mr. Chairman, before we get through, I am not seeking to condone what happened at My Lai. I don't really know what happened there. But maybe it was not as bad as some people seem to think.

What, if any, excuse could there be for it?

General MILDREN. I know of none, if these allegations are correct.

Mr. GUBSER. Isn't this the point: Assuming that the allegation of what happened at My Lai is true, there was a regulation to prevent that, isn't that correct?

General MILDREN. That is right.

Mr. GUBSER. There has been no new regulation which would make it any more apparent?

General MILDREN. No, sir. I go back to what General Abrams said. You are not authorized to shoot anyone once they are under your control.

General ABRAMS. I would like to add to that, too, sir, two things:

One: I do believe in the early days of the Korean war that if there was a similar difficulty when, as the flood of refugees came through the lines, North Korean soldiers dressed themselves as peasants, and they came through with the refugees. In time, this was found out by accidentally searching them and finding they were carrying rifles or something under their clothing. In that period of the Korean war you had a similar type of thing where the military opponent fuses himself into the civilian population.

The other thing that I recall from my own experience in World War II and in Korea, I don't believe that the matter of the rules of land warfare, the treatment of civilians and noncombatants has ever been more assiduously covered by policy and by regulations down to the lowest unit. In World War II, I was a battalion commander and never saw material like the kind that is covered down to the lowest element in this war. This was all initiated long before this incident occurred.

Mr. GUBSER. May I pursue this directive matter further?

Mr. STRATTON. Yes. I want to try to nail this down, if we can, at this point, General.

Paragraph 2 of the MACV 20-4 says—let me read it again:

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, MACV, and will make pertinent collateral information available to the appointing authority and investigating officers.

Here is a report from a province chief with an allegation that 400 or 500 civilians have been killed. Does the commander who gets that report have any discretion under this directive in whether he is going to send this down to the staff judge advocate, MACV, or not?

General ABRAMS. I would say not.

Mr. DICKINSON. Regardless of what he believes, how exaggerated it might be, he has no discretion there?

General ABRAMS. Yes, sir.

Mr. STRATTON. Any failure to make that report is then a violation of this directive?

General ABRAMS. Yes.

Mr. STRATTON. What, if anything, has been done to tighten this up or to make it clear to commanders that they have no discretion here, that they cannot tell their colonels to make reports and then put the resulting documents into somebody's desk drawer instead of into the files?

Colonel WILLIAMS. May I answer that?

The telephonic report they are required to make to USARV within 12 hours and to headquarters precludes a later coverup. It is in paragraph (a) in 335-12 in front of you.

Mr. STRATTON. Where is the document about the telephonic reports?

Colonel WILLIAMS. Here, sir [indicating].

Mr. STRATTON. This is with respect to what?

Colonel WILLIAMS. It includes this item here.

In addition to that, USARV has three other regulations covering combat troops.

Mr. STRATTON. This new directive, in a way, strikes me, just looking at it—I have not had a chance to study it—as less embracing than 20-4. This refers to incidents which could be detrimental. Presumably if you have to find out whether the incident really occurred before you can report it, the MACV 20-4 talks about reports of probable war crimes.

Colonel WILLIAMS. They are both in effect, sir; in addition, there are three other USARV regulations. One of which is a serious incident reporting, says anything likely to be of embarrassment. If you shot a child it is likely to be of embarrassment to the U.S. Government. Even if we run down a child with a truck, sir, those come in on serious incident reports.

Mr. REDDAN. Colonel, back in February 1968, according to the information of the committee, General Westmoreland wrote a personal letter to the Chief of the Joint General Staff of the RVNAF, in which he enclosed a copy of a message which he had dispatched to all U.S. forces concerning mistreatment of prisoners or detainees. The message was signed by General Kirwan, Chief of Staff, MACV.

In that message it stated, after making reference to the MACV directive 20-4, "All known, suspected, or alleged war crimes or atrocities committed by or against U.S. personnel will be investigated in accordance with MACV directive 20-4."

Are the present directives or amended directives any stronger than this message sent out by General Westmoreland back in 1968 prior to the My Lai matter?

Colonel WILLIAMS. I think what you are noting is what General Abrams noted a little bit ago. There has never been so much attention to the Geneva Convention, either long before My Lai, written and spoken and commanders conferences, and that is just another evidence of it, sir.

I think the present regulations state the same thing.

Mr. REDDAN. That is the point I am trying to make. Back even before My Lai, General Westmoreland had taken as much action as could be taken on this particular subject; is that correct?

General ABRAMS. I would state it even more positively, that what has occurred is that we have reviewed all of these things which were

published well before My Lai ever occurred and we have found no way to improve or tighten the directives that were in existence then. Those were, of course, General Westmoreland's directives.

Mr. STRATTON. Let me ask another question, General, I think that follows from that. I am inclined to agree with you that the rules were clear cut and explicit. What apparently happened, on the basis of testimony that we have, is that there was not really very much of an attempt to follow up or get the word to the individual commanders. We have had testimony that there were in this general area a number of so-called sloppy operations where perhaps nobody worried too much about whether a few civilians were killed or mistreated.

What has been done to make sure that the individual commanders in the field make these rules and regulations known to their combat personnel more effectively than was done in the case of Task Force Barker?

General ABRAMS. I think that the publicity that has been mounted, the discussion that has occurred out of that has probably been the most effective instrument that we have had. There probably is no commander down to company commander, who is not conscious of this whole setup at the present time.

It has been emphasized at commanders' meetings and this sort of thing.

Mr. STRATTON. We have the problem that General Mildren touched on here a moment ago, that is, that I think there is a general feeling on the part of many soldiers, and certainly there is a general feeling on the part of the general public, "Gee, we are getting so finicky now that no guy can really defend himself in this kind of a war. You cannot even put an artillery preparation in to try to reduce casualties because you might kill a woman."

This is not what we are really talking about at all. That is why I am concerned about whether some effort is being made to spell out exactly what the thing is that is alleged to have occurred here, which is not proper, and to make sure it is not repeated in the future, without interfering in any way with the ability of a commander to call in artillery preparation, gunships, or anything else.

Mr. GUBSER. Right at that same point, we should crank into this the fact, as the briefer stated, there is lessened aggressiveness on the part of junior officers and there is less tendency to order combat in populated areas. This is going to have an effect upon our military effort. I think we ought to consider it in that context as well. Isn't that true?

Mr. HALLECK. As far as I am concerned it is.

Mr. SLATINSHEK. It has the same effect, Mr. Chairman, as the difficulty we have in our cities with policemen now being restricted in their ability to apprehend a suspect.

Mr. STRATTON. Let's see if we can get some answers here. We don't want to just philosophize on this thing.

Has there been something done to point out that the thing that is being referred to here is different from a commander using normal discretion in trying to reduce the casualties to his own forces in a military operation?

General ABRAMS. Excuse me just a minute.

General MILDREN. In addition to comments made by General Abrams relative to the publicity, I think the big change that we have effected here is the indoctrination that every man arriving in this country gets

within his first 7 days, telling him what these regulations mean and also emphasizing the fact that all these must be reported.

Mr. STRATTON. This seems to me, General, to be different from what we are talking about. The publicity, I tried to indicate in my own remarks, I don't think goes to the point. I don't think most of the American people now even really realize what the exact charge is.

We have spent so much time with it that I think we know it. This little sheet, I remember General Westmoreland giving me a copy of this back in 1966 when we met him out at Bien Hoa.

I don't think the initial briefing is what we are talking about. What are the combat commanders doing to their troops as to say:

Look, fellows, nobody is telling you that you cannot be aggressive or that you cannot move in on your objective areas as vigorously as you can do. What you have to be certain of is that if you have a live civilian, if you have a live, human person disarmed on the other side, you cannot shoot him, but take him somewhere?

General MILDREN. We require indoctrination on that very point in every unit.

Mr. STRATTON. There was not a heck of a lot of it in the Americal Division in 1968, on the basis of the testimony that we have had.

General MILDREN. I agree.

General ABRAMS. There is one thing about it. You see, all of the people over here don't know what you know about the My Lai incident.

Mr. STRATTON. All they have to do is buy a Harper's magazine.

Mr. DICKINSON. That does not make it so.

General MILDREN. Well, I think they believe the Army Times or the Air Force Times, but all other publications are sort of suspect. There is a good reason for that. They will see in one of these magazines a description of an action that they were in and it just isn't the same picture that they saw. Actually, the picture may be a more comprehensive one and this fellow reading it saw his part, but anyway, this places doubts in his mind. So it is not all that convincing.

The Harper's article probably will not be read by—I don't know what the number would be out of the 400,000-plus that are here, but it won't be a great many just because Harper's is not that popular. Nobody is going to pick that up in the Day Room and they are not going to buy it off the newsstand. Some fellows will, but not many. It is more copies sold by Playboy. It is this kind of thing.

Mr. STRATTON. Sure. We understand.

General MILDREN. Now, on this matter of the effect on aggressiveness, and that sort of thing. I think you should understand, too, this matter of fire support, this matter of where you put it, the matter of the civilian population and what is done about that, the rules of engagement, and so on, has been always a continuing and difficult problem here. When the fighting occurred here in Saigon in 1968 in Tet and again in May, we knew that we just had to come to some other way of handling this problem, so here in the capital military district we went to an intensive training and schooling of people on how to fight in cities and towns. We went to an extensive program of high resolution photography over the whole city and out of that took buildings where you could land a helicopter on top of them with the idea of being able to work down from those and isolate wherever the enemy had been.

Instead of getting artillery we drew a line around the CMD and for a long time we had a rule that no artillery, no gunships and no TAC

air could be used within that line without my personal approval in each instance.

They said, "Well, we will never be able to get a hold of you."

I said, "You are probably right."

You have got to find other ways. You can. So I am talking now in terms of the aggressiveness and that sort of thing. It has always been a problem. It continues to be a problem. It is why in some cases, for instance, in part of the rocket defense here, you had the problem of setting rockets right on the edge or within a hamlet, and then they started shooting.

What can you do about it? We started using tear gas, which would stop the rocket fire, but it caused no permanent damage to anybody. It is these kinds of things that we have had to wrestle with wherever civilian population is involved.

As far as the performance of the troops is concerned—and I am well aware of what the senior commanders have said here—but in terms of the performance, carrying out their task and doing their jobs, I think that it is just as high an order as it has ever been. This problem has been with us long before this incident occurred. It never has left us.

Mr. STRATTON. What you are saying, if I understand it correctly, General, is that apart from this particular incident you still have the problem of trying to win the war with a minimum of civilian casualties in view of the political aspects of the conflict. Is that correct?

General MILDREN. That is right.

Mr. GUBSER. Aren't we saying with all this discussion, it is absolutely impossible to write a directive that is going to dot all the i's and cross all the t's and tell what he is supposed to do out in the field?

Largely this is a problem of training and administration.

Since the My Lai incident, we have had much more training and indoctrination of the troops insofar as their responsibilities are concerned, as it pertains to civilian casualties. Isn't that about what we are saying?

What we ought to do is get into the record some of the effects of this publicity about My Lai on resignation rates, on lowered aggressive attitude, and all of this thing. I think that is important.

Can we get some testimony on that, Mr. Chairman?

General ABRAMS. Will you talk about reenlistment rates?

General MILDREN. Yes, sir.

Mr. GUBSER. Can you tie it to this incident?

General MILDREN. No.

In the past year, we have had probably the highest reenlistment rates we have ever had.

Mr. GUBSER. How about junior officers, field-grade officers?

General MILDREN. I am talking about the Army now.

Mr. GUBSER. Go ahead.

General ABRAMS. He is talking specifically about the enlisted men.

General MILDREN. Enlisted men and the Army.

In the past year, they have been improving. They have gone higher than we have ever had, any rate here before. As a matter of fact, our reenlistment rates now are much higher than they are in the continental United States here in this theater.

Mr. DICKINSON. Does that mean for an extended tour?

General MILDREN. No, reenlisting for another tour.

Mr. DICKINSON. That is what I am asking, here.

General MILDREN. Either here or going home. It is their enlistment period, wherever that may come.

Mr. SLATINSHEK. General, if I may pursue this for a moment specifically. The briefer mentioned two things. He mentioned with junior officers their concern with the lack of aggressiveness now, or there has been apparently noticeable lack of aggressiveness on their part. There is a noticeable decline in their enthusiasm to stay in the Army. This occurred shortly after the My Lai revelation. We all know what occurred at My Lai was something that regulations prohibited before. It is nothing particularly new. So it can't be that particularly. It must be something else.

Specifically, a lot of the members of this committee and a lot of the Members of Congress feel that perhaps it was an unfortunate court-martial action that has been instituted against some of these people. So as a consequence it has been concern on the part of these members of the Army. We would like the briefer to explain what he meant by the observation that he made. He said a noticeable lack of aggressiveness. None of the commanders told me that.

General MILDREN. No.

Mr. SLATINSHEK. Perhaps I misunderstood.

General ABRAMS. Let's have the words again.

Mr. GUBSER. Lesser aggressiveness.

Colonel WILLIAMS. May I go back?

With respect to the overall impact of the incident on operations and personnel, senior commanders have been queried and here are the results: Commanders generally believe that troop morale has not been adversely affected by revelation of the My Lai incident and that, although there may have been a temporary drop as a result of unbalanced press coverage, there has been no lasting impairment. This is because troops in the field are preoccupied with their own problems and do not feel responsible for operations in which they played no part. Other commanders believe that soldiers are now more prone to question their leaders' wisdom and judgment under combat conditions, and that troop morale will be affected by such questioning and hesitation or uncertainty on the part of junior officers. Commanders at all levels are trying to prevent such incidents.

Mr. STRATTON. Would you spend a little time on that last point?

Mr. GUBSER. Let him finish the quote, please.

Colonel WILLIAMS. This is being done by more careful planning. This is to try to prevent such incidents.

More careful planning of operations and thorough briefing of troops before they land to insure that the rules of engagement are followed. There does exist some apprehension among officers that they may be unfairly blamed for operational incidents. This has resulted in a lessened aggressiveness, particularly in aviation units. There also appears to be uncertainty in the minds of some officers, which affects their morale, as to the extent they will be backed up by the Army in all matters. This may affect retention rates among officers. Other than the above, morale and attitudes of commanders do not appear to have been adversely affected by news of the My Lai incident.

I think I then went on with plans and commanders attempting to avoid—

Mr. DICKINSON. We cannot tell what it means. Are you saying in the minds of some it may be felt this way? What does it mean? Have you had an accession factor here?

General ABRAMS. No. You cannot make anything more out of this than what it is. When I heard of your coming and the areas that you

were interested in, I sent a message to each of my senior commanders and asked them for their views on these questions. I asked that they submit them as their personal views directly to me. What he has done is summarize what I have read, the messages myself, and I would be very happy to let you read them, too.

Colonel Williams cannot say any more than that. He would be doing you a disservice if he tried to say any more than what they had in their reports.

Mr. DICKINSON. I have about three quick questions. I do want to get them in before we break. The hour is late. Maybe General Abrams can answer.

We were very much concerned and interested in the testimony of former Sergeant Haeberle who took some of the photographs at My Lai. According to the testimony he gave our committee, he received no instructions whatever as to his conduct or what to do if atrocities were reported or known or observed. He was absolutely freelance. He volunteered to go on this mission. He reported to no one in particular.

There was a sergeant over him with whom we discussed things, and a lieutenant further on. None would give him any direct instructions.

He took three cameras, two he said were GI and they were black and white. One was a personal camera. He does not know what happened to the film. He thinks there might have been some photographs, black and white, which did not later come to light. He didn't process them. The color film was his own personal film which he later sold for several thousands dollars to the news media.

First: Were there no rules covering him at that time as to the private cameras, his conduct, and whether or not he should take pictures for archives and the history of the organization to which he was assigned, or was it only for release to the newspapers back home?

Second: If this is so, have there been any changes in the rules governing combat photographers and photographers assigned to combat units?

General ABRAMS. I would like Colonel Cutrona, my information officer, to respond.

Colonel CUTRONA. First of all, I think it is significant there are two types of photographers that operate: the Signal Corps photographers and a different branch of each service. These are trained photographers, trained in schools in the United States. Part of their training involves a discussion of the ethics of their operation; that is, that anything that they do in the way of photography belongs to the Government and it is not to be used by them.

General ABRAMS. Isn't it also true basically they provide the official historical document? Any kind of photography work done like that is done by this particular group.

Mr. DICKINSON. Signal Corps?

Colonel CUTRONA. Army would be signal corps and Navy signal and Air Force has a photographic service, and so forth.

Mr. GUBSER. No such person assigned to this My Lai operation?

Colonel CUTRONA. Apparently not on that particular operation. The units usually have photographers at division level who are of this caliber trained people, Signal Corps people. They supplement this by providing their own photographers with on-the-job training. They put them with one of these signal photographers to work with them

for a while. They learn how to operate and then they take pictures and usually these are used by the information office and they can be used for hometown release, for unit newspapers and that type of operation. These people are governed by our regulations, that is, MACV information regulations.

I will read from that to the current. The one that is replaced read similarly.

Individuals preparing materials unofficially for outside media are to insure that such activity does not conflict with their assigned duties in any way. Such journalist activity is not to be done during normal working hours or accomplished using U.S. Government personnel or facilities owned or leased by the U.S. Government.

Then, further, "Materials concerning military matters are to be submitted to the MACV Office of Information for security review even though no official connotation is implied or inferred."

Then it goes on to discuss manuscripts.

Mr. GUBSER. Are we talking about the signal officers or PIO officers?

Colonel CUTRONA: We are talking about anybody who takes anything for release.

Mr. GUBSER. When did this directive exist?

Colonel CUTRONA. This directive, there is a new version of it. This directive which I read revises that in the same manner which was in existence at that time.

Mr. DICKINSON. You say for release. If he took them for his private use, he said he did, it was a film and camera, he took it for his own purposes.

Colonel CUTRONA. That is public release if he sold them.

Mr. DICKINSON. He waited until he got out and sold them; now we cannot get at him?

Colonel CUTRONA. No, sir.

Mr. DICKINSON. Go ahead.

Colonel CUTRONA. I might point out what we have done is have all the photographers sign a certificate they have read and understand a list of standards for conduct. Included is one of the paragraphs as follows:

During your tour of duty as a member of this organization and its activities, you are serving in an official pictorial capacity. Any pictorial or audiovisual materials obtained as a result of this duty must be handled through appropriate Army channels.

So they are not free to pass it on to civilian agencies.

Mr. DICKINSON. Is that something new or was it in effect then?

Colonel CUTRONA. This is in effect now. Presumably, according to the organization, this particular certificate is dated 1970. They indicate that they had a similar certificate which stated precisely the same facts that was in effect at that time.

Mr. STRATTON. We have had conflicting testimony on that point.

Mr. DICKINSON. Was it in existence on March 16, 1968? That is what we are talking about.

Colonel CUTRONA. Yes, sir, We can check that out. The first regulation I read you, the MACV directive on information, was in effect at this time. That would apply generally to anyone who had anything to release.

In addition to that, there are, of course, overall regulations at the Washington level which preclude the release of materials without

security review. These are not always complied with by all individuals, but failure to comply is a violation.

Mr. DICKINSON. You cannot do anything about it now?

Colonel CUTRONA. Yes, sir.

Mr. DICKINSON. One other question not having to do with this: Do you have an element or a group or organization connected with MACV interested in and responsible for the collection of photographs relating to VC and North Vietnamese atrocities?

Do you have photographs available here? If so, would they be available to us?

Colonel CUTRONA. Yes, sir, we have some samples here.

Most of these, as a matter of fact, about 100 of these, we sent back to Washington last fall. I was in Washington before I came here and got some of these. They were used rather liberally in Washington. We also had some 45 minutes of film taken at Hue when we were digging up the bodies there. I was from Washington at that time. Those were distributed. Of course, the use of these is not too great.

There generally seems to be a feeling that these are a bit too vivid.

Mr. DICKINSON. Let me say that the committee feels that if it is not without the scope of the jurisdiction, at least we would like by way of background to be able to use some of these.

Colonel CUTRONA. Yes, sir.

Mr. DICKINSON. We also would pass on the opinion that in the future all of your photographs, if you don't now have such a regulation, the name of the photographer himself should appear to give authenticity. You don't require this now?

Colonel CUTRONA. Yes, sir. This was prohibited previously by over-all governmental regulations. The individual was not identified because this was a Government product.

Mr. DICKINSON. Has this been changed?

Colonel CUTRONA. Yes, sir. No longer applies.

Mr. DICKINSON. That is all I have. Thank you.

Colonel CUTRONA. I have some photographs here that I borrowed from the Vietnamese and I can get copies of these.

Mr. STRATTON. These would be helpful.

Colonel CUTRONA. These are some films of the chaplains who were massacred in Dalat in the attack there in various memorial services, and there are some shots of other damage done at the time.

Mr. STRATTON. These are the funeral services?

Colonel CUTRONA. Yes, sir. Memorial services in Dalat when they were bringing the bodies back. There are also some shots there of bodies down the line.

Mr. SLATINSHEK. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. SLATINSHEK. If the Public Information Officer could supply with the photographs some narrative, that might be useful to the committee.

Mr. STRATTON. There is some on some of these pictures. Not all of them.

Mr. SLATINSHEK. That is all I have, Mr. Chairman.

Thank you very much.

Mr. GUBSER. The questions I had Mr. Dickinson asked.

Colonel CUTRONA. This is the kind of thing the Vietnamese did. This was distributed to the press, too, along with the photographs. This is not released as yet. We released this on the 15th of May. It is a discussion of Hue just completed, and I find it very thorough background.

Mr. STRATTON. We will accept this with respect to the release date.

I have one question, Colonel. With respect to the operation of these PIO units, you say that where they are not actually Signal Corps personnel anybody who is in uniform who is an expert at handling a camera is used to take shots which can be sent back home?

Colonel CUTRONA. Yes, sir. Before they are used as photographers for the information officers, they are put out on on-the-job training along with trained Signal Corps photographers, the same as any other job, and then they eventually are put on an assignment of their own.

Mr. STRATTON. Have you made any inquiry yourself as to exactly what Mr. Haeberle went through and what his training and background were in this?

Colonel CUTRONA. Mr. Haeberle—no, sir. We had not gotten involved in the My Lai thing at all. We must remain clear of that.

Mr. STRATTON. He is not involved, at least not yet.

You do not have a record of any directive at that time which said that any pictures that he took on the job with his own camera should be turned over to Army authorities?

Colonel CUTRONA. Well, the MACV Information Directive so states. Yes, sir.

Mr. STRATTON. What you read, if I remember correctly—did it say anything for release had to be cleared with MACV?

Colonel CUTRONA. Or anything—nothing that was used could be produced during duty hours; certainly any time in the field, that is, duty hours.

Mr. STRATTON. I see. There was a directive in effect at that time?

Colonel CUTRONA. Yes, sir.

Mr. STRATTON. What about Mr. Roberts, who was also a uniformed personnel, as I understand, who was in Cambodia—J. Roberts. What would be his primary function as a PIO correspondent?

Colonel CUTRONA. To record what was occurring while he observed and later write a summary of the action. Usually these people are preparing material for the division newspaper in which they reflect actions of various units of the division involved.

Mr. STRATTON. This would be a different assignment from the official action report that might be supplied by the J-3?

Colonel CUTRONA. Yes, sir. This is entirely different.

Mr. SLATINSHEK. Since Mr. Roberts has apparently been serving in this role of reporter for the division, I presume that some account of the My Lai operation appeared in the division newspaper. Do you have access to that?

Colonel CUTRONA. I don't have a copy of the division newspaper.

Mr. STRATTON. I think the question comes up in his case as to whether a PIO officer would not have a kind of independent responsibility to report the operation that he saw as he saw it, irrespective of what might be contained in anything submitted by the S-3 or G-3. Would that be the case?

Colonel CUTRONA. He is supposed to report what he sees.

Mr. STRATTON. Where would it go? He was a Task Force Barker PIO for 11th Brigade. It would go to the brigade commander?

Colonel CUTRONA. Yes, sir—no, his information officer.

General ABRAMS. He turns it into the section up at the division, information division office, who runs the newspaper. They sort all this stuff out. They put in the division newspaper what they have selected out of what has been submitted.

Mr. GUBSER. Have you heard of an order which included only getting photographs suitable for hometown newspaper use?

General ABRAMS. I can imagine such an order; yes, sir.

Mr. GUBSER. Haeberle contends that is all he was doing.

General ABRAMS. That is primarily the mission, the photographers with the mission. They are not recording the events but out to get pictures of Private Jones and Sergeant Smith to send to the hometown so that he is shown performing duties in Vietnam.

Mr. STRATTON. Would you feel, Colonel, a PIO officer who witnessed some action and then one that he felt was a fairly serious action and perhaps a violation of regulations and then failed to make any report of that to his PIO officer, whether he thought it would ever get published in the division's journal or not, was not carrying out his full responsibilities?

Colonel CUTRONA. I would broaden what you said. Any officer. I don't care what his job is, whether he is reporting anything or not. Anybody who observes anything has that responsibility by virtue of his oath and oath of office and his sense of responsibility as an officer.

Mr. STRATTON. It would make it a little bit hard to understand how this individual, after he got out of uniform, could then become far more critical of what was going on than when he was in uniform.

Colonel CUTRONA. It occurs all too often these days.

Mr. REDDAN. Just one question, Colonel. If the orders were to photograph matters suitable for hometown publication, would this in effect limit the photographer in taking pictures of atrocities?

Colonel CUTRONA. Well, I think I would be hard put to answer a question of that type. Someone taking pictures is going to take pictures on down the line. If he has a job, if he is carrying out his mission directly, his job is to make pictures of individuals.

Mr. REDDAN. As I understand it, when you sent these things in to Washington, I understood your testimony to be that they didn't think they were suitable for publication in newspapers?

Colonel CUTRONA. No, these are the press to whom they were distributed. They feel things of this—

Mr. REDDAN. Were these distributed to the press by the Pentagon?

Colonel CUTRONA. Yes, sir. I was there. I distributed many of them myself.

General ABRAMS. The editing occurred after the distribution.

Mr. REDDAN. I see.

Colonel CUTRONA. There is no reluctance to make any of those available.

Mr. STRATTON. Any other questions? If not, I think the time has run out.

General, thank you very much. We appreciate your help and that of all of the members of your staff.

The subcommittee will stand in adjournment.

[Whereupon, at 12:05 p.m., the subcommittee adjourned.]

The subcommittee met, pursuant to notice, at 3 p.m., at the American Embassy, Saigon, Vietnam, Hon. Samuel S. Stratton (acting chairman) presiding.

Members present: Representatives Stratton and Gubser.

Staff present: Frank Slatinshek, assistant chief counsel, Committee on Armed Services; John T. M. Reddan, counsel, Armed Services Investigating Subcommittee; John F. Lally, assistant counsel; and Rear Adm. Allan Chrisman.

Mr. STRATTON. We appreciate your coming over. We wanted to ask a few questions in connection with our investigation into My Lai. We had discussed it with Ambassador Berger and he indicated that the area that we were interested in was primarily in your area of responsibility. You are the head of the CORDS organization, as I understand it.

**STATEMENT OF AMBASSADOR WILLIAM E. COLBY, DEPUTY TO
COMMANDER, MILITARY ASSISTANCE COMMAND, VIETNAM, FOR
CIVIL OPERATIONS AND RURAL DEVELOPMENT**

Ambassador COLBY. I am. I am deputy to General Abrams because under the National Security Memorandum of 1967 they put all of the field operations under a single command structure, so that they put my predecessor, Robert Comer, in as General Westmoreland's deputy when he left. I succeeded him then.

In each of the CORDS there is a military commander, on the American side I am talking about, and he has a similar civilian deputy for the pacification program. The command line is a military command line but it has the civilian participant at each level. When you get to the Province level, which is our next level below the CORDS, they have a consolidated civilian military team.

In about half of the Provinces the senior officer there is a civilian and in about half of the Provinces a senior officer, a military officer. If the senior one is a civilian, his deputy is a military officer. If the senior is a military officer, his deputy is a civilian.

Mr. STRATTON. If one of these senior advisers happens to be a civilian, he is then part of your CORDS organization, is that correct?

Ambassador COLBY. So, in a sense, is the military.

Mr. SLATINSHEK. May I interject a question? It may be academic. But how do you determine seniority between the civilian and military types?

Ambassador COLBY. You name one the Province senior advisors and—

Mr. SLATINSHEK. In other words, it is an arbitrary determination?

Ambassador COLBY. Yes, sir. We try to keep a balance throughout the country. Sometimes one Province will change from the military chief to the civilian deputy.

Mr. STRATTON. Let me put it this way. If you have a State Department type who is the civilian adviser, to what extent would he be required to report up through or to the Ambassador, as well as reporting through the CORDS organization ultimately to MACV?

Ambassador COLBY. His line of official reporting is through the structure I described. In other words, he would report, as a senior fellow, report to the CORDS. There his matters would be handled by the civilian deputy practically by the CORDS command, as one place. It is the military officers of the commander. Then if it was required to go further, it would be sent by that CORDS up to Saigon to General Abrams' headquarters with myself then.

Mr. STRATTON. It would come to you?

Ambassador COLBY. Come to me.

Mr. STRATTON. From you to General Abrams?

Ambassador COLBY. Yes, sir.

The Embassy has what they call provincial reporters that work out of the political section. These are the State Department officers who cover the Provinces on a sort of a circuit-riding basis. They talk to our Province teams and we encourage them to tell them anything. The official reporting line is through the command structure.

Mr. STRATTON. The thing that has disturbed the committee has been the fact that in connection with the My Lai incident there was no reporting to MACV through the military channels as required by the appropriate directives. And surprisingly enough, although a specific complaint came in to the province team where a Mr. May, I believe, was the senior adviser, there was no reporting through that channel either.

Ambassador COLBY. That would be the same channel. The military channel. In other words, because it all focuses at the CORDS. In other words, Mr. May's relationship is to the Corps Commander.

Mr. STRATTON. Those are the Vietnamese?

Ambassador COLBY. No; American.

Mr. STRATTON. I thought you didn't have a corps in Vietnam?

Ambassador COLBY. It is the 3rd Marine Amphibious Force that had the command of the CORDS operation and the military units in the area of the I Corps, of the Vietnamese I Corps.

Mr. STRATTON. In any event, it didn't get up through the CORDS channel any more than it got up through the regular military channel. What we are trying to find out is, first of all, what should have been done in that particular case? Second; What have you been doing to try to insure this failure does not occur again?

Ambassador COLBY. Well, the Province senior adviser is responsible to send occasional spot reports and he writes a roundup report once a month, sort of summarizes the situation in his Province force.

In addition, there are a considerable number of other individual reports that are sent sort of by the individual district advisers.

Mr. STRATTON. Let us be specific now rather than general.

We have a report here that an allegation came in from one of the channels that reports to the Province adviser's office that 400 or 500 Vietnamese had been slaughtered in the My Lai operation.

The deputy adviser got it and in fact went to discuss it with one of the military people. However, there was no reporting through the CORDS organization of what was obviously a very serious allegation.

The question is: What should Mr. May have done in this particular case?

Ambassador COLBY. Well, I think it is easy to say in retrospect, of course—

Mr. STRATTON. What we want to know, what were the rules and regulations? That is what we are concerned with.

Ambassador COLBY. The responsibility is to keep us generally informed of the total situation in this Province. That sounds like an obviously important fact. Included in the responsibility, then, is the responsibility to pass important developments up the channel. I frankly am not aware of the details of the incident.

Mr. REDDAN. When did you assume your duties?

Ambassador COLBY. November 1968. I was here before then and starting in March 1968, so I was here but I didn't have my present job.

Mr. STRATTON. You were on the Embassy staff?

Ambassador COLBY. No; I was in CORDS.

Mr. REDDAN. In what capacity?

Ambassador COLBY. Assistant Chief of Staff for CORDS.

Mr. REDDAN. Would those things have come through you if they had come in?

Ambassador COLBY. I think there is a large volume but I think something as important as that would have; yes.

The second item, then, is what are we doing to make sure that we do hear of things of this nature. We have what we call a pacification studies group, a group of younger officers a number of whom speak Vietnamese, and they circulate around the countryside and give us reports as to what is going on.

I do quite a lot of traveling myself and go to the different provinces and talk to people as much as I can, spend 2 nights a week normally out in some province team—with the team.

I think that we are all aware of the necessity of something as serious as this be reported at this point. The directives that came out from MACV as to reporting requirements are incumbent upon our Province teams as much as they are on American units, of course. In other words, they are under the same general directives and same general instructions.

Mr. STRATTON. This would be a pretty serious breakdown in your reporting system, wouldn't it, if this information came to the attention of the Province chief—as a matter of fact, in terms of allegations that almost originated there—if it failed to get up through the CORDS organization?

Ambassador COLBY. Yes; I think so.

Mr. STRATTON. Are you familiar with the census grievance procedures?

Ambassador COLBY. Census grievance program, yes. This is a program that has been in existence for, I would say, about 3 or 4 years. It has just been terminated recently. It started out as a program primarily aimed at getting the attitudes of the people and arranging a system for the Province chiefs to respond to them. It turned into an informant system with a heavy emphasis on intelligence and actually was run under your intelligence shop. These reporting channels on that actually were not part of my organization.

Mr. STRATTON. First of all, what would be those reporting channels?

Ambassador COLBY. The CIA channels on the American side.

Mr. STRATTON. Suppose the census grievance people got a report of some importance; where would this go then, to the CIA chain?

Ambassador COLBY. We are talking about Vietnamese and Americans. On the Vietnamese side it would go up to the Province chief and then up through the Vietnamese channels. On the American side it would be handled by the local CIA office and that Province perhaps and reported up through the CIA chain to the CIA office here.

Mr. STRATTON. In this embassy?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. That would come to the attention of the Ambassador if it were serious enough?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. The purpose of the Province adviser system, CORDS organization, census grievance operations, are all to try to provide a little better arrangement for keeping the Vietnamese people favorably disposed toward our military operations?

Ambassador COLBY. No, sir, I don't think that is it. I think the CORDS program is to support the Government of Vietnam's program of pacification. This means some degree of financial support, logistic support, and advisory support. The program comprises the activities of the local forces, police forces, holding of local elections, Chu Hoi program, refugee program, information activities, and so forth. It is not directly related to the support of or favorable attitude toward American forces activities.

Mr. REDDAN. Does it tie in with the CIOPS program?

Ambassador COLBY. The CIOPS is a piece of it.

Mr. REDDAN. That goes to image, however, doesn't it? That involves image of forces?

Ambassador COLBY. Yes.

Mr. STRATTON. Perhaps my question was not phrased exactly right. I don't assume this was designed to encourage the people to support American forces as such, but it is to insure the support and loyalty of the people toward the joint military effort which we and the Vietnamese Government are waging against the forces of North Vietnam and Viet Cong. Is that true?

Ambassador COLBY. I think so.

Mr. STRATTON. Anything that would tend to turn the people against those operations in support of their independence would therefore, to that extent, undermine the objective of these agencies. Would that not be the case?

Ambassador COLBY. Yes; the problem or concern.

Mr. STRATTON. We have had testimony that this allegation with respect to the killing of 400 or 500 civilians at My Lai on March 16 came in to the adviser of the province chief—I have forgotten the name—Quang Ngai area—through the census grievance procedures. You have already told us that this kind of information you would regard as important enough so that the adviser should have forwarded it up through the CORDS chain of command?

Ambassador COLBY. To the corps, yes, and on up from there.

Mr. STRATTON. It should have gone from this to MACV, should it not?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. MACV already had a directive that any allegation of this sort coming to the attention of the military personnel should be reported immediately to MACV?

Ambassador COLBY. That directive would be applicable to our people as well.

Mr. STRATTON. Right.

Would someone to whom this information came, to whose attention this information came in the province adviser's office be justified in saying, "I don't have to report this because it came through the census grievance procedures and therefore they will get it up through their network anyway"?

Ambassador COLBY. I would think now the answer is, if you got an important item of information you want to make sure that your senior levels know it. If it goes through the other channels, fine; but if it does not, make sure.

Mr. STRATTON. You are not relieved of your responsibility simply because somebody else should report it through his channels?

Ambassador COLBY. No.

Mr. STRATTON. Did you know whether any check was made here in the Embassy when the My Lai massacre first came to public attention, as to whether there had been any report made either through CIA or any other channels with respect to these allegations?

Ambassador COLBY. I don't know. I just don't know whether it was made or not. When the thing became public, a very thorough investigation was obviously made by the military, including General Peers, and everything else. Frankly, this seemed to be a very intense look at the problem and I knew it covered what was available in the province teams, and so forth, so I left it to them to run the investigation.

Mr. REDDAN. Mr. Ambassador, didn't somebody say, "How in the world could this have gotten by without us seeing it? We have got all these people out in the field, CIA people out there, and we never heard of it."

Wasn't there a second investigation conducted at the civilian level to determine where the breakdown was in the reporting system?

Ambassador COLBY. No.

Mr. STRATTON. Did you say, "no"?

Ambassador COLBY. No. Not by me, anyway. There may have been one made, but I don't know.

Mr. SLATINSHEK. When did MACV make its investigation on this matter?

Ambassador COLBY. I cannot give you a date. I don't know the date offhand.

Mr. SLATINSHEK. Can you give us the month? Give us a time frame here. I am not trying to trap you or make you—

Ambassador COLBY. No, no, it's a fair question.

I am afraid I cannot say. I just have a little trouble fitting my dates together.

Mr. LALLY. Was it in 1969?

Ambassador COLBY. General Peers was out here in 1969.

Mr. STRATTON. This was an investigation set up by the Army itself?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. Mr. Slatinshek's question is directed to any investigation that might have been—

Ambassador COLBY. Within MACV.

Mr. SLATINSHEK. You mentioned that you were aware of their intense inquiry into this matter and so, therefore, you sort of stepped

aside and let them handle it. Therefore, you were quite obviously aware of it when this occurred.

Ambassador COLBY. I knew there was one going on. I cannot give you a date but it is my impression there was an investigation before General Peers arrived out here. When it was I couldn't really say.

Mr. GUBSER. Does 1969 ring a bell as a likely date?

Ambassador COLBY. When did it come to public knowledge?

Mr. GUBSER. April 1969.

Ambassador COLBY. I would assume.

Mr. STRATTON. November.

Mr. SLATINSHEK. November.

Mr. GUBSER. October?

Mr. STRATTON. October or November.

Mr. GUBSER. That is right. It came to Army knowledge or military knowledge in April 1969.

Mr. STRATTON. This is the——

Ambassador COLBY. No. What I am referring to, I think, is after it came to public knowledge.

Mr. STRATTON. Let me ask two questions here, first.

First of all, Mr. Ambassador, do I understand that although you carry the title of Ambassador that you are completely separated from the Embassy and are working completely and totally under MACV?

Ambassador COLBY. Yes, sir. It is just a personal rank. It is not a diplomatic status.

Mr. STRATTON. You are not a State Department man?

Ambassador COLBY. Well, I am paid by the State Department. I beg your pardon. I am paid by the State Department right now but assigned as General Abrams' Deputy. My office is out at MACV and so forth. The program I run includes some things involving military personnel and some things involving AID personnel and some things involving Foreign Service personnel.

Mr. STRATTON. The second question is: At what time did you first become aware of the My Lai incident charges?

Ambassador COLBY. At the time it became public knowledge.

Mr. STRATTON. Not before then?

Ambassador COLBY. Well, I don't think so, but if I were, it would have been sort of a short time related to an investigation. I don't think so.

Mr. SLATINSHEK. Let me help you with that.

Mr. STRATTON. You had an inquiry addressed to the State Department, to the Defense Department in April 1969, by the chairman of the House Armed Services Committee. You had the designation of a colonel to pursue this matter, and I believe he came to Saigon and elsewhere in an effort to track down these various allegations that had been made to the chairman and to other Members of Congress.

Then the matter was looked into by CID. I think; all of this went on in some detail prior to the actual breaking of the story in November 1969.

Ambassador COLBY. That is why I hesitated to say I didn't know anything before it came to public knowledge, but it is very related in my mind to its coming to public knowledge.

Mr. STRATTON. That is why we are trying to find out whether, as one who was responsible for the operation of one of these reporting

networks, at just what point you became aware of these charges and what particular investigation you made at that particular time as to the truth or falsity of them.

Ambassador COLBY. Do you know the name of the colonel by any chance?

Mr. STRATTON. Colonel Wilson.

Ambassador COLBY. Do you remember his first name?

Mr. STRATTON. I don't remember offhand, no.

Ambassador COLBY. That does not ring a bell with me.

Mr. REDDAN. He was here in July.

Mr. STRATTON. You would remember whether you had undertaken any effort to try to find out whether there was anything to these reports, would you not?

Ambassador COLBY. That I would say I did not do. This was a matter that—well, let me say after it became a public matter, my feeling was that the Army was taking care of this problem and handling all the facts.

Mr. SLATINSHEK. You had not heard about it, to your recollection, before?

Ambassador COLBY. I would hate to say that right at the moment. It is my impression, no. I would like to look back over my, you know, date books, and so forth, to make sure I didn't talk to somebody before that time. It is my impression that I was not involved in it.

Mr. LALLY. Mr. Ambassador, were you here in the March–April 1968 period?

Ambassador COLBY. Yes, sir.

Mr. LALLY. Did you see any allegations at that time relating to atrocities by a U.S. unit in the Quang Ngai area?

Ambassador COLBY. No. Shortly after my arrival here in March 1969, I visited every province, including Quang Ngai. I don't recall any statement such as that.

Mr. REDDAN. You said 1969?

Ambassador COLBY. Excuse me. 1968.

Mr. LALLY. Was Mr. May still the senior adviser at this time?

Ambassador COLBY. Yes, sir.

Mr. LALLY. Colonel Guinn?

Ambassador COLBY. I don't recall that name. Mr. May I do recall.

Mr. STRATTON. The officer's name is Col. William Vickers Wilson.

Ambassador COLBY. That does not ring a bell. I am sorry. I would be glad to look up my engagements and see if that is right.

Mr. STRATTON. Mr. Reddan, do you have any questions?

Mr. REDDAN. Mr. Ambassador, do you know approximately how many people CIA had at Quang Ngai Province in the March–April 1968 time frame?

Ambassador COLBY. Well, put it this way: Before I took this job in March 1968. I was Chief of the Far East Division of CIA, so that I was in CIA at that point. I had a general responsibility for things in Vietnam. I visited Quang Ngai in that capacity in 1967, so for 1968 I don't know exactly. So, yes, I do have a rough idea. It is a very rough idea.

I would say between Americans, two to five, something like that. Something in that neighborhood or number of people.

Mr. SLATINSHEK. Mr. Chairman?

Mr. STRATTON. Yes.

Mr. SLATINSHEK. For the purposes of the record, you indicated that obviously an allegation of this magnitude would get more than passing attention at this time. You felt that it would have at that time under normal circumstances. The question here is whether or not your people frequently get allegations of this kind, and are they in the habit of passing them forward up the line?

Ambassador COLBY. This comes up in the context of this Phoenix program that you have heard of. I have taken a fairly strong position that we insist that our people behave according to the Articles of War, and so forth, on that. I have made a particular point of urging the report of any abuses of any sort.

I confess to you that I do not get very many.

Mr. SLATINSHEK. Previously, in other words, had they been coming up during the period March to—let us say, when you took over?

Ambassador COLBY. No. As I say, I had not received many such.

Mr. SLATINSHEK. In other words, an allegation of this kind is relatively rare and therefore should obviously be given more than just casual attention?

Ambassador COLBY. Yes, sir.

Mr. REDDAN. Mr. Ambassador, where are these reports evaluated? In the field or here in MACV? In other words, is the raw material coming into the Province office evaluated in the field and does somebody make a judgment as to whether or not they are going to send it on in to MACV?

Ambassador COLBY. Yes, sir. Sure. In other words, we have certain required reporting systems that may start at the district level and a fellow has to report certain things, what incidents took place—I mean, normal attacks and terrorist things like that.

There is a monthly report called the Hamlet Evaluation System in which he has to give a judgment about various things in the area, and so forth. Those go into the computer and then come out in statistical form. Other individual reports go into the Province office and they decide there whether an individual report is worth sending up the line or whether it just fits into the general knowledge factor. Then, at the end of the month, they are required to give us a general report on the situation, overall view of what the situation is in that Province. Those reports come into MACV and we look at them. Those reports go to CORDS and the CORDS give us an overall summary of the situation and the CORDS once a month send the Province monthly reports on up. Here we try to gather things together occasionally and put a summary together for Washington.

Mr. REDDAN. Can you suggest, Mr. Ambassador, any excuse for this allegation never getting into MACV through any of the reporting channels? You consider that the allegation gave a specific date, a specific military unit, specific coordinates and specific numbers. Does any reasonable justification occur to you for the failure of that to come out in any of the reporting systems?

Ambassador COLBY. In any of the reporting systems, I would have to agree it should have come up. I think there is a problem of one reporting system sort of assuming that that is really somebody else's problem and that they ought to take care of it.

I think that that probably happens as the normal bureaucratic feeling of letting each one take care of his own affairs.

Mr. REDDAN. Everybody's business is nobody's business?

Ambassador COLBY. Not quite. In other words, some things are clearly somebody's business and that you really don't spend all your time reporting on his business; you spend your time reporting on your own business. In other words, I think our CORDS people would have some doubt as to whether they reported on whether the maintenance of the weapons in terms of keeping them clean and keeping them well oiled, and so forth, was being properly done by an American unit in the neighborhood. They would figure that is pretty much the Army's job to worry about that, so they really wouldn't feel obliged to report that sort of thing. That is not the same category. I recognize that. You asked, is there any possible explanation.

Mr. REDDAN. Yes.

Ambassador COLBY. I am speaking in human terms. That is the only one that I can think of.

Mr. STRATTON. The only other one would be if there was a deliberate effort not to get this up to MACV. That is always a possibility, too, isn't it?

Ambassador COLBY. Yes. But I have my doubts about that. Yes, it is possible, certainly. Anything is possible but—in other words, a willful suppression, I am not so sure of that.

Mr. STRATTON. In view of the way Mr. Reddan phrased the question about the precision of the report, let me make sure that I understand the answer to one of the first questions that I asked. That is, again, what, if anything, have you done in the CORDS organization to insure that this failure should not occur again?

Ambassador COLBY. Well, in our reporting systems, I think we have today questions in the regular monthly reporting mechanisms that would bring up such a thing.

Mr. STRATTON. This is not the kind of thing you would want to wait for a monthly report, is it?

Ambassador COLBY. No. I mean in the regular systematic reporting you should get an indicator of any such problem area.

Mr. STRATTON. We have just seen a new MACV directive that suggests in the military channels that anything of this kind would require immediate telephonic communication with MACV.

Ambassador COLBY. That directive applies to our Province teams as well.

Mr. STRATTON. To what extent have you brought it to their attention and said: Here is an area where we fell down very badly. I want to make darn sure everybody realizes that this applies to our teams and anything of this kind that comes to your attention has got to be reported?

That has been done?

Ambassador COLBY. They realize it does apply because the command structure brings that down to their attention. In other words, if you asked me what I personally have done, other than generally support, I have mentioned the fact that it is important that they know in staff meetings and meetings with my counterparts at the corps level, civilians at that level.

This particular directive goes down the chain and is called to the attention of the Province senior adviser in each Province. It is by his corps commander and his deputy corps at the corps level. It is a new directive and it goes into his automatic—

Mr. STRATTON. Have you done anything yourself to sort of monitor this and make sure that the corps commanders bring it to the attention of the Province chiefs, their advisers, rather?

Ambassador COLBY. I cannot say that I have, no, particularly.

Mr. LALLY. Mr. Ambassador, under the MACV reporting directives as they existed in March 1968, could the allegation of an atrocity be ignored if the person receiving the report believed it had originated with the Viet Cong?

Ambassador COLBY. He could—let us not say this one, but any one.

Mr. LALLY. Any one.

Ambassador COLBY. Certainly. In other words, if, certainly, a report comes in and the judgment is made at the time that this is a false allegation put in by the enemy, then it probably would not be reported.

Mr. LALLY. He would then have no obligation to abide by the MACV directive?

Ambassador COLBY. Well, I mean, everybody makes a decision as to the reliability of what he sends up to his bosses. It might be reported as an instance of Viet Cong psychological warfare. In other words, such an allegation might be that. We see those, the radio programs, and so forth, where they allege various things.

Mr. LALLY. If the allegation could be attributed to the Viet Cong and if it also could be attributed to people loyal to the South Vietnamese Government, could it then be ignored under the MACV reporting directives?

Ambassador COLBY. Under the directives it should have been reported. It should be reported. In other words, an allegation which has some validity should be reported.

Mr. LALLY. Even though it could be partially attributed to the Viet Cong, he would still have the obligation?

Ambassador COLBY. If it has some validity.

Mr. STRATTON. Wouldn't it have to go beyond that, Mr. Ambassador?

Ambassador COLBY. I don't mean absolute validity but there is a reasonable belief this represents something that may have happened.

Mr. SLATINSHEK. Some substance to the allegation?

Ambassador COLBY. Yes, sir.

Mr. SLATINSHEK. Even totally Viet Cong origin?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. If you are going to give your Province advisers discretion in this matter, then we are going to be in the same position that we were with the Army. The Army Directive 20-4 said any allegation with respect to an atrocity; some of the Army people went out and investigated this and said this was accidental killing as a result of the artillery preparation. Therefore, it is not atrocity. Therefore, it does not have to be reported.

Since then, the Army has changed it so that it involves any incident involving the killing of civilians that may conceivably bear unfavorably on the United States.

If you take the position that your adviser does not have to report this if he thinks the source is not really reliable, then you are back at the same old stand; aren't you?

Ambassador COLBY. He has to report anything that has any substance, any validity.

Mr. STRATTON. If it comes from the Viet Cong, you say the Viet Cong are obviously liars. Therefore, anything that comes from them is a lie?

Ambassador COLBY. Not necessarily. You could get a perfectly valid allegation from the Viet Cong. In other words, if it is on its face invalid or by reason of your greater knowledge of the circumstances invalid, then I can imagine it being discarded. If it had any substance, I don't care whether it is from the Viet Cong or who it is from.

Mr. STRATTON. If you could not really check out the validity or invalidity of the charge without undertaking a very substantial investigation which was beyond your own resources, then the obvious thing to do would be to send it along?

Ambassador COLBY. To ask for some help to conduct that investigation.

Mr. GUBSER. Mr. Ambassador, in 1968, from whence came the requirement or the obligation to report a situation like My Lai? Was the MACV Directive 20-4 a special requirement of the CORDS?

Ambassador COLBY. The CORDS reporting requirements are in the MACV directives, all of them. In other words, any CORDS requirement is covered within the MACV directive system. The CORDS does not have separate requirements in that sense.

Mr. STRATTON. Were all MACV requirements applied to CORDS as much as they did?

Ambassador COLBY. Yes, sir. In that sense, except you don't report a morning report on your civilians maybe, but they bring them generally.

Mr. GUBSER. You probably answered this and I have missed it but if so, let it go.

Is there any area in which the reporting channel is the same for both Military Operational Command and the CORDS?

Ambassador COLBY. It is almost all the same: yes.

Mr. GUBSER. Where does it become identical? Where are the deviations?

Ambassador COLBY. Well, as I said, I am a deputy to General Abrams. Anything that comes to me comes into MACV Headquarters so it is a headquarters communication. It goes to anyone in the headquarters interested. The corps level, our field force commander has a similar deputy for CORDS. Anything that he submits, he submits in the name of the commanding general. Anything he receives, he receives as a member of that headquarters. At the province level there is a province senior adviser and he is the commander of that particular province team. So that anything that he reports goes into this corps commander's headquarters and it represents the knowledge available in his headquarters, which is a single headquarters.

Mr. GUBSER. At what point do you move into the military channel where it becomes their responsibility to forward it?

Ambassador COLBY. Under the corps commander there are three subdivisions. One is the province advisory team system. This reports

directly to the corps commander, as I just mentioned. In practice, normally these deputy CORDS handle the thing. The command line is, without any question, directly to the corps commander. A separate element is the ARVN advisory teams, teams that are with the ARVN divisions. This is not all the military because the local territorial forces, regional and popular forces follow the advisory effort and that falls within the province team. With the division, the advisory team for the division reports similarly to the corps commander.

Thirdly, if there is any U.S. unit in the neighborhood, the commander of that U.S. unit, division, brigade, or whatever, reports directly to that corps commander or to his headquarters.

There might be a deputy that takes care of those things or a chief of staff or something. The command line then runs directly from that corps commander to each of those three separate elements. The U.S. unit, the ARVN advisory team, and the province advisory team. The only one that is involved really in CORDS work is the last one—province advisory team. It is not a separate institution. It is a separate program within a single institution, as artillery is a separate program within the overall military institution.

Mr. SLATINSHEK. The intervening structure between General Abrams and these people below there really is not any break at all; to use a rather crude analogy, the line people in between, military officers who are the heads of these organizations, in a sense, take off the military hat and quickly put on a civilian hat when they get to your business?

Ambassador COLBY. No, they made it into one hat.

Mr. SLATINSHEK. They have a single hat?

Ambassador COLBY. It has some civilian—

Mr. SLATINSHEK. If you issue any commands to your people, your subordinates, or is yours just a paper authority?

Ambassador COLBY. I could issue a command in General Abrams' name.

Mr. SLATINSHEK. I am trying to resolve these lines. You are really an adviser to General Abrams and you really have no operational control over the people?

Ambassador COLBY. I am his deputy and I have what authority he gives me.

Mr. SLATINSHEK. Well, you cannot act on your own; you act for Abrams and you have no authority of your own? When you do issue a command, you don't issue a command as Ambassador but as General Abrams? Therefore, this is kind of a big fiction, the way it boils down, as far as I am concerned.

Ambassador COLBY. Let's say this—the CORDS is a program; it is not an institution. That is the point.

Mr. STRATTON. As a practical matter, the difference in the channel is that it goes through different staff members in these headquarters?

Mr. SLATINSHEK. Precisely.

Ambassador COLBY. In each commander's headquarters. That is true of a lot of other special staffs.

Mr. STRATTON. Sure.

Ambassador COLBY. This is a normal kind of relationship to staff.

Mr. SLATINSHEK. One final question.

You mentioned that they have a wrap-up report monthly and periodically, and you have now included among the "questions" that you ask them, material along this line?

Ambassador COLBY. Let's not say it is precise questions for that purpose. I think it should reflect any serious problems of that nature known to our local people.

Mr. SLATINSHEK. Do you have this in a form of a directive to them or question?

Ambassador COLBY. Well, it is the Hamlet Evaluation System which has some questions in it about problem areas, things like this.

Mr. SLATINSHEK. In other words, this is a requirement that they—again I am trying to emphasize it so we put in into perspective—each month they address any special problems of this kind or any kind?

Ambassador COLBY. Any kind.

Mr. SLATINSHEK. There is a requirement that they speak to this and fill in this square?

Ambassador COLBY. The MACV directive would be right on the point and insists that they respond to this. This is a mechanism that they can use.

Mr. SLATINSHEK. Did they have that before this?

Ambassador COLBY. Yes. The mechanism was there.

Mr. SLATINSHEK. But the requirement—

Ambassador COLBY. Well, again, I think in something as serious as this, then I think I would have to say it probably should have been reported.

Mr. REDDAN. Mr. Ambassador, does the CORDS reporting line go through Quang Ngai Province through the Americal Division?

Ambassador COLBY. No. Those are three divisions that I gave you. Americal Division reports directly to the corps commander and so does the province senior advisor at Quang Ngai.

Mr. STRATTON. That corps commander would have been General Cushman?

Ambassador COLBY. Yes, sir.

Mr. LALLY. Who would have been his deputy for CORDS at this time?

Ambassador COLBY. Presently Ambassador Charles Cross, who is in Singapore.

Mr. STRATTON. If he had been, would he have been the CORDS representative in April of 1968?

Ambassador COLBY. He was General Cushman's deputy for CORDS.

Mr. STRATTON. In April of 1968?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. Cross?

Ambassador COLBY. Yes. I am pretty sure. Ambassador Corrin was his predecessor. I have forgotten when they changed. Cross succeeded Corrin. It was sometime about the turn of 1967, 1968, sometime in there. I am not quite sure just when.

Mr. STRATTON. Ambassador Corrin is at CINCPAC now?

Ambassador COLBY. Yes, sir.

Mr. STRATTON. Any other questions?

Mr. GUBSER. One after we finish. It is not about this.

Mr. LALLY. Nothing further.

Mr. STRATTON. Thank you very much, Mr. Ambassador.

[Whereupon, at 3:50 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Chu Lai, Vietnam, Wednesday, May 13, 1970.

The subcommittee met, pursuant to notice, at 10 a.m., at Chu Lai, Vietnam, Hon. Samuel S. Stratton (acting chairman), presiding.

Members present: Representatives Stratton, Gubser, and Dickinson.

Staff present: Frank Slatinshek, assistant chief counsel, Committee on Armed Services, John T. M. Reddan, counsel; John F. Lally, assistant counsel; Rear Adm. Allan Chrisman; and Charles Halleck, consultant.

Participants: Maj. Gen. Albert E. Milloy, Commanding General, Americal Division; Maj. Charles Mitchell, Deputy Inspector General, Americal Division; Maj. John T. Pauli, Information Officer, Americal Division; Lt. Gen. Melvin Zais, Commanding General XXIV Corps; and Maj. Donald L. Williamson, Secretary of General Staff, Americal Division.

**STATEMENT OF MAJ. GEN. ALBERT E. MILLOY, COMMANDING
GENERAL, AMERICAL DIVISION**

General MILLOY. If I may, Mr. Chairman, I want to welcome you to Chu Lai and to the Americal Division. I can assure you that it is our desire to discuss any matters within our competence or any questions that you may have.

We have been advised that these are your principal areas of interest and the initial briefing will address itself to these matters.

I might say at this point that you might expect there is no one here assigned to the Division now who was assigned at the time of the My Lai incident. Further, some of the files have been retired, some have been returned by regulation. Our routine documents are retired every 2 years and we might not be able to answer in detail all of the questions that you might have but we will do our best.

By way of quick orientation before we get to the briefings or discussion, we are at Chu Lai at this point right here. This black line that you see, outer black line on the map, is the area of operations for the Americal Division. The horizontal lines divide the area for each of the three brigades, 196th, 198th, and 11th Brigade.

The hamlet of My Lai and the village of Son My are at this area here and approximately 20 miles southeast of Chu Lai. LC Bronco is the headquarters of the 11th Brigade which is some 45 or 50 miles due south of here.

This morning we will have a briefing for you and discussion up until lunchtime, and then we will have lunch here. After lunch we will board helicopters again and proceed down to My Lai. In view of the fact that the area is not secure, we will not be able to land. The trip will be safe

and we will stay at an altitude of at least 2,500 feet which would keep us away from any sporadic ground fire.

Mr. DICKINSON. How hot is the village?

General MILLOY. It is not hot. We do occasionally have aircraft shot at down in this area.

It is also heavily mined in the area with booby traps and whatnot. There is no one living in the village at this time. You will be able to see the outline of the hedge rows and so forth. The people from the village now live in Son My, or from the hamlet live in Son My, which is just south of there about 500 meters. We will point that out to you. The aircraft will make two orbits: the left, so people on that side can see it, and then we will reverse and make two orbits to the right so the people on the other side of the aircraft will get a good look at it.

Additionally, there will be an escort officer on each aircraft who will point out the various landmarks and answer any questions that you might have.

Mr. STRATTON. What did you do when the Peers committee came over?

General MILLOY. I will have to tell you as I know it, Mr. Stratton. I have only been here for 6 weeks and the information I pass on to you is hearsay from my perusal of the records. Actually, they established quite a task force that went down, combat troops and engineers. They swept the area. They lined off with white tape those areas where they had mined, where it was safe to walk. Then with both armored CAV troops and infantry troops they put a ring around the general area and kept an Air Cav troop overhead and then moved the people in by helicopter and flackjackets.

Mr. STRATTON. How much of that did they actually cover by foot or by jeep?

General MILLOY. They covered it by foot.

Mr. STRATTON. Did they just go into My Lai 4 or into My Lai 1?

General MILLOY. I cannot answer that.

Major PAULI. To the best of my knowledge, they worked primarily in My Lai 4. I do not have knowledge that they did go to My Lai 1.

Mr. HALLECK. I would like to ask one question. You said that some of the people in the village are now resettled some other place?

General MILLOY. Yes, sir, in Son My.

Mr. HALLECK. Would they be classified as survivors of what happened there?

General MILLOY. They have been referred to as survivors.

Mr. HALLECK. Did the Peers committee question them?

General MILLOY. My understanding is that they did. I might make the point we have not seen the Peers committee report, nor were we privy at the time they were here to their interrogations or interviews or whatnot. We know what they asked us for, the documentation they took from our files, but we do not have any information as to what the report was, all the information that they got from this area.

Mr. HALLECK. Do you have any idea how many of those people that were in that area that was involved are still alive around there somewhere?

General MILLOY. No, sir, I don't.

Mr. HALLECK. That is all.

Mr. SLATINSHEK. Did you have any casualties as a consequence of preparing My Lai for the Peers committee?

General MILLOY. I believe that there were one or two wounded from mines. I am not sure of that. There were a few people wounded during that time.

Mr. SLATINSHEK. Sweeping the area?

General MILLOY. Sweeping the area. It is a very treacherous area. This whole area in here is literally infested with mines and booby traps. We have had a tough time working in there and have frequent casualties.

One other point. You will hear perhaps during the course of the day reference to the rural development areas. Outlined in orange here is the rural development area. This is the heavily populated area where about 80 percent of the population in the two Provinces lived. It is under Government control and there are additional restrictions from the standpoint of rules of engagement, application of fire, and so on, and whatnot, to apply to these areas.

There are also some controlled fire zones which have additional restrictions, too.

These will be referred to during the course of the briefing today. You might note that this area here in the Batangan is not under control, My Lai being right on the edge of it, though a fringe area, where frequently we pick up fire this side of the line and on the other side.

Mr. GUBSER. Please outline the area not under control.

General MILLOY. This is only nominal control here, to these fringes [indicating].

Mr. GUBSER. The 48th still in there?

General MILLOY. The 48th Battalion is still in there. It is in bad shape now but they are still there.

Mr. SLATINSHEK. Maybe this is not a fair question, but how do you determine whether an area is under control or not under control?

General MILLOY. It is under control if the Government troops are able to stay there. It is a tough question to answer, admittedly.

General ZAIS. Actually it is under control. If I said, "OK, get in a jeep and go there," and we can go there, we don't have to worry about getting shot at and we can get out in the jeep and talk to people, that is under control. If there is any possibility that if you ride in there and are likely to get shot at, it is under control. If you could go in there five times and nothing happened to you and life going on as usual, it is under control. It is really hard to say. When you say the 48th is in there, one would think, "Heck, why don't you go in there and get the 48th out?" We have had six battalions working in there for the last 6 weeks, off and on, and we have killed several hundred of the 48th.

Still, little shells, little spider holes they go into, and these are hidden, and false walls and they come in from the hills. They get underwater and suck through a straw for some air for a day or two while you are looking and then they come out. That kind of thing. It is not the conventional sort of thing where—

Mr. STRATTON. What is the difference in the treatment of operations in the rural development area as contrasted to the area that is not under control? If an area is a rural development area, does this mean that you cannot conduct any military operations?

General MILLOY. No, sir, absolutely not. A great number of our operations are conducted in there to protect these hamlets and these people because there is infiltration in and around those hamlets by small units.

General ZAIS. The rural development area is a designation from Saigon as a part of the CORDS, civilian rural development program. It delineates those areas in which there are programs for pacification and security and within which the various villages are that you are trying to reestablish a certain degree of security and tranquility and they have these pacification objectives and this line outlines those areas in which your effort is directed toward that objective.

Mr. STRATTON. I would assume that any military operations taking place within the rural development area would be much more carefully regulated with respect to the possibility of killing civilians.

General ZAIS. That is right.

General MILLOY. Very much. That will be covered here in a moment.

Gentlemen, I would like to turn over the briefing now to Major Mitchell, who will address himself to the first two areas of interest.

I encourage you to stop us at any time to ask questions that you might have.

Mr. DICKINSON. Do you have such things as a free fire zone?

General MILLOY. We have them back out here, not in the RD areas.

Mr. STRATTON. How about the section not under control; would that be free fire?

General MILLOY. In here [indicating]?

Mr. STRATTON. Yes.

General MILLOY. No; at times it may be designated a free fire area but we are not allowed to go in there and fire without clearance.

Mr. REDDAN. Are there any ARVN troops within that particular area?

General MILLOY. Yes, sir. At the moment there are two ARVN battalions in there and one of my battalions.

BRIEFING BY MAJ. CHARLES MITCHELL, DEPUTY INSPECTOR GENERAL, AMERICAL DIVISION

Major MITCHELL. Good morning, Congressmen, General Zais, gentlemen. Lieutenant General Peers' investigation was concerned with the reporting of the alleged incident at My Lai. That investigation may have established when the alleged incident came to the attention of this headquarters and the actions taken thereon. Without knowledge of the findings by Lieutenant General Peers, this headquarters cannot state what transpired regarding the reporting. I will present background information and the sequence of events as known by this headquarters regarding investigations of the alleged incident.

March 16, 1968. An 11th Brigade combat action report dated March 28, 1968, stated that Task Force Barker conducted a helicopter assault at My Lai on March 16, 1968. The task organization was: Headquarters, Task Force Barker commanded by Lt. Col. Frank Barker, Jr.; Company C, 1st Battalion, 20th Infantry commanded by Capt. Ernest Medina; Company B, 4th Battalion, 3d Infantry commanded by Capt. Earl Michles; and Company A, 3d Battalion, 1st Infantry commanded by Capt. William Riggs. Supporting forces were: Battery D, 6th Battalion, 11th Artillery; 174th Aviation Com-

pany; Company B, 123d Aviation Battalion; and a SWIFT boat from the U.S. Navy Coastal Surveillance Force.

The stated mission for the operation was to destroy enemy forces and fortifications in a Viet Cong base camp and to capture enemy personnel, weapons, and supplies.

In executing the mission, Company C, 1st Battalion, 20th Infantry and Company B, 4th Battalion, 3rd Infantry conducted helicopter assaults in the vicinity of My Lai hamlet, Son My village, in eastern Son Tinh District.

Mr. STRATTON. Major, I think that you are going over material that we are already familiar with and no point in wasting time on that. Get down to the 14th of April.

Major MITCHELL. Fine, sir.

The atrocity allegations apparently came to the attention of the 11th Brigade on April 14, 1968. A statement attached as an enclosure to the unsigned Henderson investigation report bears that date. The statement is in reference to a letter from the Son Tinh District chief to the Quang Ngai Province chief, dated April 11, 1968, subject: Allied Forces gathered people of Son My Village for killing.

Mr. REDDAN. Is that the first thing that you had in your files?

Major MITCHELL. Yes, sir, that is the first thing that we could see from what we have that would have brought it to anyone's attention. This was an unsigned document.

Mr. REDDAN. There was nothing in there to indicate any direction to make an investigation had been made prior to that time?

Major MITCHELL. We have no knowledge of that here, sir. I don't know what General Peers found. We have no knowledge. He didn't ask us for any documents. We were not able to find any such document.

Mr. REDDAN. Didn't he tell you what he took?

Major MITCHELL. From us, but we have no document, any record of any document. This is the earliest document that we have, the Henderson report, that would indicate when it comes to anyone's knowledge.

Mr. REDDAN. Do you have a list of the documents which you supplied General Peers?

Major MITCHELL. Yes, sir, that should be a part also of his report.

Mr. DICKINSON. We are not worrying about his report but something outside of that.

Major MITCHELL. Yes, sir.

Mr. STRATTON. What we would like to get, Major, for the committee is a list of all of the documents that General Peers' committee took from you and exactly what they are.

Major MITCHELL. Yes, sir, we have that. There is one thing to remember, sir. Some of the documents they requested had already been shipped to the hold centers and they went there and got them so we don't know what they got there.

Mr. DICKINSON. Just note that.

Mr. STRATTON. Let us know what they sought to get from you and what they got from you.

Mr. REDDAN. What you turned over.

Major MITCHELL. Yes, sir, we have that.

Mr. DICKINSON. The 16th of April is the date of the Province Chief's letter? Do you have the right date?

Major MITCHELL. April 11. There was a letter from the Son Tinh District chief to the Quang Ngai Province chief dated April 11, 1968, subject: Allied Forces Gathered People of My Son Village For Killing.

Mr. STRATTON. To whom did that come?

Major MITCHELL. The only thing we have with reference to this is a statement as part of the Henderson report where he references it. We don't have a copy of the letter, just a statement in the Henderson report which says "Statement," and then he talks about that letter. He says what it is. We don't have a copy of the letter itself.

Mr. STRATTON. Would you have in your files any documents indicating the action report on the 16th of March?

Major MITCHELL. We have an after-action report; yes, sir.

Mr. STRATTON. Do you have anything connected with the briefing that took place on the 17th of March with respect to the operation?

Major MITCHELL. No, sir; we do not.

The Henderson investigation report also included the translation of a Viet Cong propaganda message targeted at the ARVN soldier urging him to shoot Americans. According to the Henderson report, this message was given to the 11th Brigade by the commanding officer, 2nd ARVN Division on or about April 17, 1968 as a matter of information. The message made the same allegations as made by the Son My village chief in addition to other claims of atrocities by American soldiers.

Mr. REDDAN. Do you have this document here?

Major MITCHELL. The unsigned Henderson report; yes, sir, we have a copy of that.

Mr. REDDAN. Unsigned copy?

Major MITCHELL. Yes, sir, this unsigned copy was found on May 25, 1969.

Mr. REDDAN. Is it an original or is it a carbon copy?

Major MITCHELL. The copy we have is a Xerox copy of an unsigned document.

Mr. REDDAN. The only thing that you ever had in your files was a Xerox copy; is that it?

Major MITCHELL. On May 25, 1969, they found an unsigned copy. I am not sure whether it was a carbon or original. This document, we made true copies of it and those were provided to the Inspector General.

Mr. STRATTON. Who is "they"?

Major MITCHELL. It was found in 11th Brigade S2 files.

Mr. REDDAN. They were not in the division files?

Major MITCHELL. No, S2 files, 11th Brigade, unsigned document, and we made a true copy and provided it to Colonel Whitaker, IG. Then when General Peers was here, he also found again the unsigned document in the S2 files at 11th Brigade. It is the same, we think the same document that true copy was made from on May 25, 1969.

Mr. REDDAN. Where?

Major MITCHELL. The S2 files in the 11th Brigade, the same place it had been found on May 25, 1969. So it was found twice.

Mr. STRATTON. Didn't you find a document in the Americal files?

Major MITCHELL. That was 11th Brigade files.

Mr. REDDAN. In the division?

Major MITCHELL. Not in the division; no, sir. To my knowledge, the only time it has been found was twice, once May 25, 1969, and once when Peers was here. Both times it was an unsigned document.

Mr. REDDAN. Was there a personal correspondence file of General Koster in the division?

Mr. REDDAN. Has there ever been, to your knowledge?

Major MITCHELL. I don't know, sir.

Mr. STRATTON. Didn't you find something in Sergeant Gerberding's desk?

General MILLOY. He was the man that actually found, as I recall, that was the name of the individual in the brigade, who actually put his hand on the document.

Mr. STRATTON. I see.

Major MITCHELL. He was the S2 sergeant, if I remember right.

Mr. STRATTON. Never found anything. OK.

Major MITCHELL. April 24, 1968: The unsigned Henderson report referred to, is an unsigned letter from Col. Oran K. Henderson, commanding officer, 11th Brigade, to commanding general, Americal Division, dated April 24, 1968, subject: Report of Investigation. The letter was found in S2 files at 11th Brigade on May 25, 1969. It is believed that a signed copy of the report was never located by the LTG Peers' committee. The report concluded that 20 noncombatants were inadvertently killed when caught in the area of preparatory fires and in the fires of the United States and Viet Cong on March 16, 1968; that no civilians were gathered together and shot by U.S. soldiers, and that allegations that U.S. forces shot and killed 450-500 civilians were obviously a Viet Cong propaganda move to discredit the United States in the eyes of the Vietnamese people in general, and the ARVN soldier in particular. The report recommended that a counterpropaganda campaign be waged against the Viet Cong in eastern Son Tinh District.

Mr. REDDAN. We have that?

Major MITCHELL. Yes, sir.

Mr. REDDAN. Incidentally, did the copy that you made a true copy of have any initials up at the top on the right-hand side in writing, the notation "file" and then —

Major MITCHELL. I don't recall.

Mr. REDDAN. OK.

Mr. STRATTON. Do you have a copy of that now?

Major MITCHELL. Yes, sir. We have a copy here.

Mr. REDDAN. Who made the true copy?

Major MITCHELL. Major Cox, I believe, at 11th Brigade. I believe he is the S2 at 11th Brigade. I believe that is who it was.

Mr. REDDAN. The true copies were not made here?

Major MITCHELL. No, sir. At brigade.

March 1969. In March 1969, Ronald Ridenhour, since out of the Army, wrote letters to some 30 persons: The President, Congressmen, Washington officials, and Department of Defense. As a result, the Army Chief of Staff asked the Department of the Army, Inspector General to investigate.

April 13-14, 1969: During April 13-14, 1969, Deputy Inspector General, U.S. Army Vietnam, Colonel Whitaker, visited Americal and conducted an inquiry. The division staff was placed at the disposal

of Colonel Whitaker and provided all material relating to Task Force Barker that was available.

Mr. STRATTON. Just a second, Major. This is Colonel Whitaker from USARV?

Major MITCHELL. USARV Deputy Inspector General.

Mr. STRATTON. He came up here in person the 13th, 14th of April?

Major MITCHELL. Yes, sir.

Mr. STRATTON. He was, of course, the Commanding General of USARV, also MACV; correct?

General MILLOY. Yes, sir.

General ZAIS. Yes. But the way it works, Congressman, General Abrams wears two hats. The fellow who really runs it is his deputy, Frank Mildren. Before that it was Bruce Palmer, Deputy Commanding General, USARV, who really runs the entire administration. In essence his is a theater Army headquarters.

Mr. STRATTON. What I am trying to find out is the first time that the people out here in Vietnam knew of this particular incident, or at least the people in Saigon. We got some conflicting testimony there yesterday and this suggests that at least this was known down there as early as April 1969. At least the charges with respect to the allegations.

Major MITCHELL. In March 1969, Ridenhour's letters generated an investigation—

Mr. STRATTON. We were in Washington. What I am trying to find out, when this question that Mr. Ridenhour raised, and which was brought to the attention of the Pentagon by Congressman Rivers, actually came out here.

Major MITCHELL. They got to our headquarters on April 13-14, 1969. That is when Colonel Whitaker, the Deputy Inspector of USARV, was here. The division staff was placed at the disposal of Colonel Whitaker and provided all material relating to Task Force Barker that was available. On May 25, 1969—

Mr. REDDAN. What was that material?

Major MITCHELL. We went through our files. We had to give him a list of where certain people—he had a list of some six names and we had to tell him where their assignment was and when they were in America. Then he went through our journals. We have a listing in the folder that you have there.

Mr. STRATTON. Did he pick up the Henderson report?

Major MITCHELL. No, sir. We didn't find that until May 25, 1969.

On May 25, 1969, a true copy of the unsigned Henderson report was sent to USARV Inspector General.

Mr. STRATTON. How did you find that?

Major MITCHELL. The S2 at 11th Brigade, we had continuing searches going on for materials. We had been asked for materials by the USARV Inspector General. The S2 there notified they found a copy and it was made and sent to USARV.

Mr. STRATTON. Didn't Colonel Henderson himself direct an inquiry out here to tell them where to find out, what drawer or what safe?

Major MITCHELL. I don't know, sir. I believe—and I wouldn't swear to this—I believe Colonel Henderson may have asked General Donaldson to attempt to find a document.

Mr. STRATTON. General who?

Major MITCHELL, Donaldson.

General ZAIS. He was at that time Assistant Division Commander. He is gone, since gone back to the States.

Major MITCHELL. I believe it is during that period of time that they made another search and S2 of the 11th Brigade came up with this document. A true copy was provided to the USARV Inspector General. That was May 25, 1969.

Sometime during the Department of the Army Inspector General's investigation, it was recognized there was a possibility of a criminal offense having occurred.

October 25, 1969: On October 25, 1969, Colonel Tynan and Chief Warrant Officer Feher, representing the Provost Marshal General, briefed the Division Command Group essentially as follows: The IG investigation was transferred from Department of the Army Inspector General to the Provost Marshal General in August 1969. The man accused was Lieutenant Calley. The 1st Criminal Investigation Detachment, Washington, D.C., was given the mission of obtaining information to establish or refute allegations. Based on their findings, the decision was made to hold Lieutenant Calley beyond his scheduled release date of September 5, 1969, and a full-scale investigation was ordered by the Provost Marshal General.

As a result of this visit, the Division Staff was charged by the Commanding General to support administratively and logistically the Provost Marshal General's investigation. This support continued as requested until March 1970.

November 14, 1969: The first news media personnel to visit Americal regarding My Lai talked with the people in Son My village on 14 November 1969. The correspondents were: Henry Kamm, New York Times, Paul Brinkley-Rogers, Newsweek, and Don Baker, ABC-TV.

Mr. REDDAN. How were they able to get there?

Major MITCHELL. He went to Son My village itself rather than My Lai 4. I believe they did go by helicopter.

Were you with them?

Major PAUL. That is correct.

Mr. STRATTON. Did they make a request of the Americal Division?

Major PAUL. Yes, sir. Mr. Kamm came in from the New York Times at that time. He had information on Son My village, and came in through the press corps, that requested assistance to reach that area, work with JUSPAO at Quang Ngai getting him in. We didn't have troops in that area.

Major MITCHELL. On December 6, 1969, a message was received from Military Assistance Command, Vietnam, requesting information from this headquarters relating to the alleged My Lai incident. The message also stated that LTG Peers and members of his committee would come to Vietnam to investigate the reporting of the alleged My Lai incident.

On December 24, 1969, Colonel Whalen and Lieutenant Commander Brandt, advance party for the Peers committee, visited Chu Lai to make coordination for Peers' visit.

December 30, 1969-January 5, 1970. Lieutenant General Peers committee was at Americal Division during the period December 30, 1969-January 5, 1970 to conduct an investigation of the reporting of My Lai. The committee interrogated Vietnamese officials, interpreters who had served with Task Force Barker, Vietnamese villagers from Son

My, American soldiers who had served in Americal in March 1968, and members of Americal who might have had access to any investigation reports. The committee searched Americal Division files and Vietnamese files. Lieutenant General Peers conducted an air reconnaissance of My Lai with Chief Warrant Officer Thompson, who had been a helicopter pilot supporting the My Lai operation in 1968.

Lieutenant General Peers and members of his committee performed a ground reconnaissance of My Lai on January 3, 1970 accompanied by two ARVN interpreters who had been with Task Force Barker. Colonel Whalen and Lieutenant Commander Brandt remained in Vietnam, as liaison, upon Lieutenant General Peers' departure. The Division continued to provide requested assistance until early March 1970.

January 4-10, 1970; counsels for the Lieutenant Calley proceedings, Maj. Kenneth Raby and Capt. Aubrey Daniel III, were at Americal during the period January 4-10, 1970. In addition to a review of files and interrogations, they spent January 6 and 7 at My Lai to conduct pretrial investigation and observation.

The civilian press visited My Lai on January 8, 1970. The press visitors were limited to 1 hour on the ground. The newsmen were Dave Rosensweig, AP; Mike Godfried, AP; Allan Mortland, Reuters; Vince Slavin, Newark News; Tom Benic, Stars and Stripes; Don Baker, ABC News; and Kenly Jones, NBC News.

Americal Division made extensive preparations to insure the safety of visitors during ground reconnaissance missions at My Lai.

Again, we cannot state when the alleged incident came to the attention of this headquarters, nor do we know the actions taken thereon.

I will now be followed by Maj. Jack Pauli.

Mr. REDDAN. In connection with the retirement of files, is the correspondence file of the commanding general retired within any particular time?

Major MITCHELL. I don't believe so.

General ZAIS. No. I still have my correspondence since 1938.

Mr. REDDAN. Does the correspondence file follow the commander when he is relieved?

General ZAIS. Yes, sir.

Mr. REDDAN. There are no copies remaining in the files?

General ZAIS. Really there is no regulation on this. A man should have his personal correspondence screened, which I always do, to see if there is anything in there which is essential to the continuity of operations and then leave behind or have abstract copies made of that which is of other than personal interest.

Mr. REDDAN. The committee has testimony that there was a letter written by General Koster to Colonel Henderson with respect to this investigation. A copy of that letter should be in the Americal Division files, I would think.

General MILLOY. That sounds like it would have been an official letter.

Mr. REDDAN. That is right. I am just wondering if it was put in a personal file rather than the official file.

General ZAIS. That is not the kind of thing I would put in my personal file. My Judge Advocate General would prepare this letter, or G1, or whatever, and that is official in nature. And if I send a letter like

that, that would go into the official files. It would not go into my personal files.

Mr. REDDAN. Such a copy was found here?

Major MITCHELL. Not that I know of; no, sir.

Mr. STRATTON. Has a search been made for such a letter?

Major MITCHELL. They went through all our files. The Peers committee went through all of our files.

We just made the files available to them and they searched whatever they desired. They conducted the investigation.

General MILLOY. They went through the desks and table drawers and everything else. Stripped the files.

Mr. DICKINSON. You said that you were not informed what they took, or you were informed?

Major MITCHELL. Yes, sir.

Mr. DICKINSON. Everything they took?

Major MITCHELL. We have a list of everything that they took, they got from right here and in our division or from our 11th Brigade. We don't have what they got from holding areas.

Mr. DICKINSON. They couldn't have gotten the letter we are referring to without your having that among your list of papers that they got, is that correct?

General MILLOY. That is correct.

Mr. STRATTON. What was the command setup at this time? The Americal Division was part of the 3d Marine Amphibious Force?

Major MITCHELL. Yes, sir.

Mr. STRATTON. General Cushman is commander of the 3d AMF and General Koster's immediate superior?

Major MITCHELL. Yes, sir.

Mr. STRATTON. Would you have in your files a log that would indicate those occasions in which General Koster might have gone to Da Nang to report to General Cushman or when General Cushman might have come down here?

Major MITCHELL. Do you keep that information in your log in SGS?

Major WILLIAMSON. No, sir. We have a record of it here in our headquarters. General Koster went to his headquarters.

Mr. STRATTON. You wouldn't have any record of when the general was absent from the division on business at other headquarters?

Major WILLIAMSON. He is the commanding general of operations here and he is gone from physical headquarters most of the time. Not necessarily to another headquarters, but at least to supporting headquarters.

Mr. STRATTON. I wonder if you could get for the committee, if you could make a check and find out for us those visits which General Cushman made to the Americal Division, let us say between April 14, from March 16 to the 1st of July, something like that. Could you do that for us?

General MILLOY. Yes, sir.

Mr. STRATTON. General Zais, what is the tieup with the 24th Corps as of this particular period?

General ZAIS. At the time, 24th Corps was in existence then. The 24th Corps commanded or had operations control of the 101st Airborne Division, 1st Air Cavalry Division, 3d Marine Division, and the 1st Brigade and the 5th Division, all north of Da Nang, all under

OPCOM of 3 NAV. That is, the 24th Corps was a tactical corps and commanded that element because of the big spread in the numbers of troops.

On March 9 of this year, 24th Corps assumed overall command because of the change in weighting of Marines versus Army. The 24th Corps assumed overall command as of March 9 this year, moved its headquarters from Phu Bo to Da Nang. At the time of this incident, 24th Corps was not in this chain of command.

Mr. STRATTON. Thank you.

General ZAIS. 3 NAV is still here, you know. 3 NAV may have some records which would indicate whether General Cushman visited down here or not. I think everybody has their own way of doing this.

For example, I have a diary covering every day and I could have told you, and I can right now, where I have been every day since I have been in theater almost 2 years because my aide keeps a note of where I go and who I talk to, and that is available. I don't know whether General Cushman did that or not.

Mr. DICKINSON. Personal idiosyncrasy of yours?

General ZAIS. Yes, sir.

Mr. DICKINSON. The way you do it?

General ZAIS. That is the way I do it. Sometimes, for example, a situation comes up where I talk to somebody and they say they didn't know about it or didn't understand, and I just go back and go right back to my files and say: "Wait a minute now. I was up here and we discussed this subject on the 28th of so-and-so." I just like to know what I have been doing and where I have been. It's something I do.

Major MITCHELL. If there are no further questions—

Mr. LALLY. When Colonel Whitaker made his investigation, was any documentation provided him from this headquarters?

Major MITCHELL. I believe he did take copies of some of the Task Force Barker journals. I would have to check some of the documentation we have.

Mr. LALLY. Could we have a copy of the list of documents furnished to him?

Major MITCHELL. Yes. I think that we can give you a list of the documents.

Mr. LALLY. Where would a report such as the Henderson report normally be filed within the division files?

Major MITCHELL. This was evidently—if it were a report as it appeared to be, a letter from him to the commanding general, it would appear in some files in the commanding general's headquarters building. I would say.

Mr. LALLY. Is there a particular section of the files where such reports would normally be filed?

Major WILLIAMSON. If it were a report of the investigation, the most logical place would be to look in the G-1. If it were personal correspondence it would be in the command section or command files.

Mr. LALLY. Both those files have been examined and no copy of the report was found there?

Major WILLIAMSON. Yes, sir; they have been examined on several occasions by the general.

Mr. LALLY. Thank you.

Major MITCHELL. Major Pauli.

Major PAULI. Good morning, gentlemen.

My portion of this morning's briefing covers the following areas:

First, the effect, if any, that the alleged My Lai incident has had in our division on troop morale and tactical operations.

The second section of this briefing will cover two questions. What is the Americal's evaluation of directives and training concerning the treatment of noncombatants and the application of our combat power? And what changes have occurred as the result of the alleged My Lai incident that involves civilian casualties.

What is the effect of the alleged My Lai action on troop morale and tactical operations?

Our assessment of the aftereffects of the alleged My Lai incident on troop morale and the manner in which operations are conducted is based on an evaluation of opinions expressed by personnel throughout this division.

Our sampling of opinions, attitudes, and reactions to the alleged incident included senior commanders, meaning brigade and battalion commanders; small unit leaders, including company commanders, platoon leaders, and platoon sergeants; and individual soldiers from all job assignments—combat ground troops, combat support troops and soft skill MOS personnel.

Over 75 individuals were interviewed on a no-notice basis. The interviews were conducted in the field or at the individual's normal place of duty. The units represented by these interviews were selected for their diversity of mission and area of operation.

Mr. STRATTON. Are they interviews you conducted in response to your request?

Major PAULI. Primarily; yes, sir.

Mr. STRATTON. They were conducted when?

Major PAULI. These were conducted the early part of this month. We went out with a notice basis, with a set format of questions into an area and, it seemed, just talked to the people, tried to get their reactions in this area.

Mr. DICKINSON. Do you have the format?

Major PAULI. Yes, sir.

Mr. DICKINSON. I think it would be helpful to include that with the other document in the record.

Major PAULI. All right.

Mr. REDDAN. Had you had a similar request for that type of information from MACV?

Major PAULI. No, sir; we had not.

Mr. REDDAN. Have you ever performed that service for MACV?

Major PAULI. Not to my knowledge; no, sir. The only similar thing to this is the time, of this time of the alleged incident, became common knowledge, was the press moving through the area talking to various individuals.

Mr. STRATTON. Did you get such a request from General Abrams or General Mildren?

General ZAIS. I did.

General MILLOY. Yes, sir. I got it from General Zais.

General ZAIS. I was asked for my personal evaluation and I asked all my commanders for theirs. They sent the information to me and consolidated it and sent it to General Abrams.

Mr. STRATTON. Went to you and down?

General ZAIS. That is right.

Mr. REDDAN. How long ago?

General ZAIS. It seemed to me like a week or 2 weeks ago.

Mr. REDDAN. Is this part of the same—

Major PAULI. Yes, sir.

General ZAIS. Yes, sir. I presume it was precipitated by your upcoming visit but I have no assurance.

Mr. STRATTON. They indicated they made such a survey?

General ZAIS. Yes, sir.

Major PAULI. The difference in viewpoints obtained were contingent upon the individual's knowledge and understanding of the alleged My Lai incident, his rank, duty assignment and area of operation.

Addressing first the individual soldier:

Little evidence was found that the alleged My Lai incident has had a pronounced effect on troop morale, particularly among the ground combat soldiers. There is a general reluctance to believe that the incident occurred as it has been described to date in official releases and the mass media. Those soldiers interviewed did not identify with the soldiers who were involved in the My Lai action of March 16, 1968.

Mr. DICKINSON. What did that mean?

Major PAULI. In other words, they did not feel that they were—

Mr. DICKINSON. They were one of us?

Major PAULI. They couldn't see it among themselves, sir. I was on the survey team and generally there were different beliefs. They said: "Well, we just don't operate that way."

Mr. DICKINSON. Thank you.

Mr. REDDAN. Did you take a statement from these persons interviewed?

Major PAULI. Sir, not verbatim statements; no.

Mr. REDDAN. Did you write up a report indicating the people interviewed and their views in the matter?

Major PAULI. Yes, sir. I have worksheets from this area.

Mr. REDDAN. Could you furnish us with a copy of that, please?

Major PAULI. Yes, sir.

Mr. REDDAN. How many did you interview?

Major PAULI. Sir, totally there were over 75; 49 definitely that we listed their questions. Similar views paralleled throughout different levels. In other words, if you get five or six individual soldiers they might parallel, or out of the group you might have a split between two and three others.

During our survey there was evidence found that the normal frustrations of conducting combat operations in an area where the enemy is not easily identified have been compounded by the progressively more stringent emphasis of the rules of engagement. This emphasis has necessarily evolved as the war moved back into its counterinsurgency phases in our tactical area of operational interest. Some soldiers feel that the enemy is getting more than an even break.

The alleged My Lai incident has had no noticeable effect on troop attitudes toward the Vietnamese living in areas where the populace's loyalty is unknown, mixed, or in favor of the enemy.

Mr. SLATINSHEK. Can you tell us what you meant when you said that some of the people interviewed said the enemy was getting better than an even break? I am curious as to what that means.

Major PAULI. I think, sir, when we get to this a little later in the briefing, the area of rules of engagement, how we operate, we can see this.

Mr. SLATINSHEK. Save it for that, then? I assume that is what you meant?

Major PAULI. Yes, sir.

They have had little reaction in the areas of feeling toward the Vietnamese. Our combat troops view any person living outside a rural development area with suspicion. They realize that the rural populace may be loyal to the enemy by circumstance rather than by conviction and that these people respond to whomever controls the area.

Generally, our combat soldiers continue to befriend little children and the aged, and this demonstrated concern is usually reciprocated. One major attitude shift was noted among soldiers operating in heavily booby-trapped areas. These individuals express resentment toward the Vietnamese population because of the frustrations associated with fighting an unseen enemy apparently harbored and supported by the local populace. This attitude, however, is not considered attributable as an aftereffect of the alleged My Lai incident.

Mr. STRATTON. Do you detect any unwillingness or reluctance to try to bring in unarmed individuals, whether they are enemy or civilians, to the refugee centers or wherever they are supposed to be brought in? In other words, taking prisoners? You talk about the rules of engagement. I think this is the point where we ran into problems yesterday at MACV.

The critical issue here, I think, is what you do to people who have surrendered. Do you wipe them out in cold blood because you are fed up with them, or do you take them to the appropriate centers? It is not a question of rules of engagement or preparatory fires. It is a question of what do you do after somebody has given up. Is there any reluctance on the part of the troops to take prisoners or to escort those who have been captured to reception centers?

Major PAULI. Nowhere during our survey did we run into this whatsoever. This is a reluctance, I think, which is covered in here sometimes: they had a choice as opposed to operating in a populated or unpopulated area. But as far as the actual handling or processing of noncombatants or detainees, we do not discover this in any respect.

There are also indications that the adverse publicity to the Army resulting from this alleged event will have a detrimental effect on junior officer retention.

Mr. STRATTON. This gets back to the questioning I raised before. What possible bona fide combat decision was made in the My Lai case, as the allegations were presented, which might be the sort of thing that a ground combat commander would shy away from?

Major PAULI. I don't think that I am that familiar with the action and the circumstances.

General ZAIS. The kind of a thing that a lieutenant could get pretty nervous about, you have fires coming from a village, lined up and approaching the village, and you have some fires coming from that village.

You have two or three already wounded and you are now trying to decide whether you are going to bring SAM artillery in to suppress those fires while your soldiers advance into the village or whether you are not. You see a little coolie hat and a woman or a couple of kids scurry from one building to another building.

Now your problem is, do you fire M79 grenades in there? Do you continue to bring small arms fire to bear? Do you call artillery? These are the kinds of thing that tear up a young officer.

Mr. STRATTON. That is right. This is the thing that I think has gotten lost sight of in this investigation. It is not this kind of thing that the My Lai allegations really are directed to.

General ZAIS. No.

Mr. STRATTON. As I understand it, they are directed to the charge that you had all these civilians that surrendered and huddled in a group, and instead of putting them in a jeep and evacuating by helicopter, you shot them down. That is certainly not a command decision that anybody would—

General ZAIS. No, it is not. But these kids don't know all about that. They don't know all the details of the investigation.

Mr. STRATTON. That is right. This is the thing that has bothered me. There is a little confusion as to exactly what we are talking about.

General ZAIS. Exactly, there is, Mr. Congressman. There is confusion and all they have is snatches of newspaper stuff, and so on.

Mr. STRATTON. In other words, their feeling is that if you go into an area where you are getting fire and try to take the position and then you walk in and find that you have got a few bodies of women and children around, you are not hung for that?

General ZAIS. You might be. They don't know that.

Mr. STRATTON. That is their fear.

Major PAULI. That is their concern.

Mr. STRATTON. OK.

Major PAULI. This effect on possible career intentions was unique to this group. It did not appear either in the individual combat soldier or the senior officer and senior noncommissioned officer. In general, junior officers and junior noncommissioned officers indicated that the alleged My Lai incident has intensified their awareness regarding their personal responsibility for assuring that the rules of engagement are not violated.

Meanwhile, senior commanders and senior noncommissioned officers as a group expressed disappointment that the soldiers allegedly involved at My Lai were apparently condemned prior to the completion of the formal investigation and the subsequent trial proceedings. They expressed a feeling of insecurity based on what was felt to be an over-reaction by the military in response to ambient pressures applied by those elements who condemn the U.S. involvement in Vietnam for any number of reasons.

Finally in the troop morale area, an interesting note in our evaluation was the fact that the attitudes and reactions of the men of the My Lai company, Company C, 11th Infantry Brigade, were substantially the same as those men in other infantry companies throughout the division.

Our survey evaluated the effect the alleged My Lai incident has had on the planning and conduct of ground operations in the Americal Division.

Generally, the alleged incident has not changed how or where Americal combat troops are employed. We continue to plan operations wherever necessary to support the overall pacification program, while every possible effort is made to avoid injuries to innocent civilians, we continue combat operations against the Viet Cong and the North Vietnamese Army.

However, our senior commanders have placed additional emphasis on the rules of engagement and are very conscious of the requirement to tightly control the application of combat fire power in the proximity of populated areas.

As a result of this control, we have indications that the junior leaders have developed a more cautious approach to combat operations with an attendant reduction in aggressiveness. In particular, these young leaders are reluctant to press an engagement in populated areas where supporting fires will not be available.

Mr. REDDAN. Has that adversely affected the operations of the division?

Major PAULI. I would not feel that it has, sir.

Mr. REDDAN. Is there any indication that that attitude has resulted in higher casualties among the troops?

Major PAULI. No, sir.

General ZAIS. Well, let's say there is no indication as a result of higher casualties but there is flak and a certain amount of resentment about the stringency of the rules of engagement. General Milloy and I were down at the Province just about 10 days ago when we received the gripes from district advisers—not in the division itself, but the district—American district advisers working with regional and popular forces who now have a more difficult time acquiring quick artillery support because General Milloy has put out rules that are more stringent than they ever were before. They do question it and there is some degree of resentment—resentment is too strong a word—but they feel like they are being inhibited.

Mr. REDDAN. Did they make that in writing to you, sir?

General ZAIS. No, sir, not in writing. We regularly visit Provinces. And I was visiting Quang Ngai Province and General Milloy was with me about a week ago. Right after he had put out some even more stringent rules of engagement this question came up in the discussion.

Mr. GUBSER. Does this mean if you were going to conduct a search and destroy operation in populated areas, that you would be more reluctant to provide advance artillery preparation today than you would have been prior to this incident?

General ZAIS. Well, I think that you have got to go to the individual himself. If you ask me, I say flat out, no. I have always been concerned about this and have always been quite restrictive in terms of where you place fires. I think each man has to answer that one for himself.

Mr. STRATTON. Are we going to get into the rules of engagement?

Major PAULI. Yes, sir.

Mr. STRATTON. I think we would like to get a copy of these more stringent rules that General Zais talked about and perhaps you could underline the ones that are new and more stringent in comparison with the previous ones.

General MILLOY. Very well.

Major PAULI. If we may turn to our evaluation of the directives concerning the training of our soldiers concerning civilian noncombatants, to include any changes made as a result of the My Lai incident.

In response to the alleged My Lai incident, little has changed in the area of training of the individual soldier and the basic rules and directives governing the conduct of combat operations. This can be attributed to the fact that the alleged incident, if it did happen, was then, as it would be now, in direct contradiction to all established training and operational procedures. Let's examine two areas in the light of this statement. These areas are additional training of Americal personnel and the actual specific directives covering the rules of engagement.

First of all, training. All incoming personnel to the Americal Division, through the grade of captain, attend either a 3- or 6-day training course at the Americal Combat Center here in Chu Lai. Individuals going to combat field units attend the 6-day course which is designed to familiarize them with our area of operations and reinforce all their previous combat training. The 3-day course is designed primarily for rear area personnel and parallels the X-day course, but does not include all the field instructions. Part of the field instructions received in the X-day course is an explanation of the Americal rules of engagement.

However, all incoming personnel receive a 1-hour period of instruction on the Geneva Convention. This class is given by a judge advocate general officer and covers the treatment of civilians, detainees and prisoners of war.

All personnel are informed how compliance with the Geneva Convention is essential to our overall effort here in the Republic of Vietnam.

Mr. LALLY. Was such a period included in the briefs back in 1967, 1968?

Major PAULI. Sir, I do not have the POI for that period of time. I know it has been part of the standard training as long back as we have the program of instruction, the standard subject for all incoming personnel. It goes back to March of 1968. We do not have the record to show that.

Additionally in this area, we are given examples of what constitutes a breach of the convention as well as punishments which can be received for such offenses. This is not a new subject to the incoming personnel, but merely a reiteration of previous training with the topic being localized to our area of operations.

Now let's examine the area of directives and regulations.

Although no recent changes in directives can be directly attributed to the My Lai incident, a number of letters, directives and regulations have been published, both before and after the alleged My Lai incident became common knowledge, which relate to the area of non-combat casualties.

Two primary directives concerning application of combat power are Americal Regulation 525-11 concerning the control, disposition and safeguarding of Vietnamese property, and Americal Regulation 525-4 which deals with our rules of engagement. Neither of these documents represent a change in our basic combat policy but do reflect the additional stress that is given the subject by commanders as was noted in our early comments on troop morale.

Our rules of engagement contain provisions applicable to combat operations in the Americal area of operations. They are designed to limit the risk to the lives and property of friendly forces and non-combatants. The rules of engagement define when a commander can employ direct organic weapons fire. The term direct organic weapons fire is basically the individual and automatic weapons organic to an infantry or cavalry units.

The rules of engagement also deal with the use of indirect and other supporting fires. This category of fire support includes gunships, .50-caliber machineguns, mortars, artillery, naval gunfire and fighter bombers.

Mr. REDDAN. Can you recon that fire?

General MILLOY. You cannot recombat fire in populated areas; no, sir.

Mr. REDDAN. Even approaching a populated area?

Major PAULI. Generally a commander, the rules of engagement also deal with the use of indirect or other supporting fires. The category of supporting fires include gunships, .50-caliber machineguns, mortar, artillery, naval gunfire and fighter bombers in uninhabited areas, observed indirect fire may be used against the enemy.

In uninhabited areas, observed indirect fire may be used against the enemy without restrictions. Unobserved fires may be directed against enemy targets only after appropriate political clearance has been obtained from the district or Province chief into which the fire will be directed and a military clearance is obtained from the senior tactical commander into whose area of responsibility the fire will be directed. Observed fires may be directed against targets of opportunity, which are clearly identified as hostile without civilian clearance if the target is outside a rural development area.

However, even in this case a military clearance is required. In order to preclude firing incidents in the vicinity of populated areas, a letter dated April 21, 1970, to all subordinate commands from the commanding general of the Americal Division, states the authority to approve any indirect supporting fires into a hamlet or built-up area is restricted to a general officer from this headquarters.

Mr. STRATTON. Remind me what the difference is between direct and indirect fires.

Major PAULI. Direct fire is organic weapons, be they rifles or machineguns. They are organic to the small units. You are observing a point-to-point basis.

General ZAIS. A man seeing what he can shoot is direct fire. A man not seeing what he is shooting is indirect fire. It can be observed by somebody else.

Mr. STRATTON. That is what bothered me when you called it observed by a forward observer.

General ZAIS. That is right. It is direct fire when the man shooting can see what he is shooting at. It is indirect when somebody else sees it, or nobody sees it.

Mr. STRATTON. I get that. Thank you.

Major PAULI. While the rules of engagement deal with the application of firepower, Americal regulation 525-11 requires commanders to take all practical measures to minimize the destruction of public and private properties. The disposition of private properties and supplies is the responsibility of the Government of Vietnam. Commanders are

tasked with the responsibility to insure that civilian dwellings and private property, including livestock, will not be destroyed by U.S. forces except as an unavoidable consequence of combat operations. The destruction of dwellings and livestock, as a denial measure, is not authorized by U.S. forces. Such denial measures can only be accomplished by the Republic of Vietnam Government or its armed forces.

Mr. STRATTON. Does this apply to just Vietnam or would it apply to the operations going on in Cambodia now?

General ZAIS. He does not know that. These are common rules.

Mr. STRATTON. Any troops operating under MACV?

General ZAIS. That is right. You just don't go around indiscriminately burning and shooting and knocking down things.

Mr. STRATTON. Probably would not necessarily apply to the Vietnamese themselves?

General ZAIS. Well, it does apply. I know that it applies. It depends on the commander really, Mr. Chairman. Being honest with you it depends on that.

Mr. STRATTON. They are not directly responsive to MACV?

General ZAIS. That is right. We cannot give them orders. I know that. I have not been operating in this area myself for very long but I guarantee you that, General Truk, commander, 1st ARVN Division, has the same rules as the American troops. I don't know what he does, but I am confident General Xuan down here does. By the same token, I would be less than honest if I didn't recognize there were some troops more disciplined than others and there are degrees of adherence to that rule.

Mr. STRATTON. Do you still have the 50,000 Koreans? I notice that you have a second ROK brigade.

General ZAIS. That is just 7,000 up here. That is an ROK marine brigade.

Mr. STRATTON. Some of those ROK's go back home?

General ZAIS. They are all still here.

Mr. STRATTON. Great troops.

Major PAULI. The only noticeable change in the rules of engagement in the way we conduct operations here in the Americal Division is a vigorous emphasis on every detail of these procedures.

The circumstances of the Vietnam conflict call for restraint not normally required of soldiers on a conventional battlefield. An unusual requirement is placed on junior leaders to carry out sensitive combat operations, often in an environment where large numbers of civilians are present. This is in every sense a small unit war. A written set of engagement rules cannot be provided that will apply to every situation. Therefore, the final decision on engagement is at the discretion of the senior tactical commander present who must consider his responsibility to preclude both friendly and noncombatant casualties. Certain applications of combat power have been highly centralized such as the requirement of a general officer's approval to fire into a village or built-up area. However, nothing should infringe upon the right of the immediate ground commander to exercise self-defense of his forces. The commander may take immediate action against an attacking force with all means available. However, inherent with this right is the responsibility to avoid noncombatant casualties in every way short of overly endangering the lives of his men.

The final section of this briefing will deal with our standard reporting procedure of incidents, and the changes that have been made as a result of the alleged My Lai incident.

Any human effort is open to the possibility of error and accident, bringing about a tragic turn of events which results in the loss of life and property. We realize that we are no exception to this and have taken steps to provide for a standard investigation procedure of such incidents.

We feel the present reporting procedures assure immediate, complete reports on incidents or potential incidents. If an incident should occur, a serious incident report is submitted in accordance with USARV Regulation 190-47 and American Supplement No. 1 to this regulation. This regulation requires any agency or persons having knowledge of a serious incident to report the fact to the immediate commanding officer or nearest provost marshal. These reports are submitted by the most expeditious means possible. Reports are submitted in three phases:

Initial reports are submitted immediately upon receipt of information that an incident or a potential incident has occurred.

Supplementary reports are submitted to reflect current status and changes.

Final reports are submitted upon completion of investigation by a field grade officer and appropriate action is taken.

The pertinent regulation that governs the reporting of artillery and air support incidents is USARV Regulation 525-7, dated April 17, 1969, and American Supplement 1 to that regulation, dated December 23, 1969.

Mr. REDDAN. Is the artillery division SOP on that same subject?

Major PAULI. Yes, sir. On re-reporting of incidents?

Mr. REDDAN. Yes.

Major PAULI. Yes, sir.

Mr. REDDAN. Is it different from the American Division?

General ZAIS. The artillery is part of the division.

Mr. REDDAN. I know, but the artillery division commanders that we have talked to told us that they write their own SOP for the artillery and that it does not necessarily have to be the same as the division but probably would be.

General ZAIS. That would include everything that the division has in it.

Mr. REDDAN. Has the present artillery SOP changed in any way since that incident in 1968 with respect to the reporting of casualties from supporting artillery fire?

Major PAULI. Sure, changes from 1968. I cannot state that. We will check it for you.

To begin with, I would first like to define several terms which will be used in this portion of the briefing. The first is firing accident. This accident is defined as an occurrence not caused by human error or neglect.

The second is firing incident. A firing incident is defined as an occurrence caused by human error or neglect.

The third term is injury. An injury occurs when a civilian has been involved in either an accident or incident and requires evacuation to a medical facility.

The final term is firing event. This means that either a firing accident or incident occurred and someone was injured.

Commanders at all levels have the responsibility to promptly report firing events to their superior officer. This responsibility is not limited to those which have occurred within his own unit. The responsibility is broad and it refers to the reporting of all firing events which the officer has personal or general knowledge.

The procedure which is followed in the reporting of a firing event insures that the event will be reported to the highest levels within the Americal Division, XXIV Corps and USARV. It should be noted at this point that this reporting system relies on the integrity of the officers of the unit which conducted the firing or observed the results.

Mr. STRATTON. Let me ask a couple of questions at this point. Maybe you responded to Mr. Reddan already. If so, I didn't catch it.

Do you have a requirement now in any operation to report civilian noncombatant or suspected civilian signs? It is a little hard to tell as to who is a civilian and who is not, but can you tell, as well as VC?

General ZAIS. Yes, sir.

Mr. STRATTON. The second question is on this new rule of engagement that you have just outlined. Any suspected incident should be reported to the commanding officer at once. Is there a further requirement for that commanding officer to report it somewhere else?

Major PAULI. Yes, sir.

Mr. STRATTON. He has to do this irrespective of whatever investigation he may undertake to determine whether there is any validity to it or not?

Major PAULI. Yes, sir.

Mr. STRATTON. We are not in the situation in the My Lai case where Warrant Officer Thompson made a report of a complaint and it never apparently got beyond General Koster.

Major PAULI. Sir, in this area—

Mr. STRATTON. Because he decided it was not really an atrocity and, therefore, did not have to report to MACV? Do we have a new procedure now that would prevent what happened in this particular case? Here you have got a report of an atrocity. MACV directive 20-4 says all of these things have to be reported to MACV, and MACV say they never heard about it. Have we got a procedure that hopefully will prevent this now?

Major PAULI. When we have a civilian casualty, or something of this impact, noncombatant casualties, this is reported immediately by the officer who has knowledge to our division tactical operations center. It is a spot report. It is sent by the most immediate means possible.

Mr. STRATTON. Telephone?

Major PAULI. Telephone, sir: If it happens to be the guy right here, he can walk in, whatever is the fastest. The report contains all the facts or what is believed to be the facts at that time. The report goes into our tactical operations center, which is our operation G-3. There are two important things that happen once the G-3 has knowledge of this report.

The first thing, the spot report is electrically transmitted to the Commanding General, USARV, and an information copy is sent to the Commanding General XXIV Corps.

Mr. STRATTON. Has that been done before some guy comes in?

Major PAULI. Yes, sir.

Thus, within a short time, the event is reported to the division and two higher commands. Second: The spot is published as part of the daily situation report. That is the sequence of events that happened within the division's area on the last 24 hours. This report is circulated throughout the division.

As a followup to the spot report, the commanding officer of the major subordinate unit which did the firing appoints a field-grade officer to examine the facts and circumstances surrounding the event. The investigating officer will not be from the same battalion that was engaged in the event. The investigation is conducted under the authority of Army Regulation 15-6 and it is either a formal or informal investigation with the appointing authority determining which it will be.

Mr. STRATTON. Which directive is this that you are quoting from?

Major PAULI. It is covered under AR-15, Army Regulation 15-6. It takes over at this stage. It applies to the—

Mr. STRATTON. Standard operating Army regulation?

Major PAULI. Yes, sir.

Mr. STRATTON. AR 15-6? That says that you are not supposed to appoint an investigating officer from the same unit. Is that what you said?

Major PAULI. Our procedure, sir, and our local implementation does not come from the same unit.

Mr. STRATTON. I am trying to find out. You just said conducting this investigation you have to have a field-grade officer who is not from the same unit in which the alleged incident occurred. My question is: Where does this particular procedure come from?

Major PAULI. Sir, I will have to check this.

Mr. STRATTON. Anybody know?

General MILLOY. I cannot answer that. I don't. I am just not sure. I don't believe the Army regulation specifically prescribes that.

General ZAIS. I think the Army regulation says a disinterested officer. If you cannot get somebody to conduct the investigation covering his own mission.

Mr. STRATTON. That is what we have in this case. I am trying to find out whether there has been a new specific directive put out that says this.

Mr. GUBSER. Is this new since My Lai?

General ZAIS. No; that is the regulation pertaining to the conduct of the investigation.

Mr. DICKINSON. If I understand it, talking to the General here, while the Army requires it by its regulations, this is standard practice in the theater here?

Major PAULI. In our division here?

General ZAIS. Yes, sir, it is.

Mr. DICKINSON. It is broader than that, isn't it, General?

General MILLOY. Yes; in fact, it is standard practice throughout the Army, I believe. You don't have a man investigating himself. Every unit that I have ever been in, an officer of another unit will find the investigator.

Mr. DICKINSON. Whether by custom, practice, or regulation, that is Armywide, so far as both of you know?

General ZAIS. Yes, sir.

General MILLOY. Right.

Mr. STRATTON. AR 15-6?

General MILLOY. Yes, sir.

Major WILLIAMSON. I have that regulation here. I have read through the appointment of investigating officers. This is not included in that. That is not included in the Army regulation.

Mr. STRATTON. Does it say anything about that at all?

Major WILLIAMSON. Sir, I will read the portion indicated:

b. Investigating officers. Only commissioned officers will be appointed as investigating officers, unless the specific statute or regulation under which the appointment is made authorizes otherwise. An investigating officer appointed to investigate the conduct, status, efficiency, fitness, character, pecuniary liability, or rights of another will be senior in rank to the person under investigation, except where such is impracticable because of military exigencies (but not because of mere inconvenience). If an investigating officer discovers during the course of an investigation that the completion thereof requires investigating the conduct, status, efficiency, fitness, character, pecuniary liability, or rights of an officer senior to him, he will report this fact to the appointing authority, who will replace him with an officer senior to the officer under investigation, or appoint another officer, senior to the officer under investigation, to conduct a separate investigation of the matters pertaining to that officer.

Mr. STRATTON. It does not say anything about investigating something that took place as to his own unit?

Major WILLIAMSON. No, sir.

General MILLOY. That seniority clause almost duplicates that, because if you are going to investigate a battalion, or some accident, the company commander is the senior man in the battalion, you have to go somewhere else out of the battalion.

Mr. STRATTON. If you are investigating a company, the battalion commander conducts the investigation and it is still his company?

General MILLOY. Yes, sir.

General ZAIS. Sure, you could go all the way up to the Chief of Staff of the Army that way. But if it happens in a platoon it is a company-level investigation, isn't it? If it happens in a company it is a battalion level and it is really almost impossible to find somebody who is not in the chain of command somewhere.

Mr. REDDAN. Someone from another division?

General ZAIS. Yes, sir.

Mr. STRATTON. Another battalion or another brigade or task force?

General ZAIS. Yes, sir.

Mr. STRATTON. Go ahead.

Major PAULI. The followup to the spot report is the "Report of Investigation." It is the responsibility of the commander of the unit which did the firing to submit two copies of the report to the Assistant Chief of Staff, G-1 of the division. In addition to this report, four copies of the "final letter report" are also sent. The final letter report must include the following information:

Date and time of the event.

Grid coordinates and approximate distance and direction from the nearest fire support base, town, or village.

Number and type of friendly casualties and the amount of property damage.

Type of weapon or explosives used.

Name of the units involved.

A complete description of the cause of the event.

When faulty ammunition is involved, the fuse and ammunition lot number and the action which has been taken.

Status of solatium payments of civilians are involved.

A determination as to whether or not the Rules of Engagement were broken.

Corrective action taken to preclude recurrence.

Specific disciplinary action taken if applicable.

It is the commander's responsibility to submit the report and the letter to the G-1 within 20 days of the date the event happened. If for some reason he cannot comply with this time requirement, an interim report citing the reasons for the delay must be filed with the G-1. Administrative control is supplied by the G-1 and that section is given a copy of the initial spot report so they are aware of it from the beginning.

Once the report of investigation and the final letter report are sent to the Division Staff Judge Advocate and checked for legal errors and the legal aspects of the reported event, the final letter report is then signed by the division's commanding general.

The final letter report and the report of investigation are both sent to the Commanding General, USARV.

Our evaluation of the system is that it works. But it has its weaknesses.

The main, perhaps the only weakness, is that this system relies on the commander or officer having knowledge of the incident to report it initially. It is possible that an accident or an incident may not get initially reported. However, there are a number of strengths to the system which tend to make this unlikely.

Last of all, the Vietnamese know that it is not our policy to wilfully destroy private property or bring death or injury to harmless civilians. They also know that the United States has a policy of making restitution to those who have suffered such loss. As was noted earlier in this briefing, the Vietnamese are now very quick to call such events to the attention of their district officials, and to the military. Additionally, in this post-My Lai era senior commanders and junior leaders are most conscious of the critical importance that all incidents or suspected incidents are reported rapidly.

This concludes my portion of the briefing.

Mr. REDDAN. In addition to reporting of any alleged instances, if a civilian casualty could have been caused by artillery support of an operation, is then an additional notification given to the division artillery commander for an investigation of his own unit?

Major PAULI. Yes, sir.

Mr. REDDAN. This is another check?

Major PAULI. Sir—for example, if as a result of artillery fire there was a civilian casualty, or noncombatant casualty, it would be spotted here. As a result of that, this whole procedure goes in and the G-1, our administrative controller, would cause at this point a complete report of investigation to be conducted.

Mr. REDDAN. Would this be handled by the artillery commander? In other words, he would conceivably be looking at it from a different

standpoint than the American Division commander. He might be looking at it from the standpoint of efficiency of his batteries. He might also question the accuracy of his weapons. He might want to look at it for a number of reasons. That is why I want to find out whether it is required that any time a civilian casualty may have been caused by artillery fire, is it mandatory that that incident be reported to the division artillery commander?

Major PAULI. Yes, sir, it is mandatory that it be investigated.

Mr. DICKINSON. Let me make sure that I understand what we are saying now. If you have a civilian, apparently a noncombatant, you don't know how he is killed; it could have been gunship, artillery, could have been small arms fire. If there is a possibility that it could have been by one of the three, we don't know which, would there be three different investigations started? Or the reporting back to the gunship fleet, through the organization, or be reported also to artillery? The platoon on the ground has knowledge of that. This is what happened in My Lai, for instance. Is that what we are trying to get at?

Mr. REDDAN. Yes.

Mr. DICKINSON. If it is a cause unknown and could have been caused by artillery, would more than one inquiry be made?

General MILLOY. Not initially. This headquarters would make the decision as to who is going to properly conduct the investigation. If during the course of his investigation it appears that he was not competent or junior, then he would be advised to come back in and advise me of that and make a recommendation it be turned over to another investigating officer.

Mr. DICKINSON. I don't know whether I follow that now. If you have a civilian that is killed in an operation and you don't know how, it could be artillery, gunship or small arms fire or grenade thrown by hand, you know one man is dead, or three are dead. What happens then? The one report is made by the platoon leader on the ground?

General MILLOY. The man there——

Mr. DICKINSON. It does not go to artillery?

General MILLOY. No.

Mr. DICKINSON. It comes first to the division?

General MILLOY. Yes, sir.

Mr. DICKINSON. Then in the division first an investigation is made and then if you determine that artillery killed him, then you direct the report to the artillery?

General MILLOY. Not necessarily. If the officer initially on the investigation is competent to investigate it, he would continue the investigation. The investigation report would be referred to the artillery commander for his comments and corrective action he has made.

Mr. REDDAN. I think that is what Congressman Dickinson is referring to, in part. When a decision is made that this casualty was caused by artillery fire, then that report goes to——

General MILLOY. He must review it.

Mr. REDDAN [continuing]. Goes to the artillery division commander?

General MILLOY. Yes, sir.

Mr. DICKINSON. There must be a finding of fact first as to cause of death before he knows which way to forward the report? If it is unknown, what do you do?

General MILLOY. We have just to pass it on as unknown if the investigation does not reveal how that happened. However, this is highly improbable. We can almost always, just by looking at the circumstances, tell whether the individual was killed by small arms or gunships or artillery. If there is a crater nearby and he is badly mangled, there is not much question but what it was artillery, particularly if artillery was firing at that particular time at that particular location. We cannot fire gunships and artillery at the same time. The artillery logs reflect the time that fire was initiated. The time was check fired or stopped, the number of rounds, quantity, point of impact, and so on.

How improbable in the case of a firing incident, we wouldn't be able to determine immediately but we would have a good idea of what caused that.

Mr. DICKINSON. This is a very intriguing thing, General Milloy, because we have been told just the opposite many times; that when bodies are mangled you cannot tell whether they are killed by rockets or hand grenades, quite often small arms fire, and certainly not artillery as distinguished from rockets or mortar. If mortar were in there, from what you are saying, if procedures had been followed at My Lai, assuming they could have gotten back to look at the bodies, they could have ascertained with some degree of certainty the cause of death?

General MILLOY. I would think so. There is a difference altogether. Different wounds made by small arms as opposed to fragments from a hand grenade or large fragment from an artillery piece. If the bodies were removed from the point at which they died—

Mr. DICKINSON. No, we assume that they are still on the ground.

General MILLOY. Still on the ground—it is certainly possible, but I believe that I could determine 999 cases.

Mr. DICKINSON. Whether killed by artillery or rocket?

General MILLOY. Whether killed by artillery or rocket.

Mr. DICKINSON. Or even grenades?

General MILLOY. Or small arms.

Mr. DICKINSON. As distinguished from small arms?

General MILLOY. The grenade has a very small fragment.

Mr. DICKINSON. I know, but—

General MILLOY. A grenade won't blow a person apart.

Mr. DICKINSON. Thank you.

Mr. STRATTON. This is a very interesting point.

Mr. GUBSER. I would like to say, on a slightly different subject, what is the present policy in this division insofar as the assignment of combat photographers to a mission? What are they supposed to photograph and what is their obligation to turn in film taken with personal cameras and whether or not there is any requirement that such film be cleared for security?

Major PAULI. If I may, sir. The stated procedure here in the division—

Mr. GUBSER. First of all, tell me if the procedure is different now than on March 16, 1968.

Major PAULI. Sir, I do not know what that procedure was. The present procedure that I know of is one that is within the last year. It is one that is contained in the internal SOP's of the two sources within

the division that furnish combat photographers. There are two sources within a division. Currently our 523d Signal Battalion has combat photographer capability. Also the Division Information Office has. In both cases the policy is that personnel, combat photographers who are sent out to the field to shoot combat action photography will use one, Government film. They are issued a Government camera.

Mr. GUBSER. Before we go any further, what is a combat photographer? Was Haeberle a combat photographer on March 16?

Major PAULI. Haeberle was assigned to the 31st Public Information Detachment. Basically, he was an information specialist. The information specialists are both writers and photographers.

Mr. GUBSER. Under whose command was he?

Major PAULI. He was attached to the 11th Brigade at that time.

Mr. GUBSER. He was part of the division?

Major PAULI. Yes, sir. Haeberle was part of the division.

Mr. SLATINSHEK. The question is whether or not he is what you categorize as a combat photographer, because you are outlining the rules here that apply to combat photographers. Was he considered such?

Major PAULI. It would apply as to what I am describing. What the ground rules were at that time, I do not know.

Mr. GUBSER. What is the regulation regarding taking of personal cameras into a combat assignment?

Major PAULI. I will address myself to Haeberle's own instance in the information area. Really, a photographer, information officer here, may carry his personal camera into the field if he elects to use it in lieu of the Government-issued camera. In other words, we do have people that prefer to use their own equipment as against use of the Government-issued camera. Under no circumstances may they carry personal film into the field. Everything they shoot is Government film and is turned in at the end of assignment for processing.

Mr. GUBSER. How long has this been in effect?

Major PAULI. Sir, it has been general policy, I can say, since about August of last year.

Mr. DICKINSON. Is that when it was instituted? You have knowledge back that far?

Major PAULI. I have knowledge back that far.

Mr. DICKINSON. You don't know when it was instituted?

Major PAULI. There may have been a policy prior to that. I cannot find one. Back in August we made it a general policy at that time. I am the information officer here.

Mr. SLATINSHEK. What you are saving is, back in August you issued a piece of paper in which this is spelled out?

Major PAULI. Yes, sir.

Mr. SLATINSHEK. Prior to that time you are unaware of whether there was—

Major PAULI. That is correct.

Mr. GUBSER. There may or may not have been?

Major PAULI. There may or may not have been.

Mr. GUBSER. This piece of paper was in response to the My Lai revelation, is that correct?

Major PAULI. Sir, I would say that my motivation in writing it might have been the result of that.

Mr. GUBSER. How about security clearance?

Major PAULI. Of the pictures themselves?

Mr. GUBSER. Yes.

Major PAULI. The pictures that come through the IOR are reviewed before release.

Mr. GUBSER. It is my understanding, and something I learned at MACV yesterday, that assuming, for purposes of discussion only, there was no prohibition against Haeberle taking his personal camera into this operation and keeping the film for his own personal use, that he still, in accordance with the directive which was in existence on March 16, 1968, was required to have those cleared securitywise since they were taken during duty hours.

Are you familiar with that piece of paper?

Major PAULI. No, sir, I am not personally.

Mr. GUBSER. Do any of you remember the number of that MACV directive?

Mr. SLATINSHEK. I think that you have reference, Mr. Gubser, to an Army directive which has been issued which requires that combat photographers or photographers use only Government-issued film.

Mr. GUBSER. This is one that the gentleman just referred to.

Mr. SLATINSHEK. No. There is a directive from Army Headquarters, U.S. Army.

Mr. GUBSER. I think the record will show that there was a requirement that if personal film were shot during duty hours, that it was cleared securitywise and that that directive was in existence on March 16, 1968. I think the record will show that.

Major PAULI. I do not have knowledge of that.

Mr. GUBSER. You don't know about that?

Major PAULI. No, sir.

Mr. GUBSER. That is all I have.

Mr. LALLY. Major, in this reporting chain that you related about the incident, who, if anybody, in that chain has the opportunity to evaluate the merits of the complaint or allegation?

Major PAULI. Evaluate the merits of the allegation?

Mr. LALLY. Yes.

Major PAULI. Sir, that would be part of the investigating officer's duty.

Mr. LALLY. None of the commanders in the reporting chain have that authority?

In other words, can the person who initially receives the complaint say, "The guy is emotionally upset about this and I don't think there is any substance to it," and write it off at that point?

Major PAULI. You are saying that there are casualties involved?

Mr. LALLY. Yes.

Major PAULI. Alleged noncombatant casualties?

Mr. LALLY. That he allegedly saw noncombatant casualties at My Lai where the complainant was an officer, removed from the scene of the operation—

Major PAULI. No.

Mr. LALLY. He has no discretion?

Major PAULI. Noncombatant? In other words, you have no noncombatants who are alleged noncombatant casualties?

Mr. LALLY. That is right.

Major PAULI. This is reportable by the most expeditious means possible by the officer or individual having knowledge of it to the headquarters.

Mr. STRATTON. And to MACV?

Major PAULI. We transmit USARV.

Mr. LALLY. The other situations which existed down there were the allegation of the atrocities which occurred in Viet Cong propaganda. Does the person receiving that have the opportunity to evaluate it and disregard it if he believes it is pure propaganda?

Major PAULI. The only knowledge they have of the event is what they have read in Viet Cong propaganda?

Mr. LALLY. That is right. No firsthand knowledge but specifically described in the propaganda.

Major PAULI. No, on that point I don't feel I could answer. I don't feel that I can address that one.

General MILLOY. I am sorry.

Mr. LALLY. There is Viet Cong propaganda which described the date of the operation, the towns involved and alleged 400 to 500 people killed. I was wondering if the person receiving that sheet has any authority under the present regulation to evaluate it and discard it if he should view it as propaganda.

General MILLOY. There is no requirement for him to report it as an incident or accident as a result of a VC propaganda.

Mr. LALLY. There is not?

General MILLOY. No, sir; if we did that, we would be investigating all the time.

Mr. LALLY. Thank you.

Mr. DICKINSON. I don't want to belabor this, but if the village chief said in the letter making the complaint, even if it were based on or attached to the propaganda pamphlet, after that, if he does that and brings it to the Province adviser, you take away discretion and that triggers it?

Major PAULI. That is what we said. They are quick to let us know.

Mr. STRATTON. One quick question; we are running over the schedule.

What information do you get from CIA, either directly or through CORDS operation? How does that come in?

General ZAIS. Well, this certain agent report comes through the G-2 and recorded as agent reports that might need to brief me every morning along with other intelligence data.

Mr. STRATTON. This comes through the G-2?

General ZAIS. That is right.

Mr. STRATTON. Do you have a CORDS man in your headquarters?

General ZAIS. Yes, sir. There is a CORDS man and, for example, he attends my briefings and he, as a matter of personal modus operandi, sees me Monday afternoon and we chat a little bit.

Mr. STRATTON. Don't they sit in on some of this information?

General ZAIS. Like this—of incidents like this?

Mr. STRATTON. Yes. I got the impression that some of these CORDS people in the field are CIA men and they pick up, hear things going on among the natives and pass it up through their CORDS operations.

General ZAIS. It is not necessarily through CORDS operations. It filters into G2 and if it is a piece of meaningful information, frankly I don't know how far I can go on that in these discussions, except that I don't think that that has a great deal of relevance here.

Mr. LALLY. Is it the room where the division evening briefings are held?

Major PAUL. Yes, sir.

Mr. LALLY. Thank you.

Mr. STRATTON. Thank you very much, gentlemen.

[Whereupon, at 12:13 p.m., the subcommittee adjourned.]

The subcommittee met, pursuant to notice, at 2:30 p.m., in the conference room of the 11th Brigade, U.S. Army, Duc Pho, Vietnam, Hon. Samuel S. Stratton (acting chairman) presiding.

Members present: Representatives Stratton, Gubser, and Dickinson. Staff present: Frank Slatinshek, Assistant Chief Counsel, Committee on Armed Services; John T. M. Reddan, Counsel, Armed Services Investigating Subcommittee; John F. Lally, Assistant Counsel; Charles Halleck, consultant; and Rear Adm. Allen Chrisman.

Participants: Col. K. B. Barlow, Commanding Officer, 11th Brigade; Maj. Richard Foster, XO; Maj. William Noithquest, S3; Maj. Donny Swain, S2; Maj. Richard Wright, S1; Capt. Robert Green, S4; Capt. Robert Small, Assistant S2; Master Sergeant Suhr; Albert E. Milloy, Major General, Commanding General, Americal Division; Melvin Zais, Lieutenant General, Commanding General, XXIV Corps; John T. Pauli, Major, Information Officer, Americal Division.

STATEMENT OF COL. K. B. BARLOW, COMMANDING OFFICER, 11th BRIGADE

Colonel BARLOW. Gentlemen, I think that I will go ahead and start.

Good afternoon, gentlemen. Welcome to the 11th Brigade, my unit which has received much publicity in recent months over the My Lai incident. I am Colonel Barlow, the brigade commander, and would like to discuss with you during the next few minutes my impressions and observations concerning this alleged event. I understand that you received a briefing at division headquarters this morning which covered in detail the answers to the six questions posed in the official message concerning your visit. I do not intend to cover these in any detail, but do wish to give you my personal feelings as to the impact on this brigade's operations and its personnel, the adequacy of directives under which we operate, and our reporting procedures which we feel will preclude such incidents in the future.

As you are aware, the rotation policy of a 12-month tour has precluded any of the commanders or my staff from having personal knowledge of the My Lai incident. The oldest brigade staff member, in terms of length of service with the brigade staff, joined it last August, some 16 months after the operation at My Lai occurred. Generally, members of the 11th Brigade were unaware of such an incident until it appeared in the Stars and Stripes. So although we are historically linked to the incident, no one has any personal knowledge of it. Documents, to include our journals and logs, were furnished to the

Peers committee and at this headquarters we are unable to reconstruct any of the events. We have no personal knowledge of when the incident came to the attention of this headquarters or of what action was taken by this headquarters.

As far as the impact it has had on my operations, let me first state that overall it has had little, if any, impact. We have always operated under rules of engagement which place strict restrictions relative to manner of dealing with civilian noncombatants. Undoubtedly, since the My Lai incident more stress has been placed on these rules of engagement to preclude any such incidents in the future. They become even more important as we progress in the Vietnamization program with the ARVN forces shouldering more and more of the burden of fighting the North Vietnamese Army units and the main force Viet Cong units, and we find ourselves more closely associated with the civilian population and operating in their population centers. In other words, gentlemen, we're noting the South Vietnamese forces moving out into what we term "Indian country," where most everyone is enemy and the U.S. forces dealing more directly with the guerrillas and local Viet Cong forces that habitually operate in the areas occupied by the civilian populace.

Thus, rules of engagement take on an even more important aspect due to the difficulty of distinguishing between friend and foe. We are fully aware of the harm and damage that can be done to our relationship with the Vietnamese people through the indiscriminate application of force. I might mention that we not only are concerned with firing incidents but traffic accidents involving Vietnamese as well, and we take proper punitive action against such individuals when warranted. It is a subject that receives considerable emphasis at all levels of command.

Because of the nature of our operations and that the majority of my battalions are operating in areas where many civilians live, all of our planned operations in the lowland areas generally involve the use of Vietnamese forces in a combined operation. Our operations may be conducted with the hamlet or village chiefs, their security chiefs, the district chief and members of his staff, the national police field forces, popular force and regional force elements, and units of the Army of Vietnam. Thus, when we enter a built-up area, a hamlet, or a village, the U.S. troops are normally used to cordon the area while local Vietnamese national forces do the actual searching and identifying of its inhabitants. Naturally this assists in the identification of Viet Cong and Viet Cong suspects; it is an inhibiting factor to such an incident as My Lai occurring.

Now, gentlemen, if I may, I wish to turn to the effect of the My Lai incident on the personnel of this brigade. First, let me reiterate that although the 11th Brigade is linked to the My Lai incident because it was the controlling headquarters and it had units involved in the incident, there is very little evidence to indicate the men associate themselves in any way with this incident. My Lai geographically is not in our area of operations. It lies within the tactical area of responsibility of the 198th Brigade and has ever since I've been a member of the Americal Division, some 8 months. Many of my men have no idea where My Lai is. When questioned about it, they will say, "Yes, sir, I've heard about it. Where is it? What happened?"

Many of them don't believe the allegations. Those with the most knowledge are individuals who read about it in the newspapers in the States and who were exposed to the TV portrayals prior to their arrival in Vietnam. From my own personal viewpoint I am convinced that 99 percent of the American soldiers have a sense of moral and legal ethics, as well as compassion for an individual human being which does not permit them to deliberately murder in cold blood. There is always a small element in every society or institution that have a disregard for human life and we undoubtedly have some of those, but they are a very small part of our Army.

I've seen the individual soldiers working with the Vietnamese civilians, and especially the children, and in many instances I'm certain they are considered as part of that soldier's family. So it's inconceivable to me that the deliberate killing of civilians will occur. My men do not relate themselves to this incident and there has been no effect on their morale that I can determine.

I think that the adverse publicity has insulted and hurt our career officers and career noncommissioned officers. They are angry that the individuals allegedly involved have apparently been condemned prior to any trial being held. Undoubtedly they have a feeling of insecurity and may be more cautious in the use of combat power. They may tend to be less aggressive, but I have not seen any evidence of this in the brigade.

In those operations involving only U.S. forces, which seem to be getting less and less frequently, the rules of engagement are strictly observed. In the 11th Brigade, we have become more definitive in what is required of a unit prior to engaging the enemy. Those rules are as follows:

Throughout the lowlands—or populated—area within the 11th Brigade TAOR:

- (a) An individual will not be engaged solely because he is evading.
- (b) Under no circumstances will an individual be engaged by either individual or crew served direct fire weapons and/or indirect fire weapons unless one or more of the following criteria are met: (1) The individual is carrying a weapon. (2) The individual is wearing a military uniform clearly identified as enemy. Black pajamas are not a military uniform. (3) The individual is moving during the hours of darkness outside of a GVN prescribed populated secure area. (4) The individual is observed committing a hostile act against friendly personnel.

As can be noted, these rules do place stringent restrictions on the troops and there are times when the man on the ground feels he is at a disadvantage. No rules or guidance can cover all situations, and the leaders on the scene must apply commonsense and good judgment. I certainly don't want my troops to suffer casualties because of an inflexible set of rules. Nothing shall infringe on the inherent right of a commander to exercise self-defense, but he will take every measure to avoid noncombatant casualties and the destruction of private property.

So in essence, the My Lai incident has not changed our operations. What has and is changing them is a reversion to insurgency tactics by the enemy and our corresponding counterinsurgency tactics and the more aggressive tactics of the South Vietnamese forces.

Finally I would like to touch on the measures to insure the prompt and complete reporting of future possible incidents. This goes back to the training the officers and men of this brigade receive. Everyone in his Army training has received instruction on the Geneva Convention and the proper treatment of noncombatants. Personnel arriving in the division are given reinstruction on the Geneva Convention, and those personnel being assigned to combat units are given a class on the Americal Division rules of engagement.

All newly assigned personnel to the 11th Brigade are given a comprehensive briefing on the rules of engagement in the Americal Division prior to moving to the field. The briefing emphasizes how the rules of engagement apply to the individual being briefed; in other words, rules pertaining to indirect fire will be emphasized when briefing 81-mm mortar crewmen. The rules that I mentioned previously are read to the individual verbatim. I have a requirement that all personnel in each company-size unit be briefed monthly on the rules of engagement, to include the verbatim reading of the definitive rules. Battalion and separate unit commanders submit a written report monthly to indicate they have complied with my instructions. This training acts as a reminder and constraint in preventing such incidents as My Lai.

If a firing event occurs, either an accident or an incident, and someone is injured, commanders at all levels have the responsibility to report promptly to their next higher headquarters—from company to battalion to my brigade tactical operations center. Immediately the personnel in my operations center will submit a spot report to the division tactical operations center. The unit which is involved in the firing event is required to submit a followup to the spot report to division. In addition to this followup report, I appoint an officer to investigate the event. He will be from a different battalion than the one involved. His report called the "Final Letter" report is also submitted to division. This report must be submitted within 20 days of the date the event happened.

Possibly the only weakness in the system is the integrity of the leader. However, I rely on their loyalty. If I don't have faith in them, they're going to be relieved—and I know I speak for my battalion commanders. They all know the rules and they report their contacts. In addition, each day the battalion commanders and I visit units in the field and it is doubtful that any such incident would go undiscovered. In the 11th Brigade I also require the following information any time an individual without a weapon or uniform is killed in the coastal plains area where the civilian populace is located.

(a) Was the friendly unit receiving fire at the time the individual was engaged?

(b) What was the individual doing at the time he was engaged?

(c) Why was the individual considered enemy?

This information must be submitted within 2 hours to my operations center by the unit concerned.

One other item which influences the proper reporting is the fact that in almost all incidents when a unit is in contact the next higher commander will be overhead in a chopper to further control in the application of fires. In a combat assault he will always be there.

In summary, gentlemen, the 11th Brigade has not been hurt by the My Lai incident. It will continue to conduct its operations in accordance with established rules and procedures and will give a good account of itself.

That is all I have.

Mr. STRATTON. Colonel, are the provisions of the Geneva Convention—the rules with respect to handling either suspects or noncombatants who have been disarmed, or surrendered—fully under control, part of the rules of engagement?

Colonel BARLOW. No, sir. They are mentioned. It applies back to the Geneva Convention, but they are not quoted per se in the rules engagement.

Mr. STRATTON. One of the problems in connection with the My Lai incident, based on the information that we have received, is that in the briefing there was an indication they were going to run into a lot of opposition; they wanted the town wiped out and there was no particular reference to what you did with people who were not combatants. In effect, the general impression was "They would all be in the market anyway so you didn't have to worry about that."

Has there been any change in emphasis to remind combat troops if they have somebody who surrendered that there are certain steps to be taken with regard to that individual?

Colonel BARLOW. Sir, they are told they will not harm civilians that have been taken, that they will be apprehended if they are suspect, and they will be returned back here where they can undergo further interrogation. They will not be deliberately mistreated.

Mr. STRATTON. I know this is a general statement that comes into the initial briefing when we get into the country, but are they reminded of this before they go out in an operation where they are likely to run into a situation?

Colonel BARLOW. Sir, when they go into a different area of operation they are pretty familiar with the rules of engagement that we have. They are briefed by their unit commanders. I cannot state for sure that the Geneva Convention rules are gone over with them, but they are cautioned, I am sure, on a monthly basis about dealing with civilians.

Mr. STRATTON. This is the thing that concerned me. This is part of what they get when they come into the country. But frankly, there seems to be very little evidence that anybody ever reminded them of it. Very little evidence that this occurred in the briefing the night before.

It seems to me it is not adequate to say, "Remember the Geneva Convention, boys." There has to be some reference to what you do with these people if you pick them up.

Where do you take them? Are you supposed to get a helicopter to come in and pick them up? Is there a jeep available? What is done with these people? If they are in the way, do you just shoot them down and get rid of them?

Colonel BARLOW. No, sir; we do not shoot them and get rid of them.

Mr. STRATTON. Doesn't there have to be incorporated in the initial briefing some detail as to what you do if you pick up any individuals who are going to surrender?

Colonel BARLOW. Yes, sir. As I mentioned, the way we are operating down here in these coastal plains, there is hardly any operation

that I conduct that we don't have elements of the National Police Field Forces, or some other of the national forces of Vietnam that are with us. When these people are apprehended they are normally given to those people. Some of those people come back through our own S-2 channels for interrogation.

Mr. STRATTON. I thought we were staying away from turning them over to the National Police?

Colonel BARLOW. The National Police identify them. They go in through the district. The district will have some of these people that they will be interrogating because they have got identification cards, pictures, and so forth, of many of the inhabitants, particularly those suspect.

Mr. STRATTON. I think this is really the critical thing. Just to what extent does this figure in any operational briefings? Are you picking up many prisoners now?

Colonel BARLOW. Yes, sir. We get quite a few people detained, classified, a lot of them, innocent civilians, and released. Another group of them are classified as civil defense, which means they have no ID card.

Mr. HALLECK. This is sometime after that other incident, but how many incidents like that recur? I don't mean people getting shot down, but taking villages under combat conditions.

Colonel BARLOW. Sir, we have had many search and cordon reports since I have been here. There has not been any firing into the villages that has caused any civilian casualties to any extent I can recall offhand.

Mr. SLATINSHEK. Is the new tactic that you developed since My Lai, your function of cordoning out a village and letting the Vietnam forces go in and check the inhabitants, and that sort of thing?

Colonel BARLOW. I don't think so.

Mr. SLATINSHEK. Was that in effect at the time?

Colonel BARLOW. Yes, sir.

Mr. SLATINSHEK. Why weren't the Vietnam forces accompanying ours when they made this sweep through the My Lai area?

Mr. DICKINSON. They had two National Policemen, but no force.

Mr. SLATINSHEK. I had the impression there was a force. Something more than two now?

Colonel BARLOW. Yes, sir. We will work with 15 or 20 people that go in with us. They work with a platoon or RF company which varies from 40 up to 100 or more. Why they didn't do that I cannot answer.

Mr. STRATTON. They were not up to that kind of a job, I assume, at that time right after Tet. Probably didn't have any units able to handle that. At least from what we know.

General ZAIS. There has been a gradual— since I have been here— development and closer relationship. It has been between the tactical units and the national police, regional forces, and popular forces. It is not impossible for an outfit to wind up, even now, even tomorrow, in some situation where there wouldn't be some RF or PF. It is quite conceivable. It is just that the modus operandi now has evolved to working closer with the Vietnamese. They themselves have developed their regional and popular forces to nowhere near as competent as the national police forces 2 years ago. There has been a great development in that, and there has been much more emphasis on coordination with the district and the Province than there used to be.

Mr. SLATINSHEK. This seems to make good sense, the manner in which you operate now.

General ZAIS. Yes, sir.

Mr. SLATINSHEK. You avoid direct involvement and yet you perform the function.

General ZAIS. The war itself has changed as we have gone along. There were two or three separate wars here, more or less. There were the Americans that came in and there were the ARVN's fighting and RF and PF. The techniques have improved as the environment has changed, as the main forces and larger NVA forces have been reduced in size, and as the emphasis on the infrastructure has evolved there has grown a closer and closer relationship and coordination.

For example, I don't think at the time of this My Lai incident that the brigades of the Americal or the regiments of the 2d Armored Division had contiguous boundaries, whereas now they do. You will have one brigade of the Americal and one regiment of the 2d ARVN Division which have a contiguous area. The brigade headquarters and the regimental headquarters would be in closer coordination. This has been an evolutionary process and it is much more in effect today than it was 2 years ago.

Mr. DICKINSON. What do you see the role of the war to be in the near future, looking down the road, as evolved and changed now from what you say? We are fighting a different type of war. What do you see a year from now?

General ZAIS. Well, it really depends on several things. The first thing and the more obvious thing is, what will the rate of infiltration and continued support by the NVA be. In my mind, the ARVN are growing unquestionably progressively much, much more capable and able than they were when I first came to this country 4 years ago. They are able to carry a much greater burden. The popular forces and regional forces have increased manifold in numbers and in quality of training.

The PSDF, which is the people self-defense force, which can be likened more to our—you remember when we had those volunteer air watches—I forgot what they call them—civil defense, I believe—and these people have committed themselves. It is not only the military capability but the fact that they have been willing to identify themselves as a part of the GVN government.

In essence they have said, "I am on this side." There has been a tremendous buildup of the PSDF, so in your most hopeful moments you visualize that the ARVN with the increased capability, RFP, PP, and PSDF, with their increased capability will be able to carry the burden as long as they have the sophisticated American support involved in helicopter lift, artillery, communications, coordination, and advice.

This leans heavily, of course, on a stable GVN government and hopefully it will not be fragmenting of the government and coups and difficulties internally. I personally felt quite encouraged with the way things were going, and now that they have been able to get at some of these bases in Cambodia, even more so. From a purely personal viewpoint, to me it has now reached the stage, the tail end stage where it is a matter of will. And I think that both are at a cracking point, and I don't compare the South Vietnamese will against the

North Vietnamese, but I personally compare the will of our own country in terms of being able to hang in there a reasonable length of time for this ARVN to be able to take over.

You know, this thing could drag on and drag on, or something exciting could happen at any time. I don't think any of us really predicted Sihanouk would be overthrown in Cambodia and the course to Sihanoukville would be closed and their source of supplies which had been available to the NVA all this time would be closed off. To me this is a very drastic, sudden change in developments. I don't think anybody is capable of projecting an exact picture of what is going to happen 6 or 8 months from now.

Mr. DICKINSON. Do you think more guerrilla and less formal combat?

General ZAIS. No question about it. As a matter of fact, we know from intelligence that the modus operandi or the objectives of the NVA now have changed and that they themselves are reverting back to what they call the protracted war and they are reverting to acts of terrorism in order to shake the confidence of the people. Their biggest enemy really is the pacification which has come about in a great portion of Vietnam.

I would be the first to admit that in the area you are in right now we probably have some of our most difficult problems because, as I mentioned to Congressman Stratton, these three provinces south of Da Nang are in fact the birthplace of the Viet Cong, the birthplace of the Viet Minh, and now the Viet Cong. You find mothers, fathers, sisters, brothers, grandmothers, and grandfathers a part of this insurgent movement. It is a most difficult area.

By the same token, it has come a long way in the last 2 years, and this other area in Vietnam where you do have a great deal of tranquility and serenity and security. We still have a way to go.

Mr. DICKINSON. That is all I have.

Mr. GUBSER. It is not safe to walk the streets of this village, I presume?

Colonel BARLOW. We can walk out there during daylight hours. After dark I wouldn't guarantee it. We have plenty of forces, though.

General ZAIS. Yes, sir, if you go to Tua Tinh Province or Quang Ngai Province, which is north of Da Nang and Quang Ngai Province borders on the DMZ—there is not a village I am aware of that I wouldn't be willing to drive a jeep into or walk through or spend time in. Last week the British Ambassador came up to Hue and at 10 o'clock at night the Province chief put him in a jeep and took him over to visit villages at night. Although the threat from the DMZ is great, the threat from Laos across the Achau Valley is great in terms of conventional units, local forces and main forces and guerrillas have been virtually eliminated—not completely but you never can, any more than you can eliminate all crime in Chicago or all vandalism in Toledo or something like that.

The truth of the matter is that there are tremendous areas in Vietnam now which are progressing socially, psychologically, economically, and trade is moving, fishing is going on, roads are being used, trucks go back and forth.

Mr. GUBSER. What about the argument our English professors are using. The minute you withdraw military forces to guarantee security the Viet Cong will move in again?

General ZAIS. I realize that. I don't agree with that argument whatsoever. The mere fact that literally now hundreds and hundreds of thousands have joined the PSDF and that they have declared themselves for the Government, to me counters that argument immediately. Of course, you have to have some security. I wonder what they would predict the condition in New York City would be if all the police were taken off the streets? Really, when you are talking about the military here you are talking about the security of the nation.

If you pull all the police off the streets in any one of our cities you would have problems. You have got some degree of anarchy now with the police. I am not sanguine and I don't say that they have won the war here yet. Not by a long shot. I don't agree with those people who say the moment you pull all the military, it goes Viet Cong and, therefore, we wasted our time being there. I think that there is a much, much stronger GVN element by far, and I am convinced if you held an election tomorrow—and that is really the criteria—if you held an election tomorrow, I am absolutely convinced you would have overwhelmingly votes in favor of the GVN.

I recognize that there are political factions, Buddhists and the Catholics and the Liberals and Socialists, and various other things, sort of fragmented like the French Government was in terms of political parties. But GVN versus Viet Cong, there is absolutely no question in my mind but what you would have an overwhelming vote in favor of the GVN.

Mr. GUBSER. Do these local villagers around here know much about the total concept of this war? Do they know that we are destroying caches and supplies over Cambodia right now? Do you just look at it locally?

General ZAIS. I know that they have a Vietnamese Information Service and they have placed radios in all of the villages, tried to place television sets, at least one in each hamlet. I know that there are papers in Saigon and Hue, and published papers, that the radios are going all the time.

I know that the information is being made available. It is not an absolutely free press, as you are well aware. In a nation at war it does have its problems in terms of a free press. I know in World War II we had censorship. We forget sometimes this nation is, in fact, at war. Any act which is going to tend to weaken the government or topple the government is one which the powers to be just can't afford to have happen in a war.

Mr. GUBSER. Thank you. That is all.

Mr. STRATTON. Mr. Reddan.

Mr. REDDAN. Colonel, I have a couple of questions and they perhaps should be addressed to your S2 or your S3, but I will ask you.

We understand that two copies of the so-called Henderson report were found in the files of the brigade. Whoever has knowledge of those reports can answer. I would just like to find out where they were located, and their condition, and where those actual reports are now.

Colonel BARLOW. Major Swain.

Major SWAIN. I am brigadier S2. Suhr, who currently is my S2 sergeant, was the S2 sergeant with the Peers committee when it was in Vietnam. Colonel Wayland, a member of that committee, came down and in the files of the S2 found a copy of the letter, or a report of inves-

tigation, as it were. He did take this copy. That is the only copy that was in our files.

Mr. REDDAN. Didn't two copies come out of the brigade?

Major SWAIN. Sir, I don't know. My S2 sergeant informs me that there was only one copy in our files. That copy was taken.

Mr. REDDAN. The reason I ask that, we have two different copies. One is certified a true copy and it is not the same as the other one which we have. So I assume that there were two different ones.

Major SWAIN. I have no knowledge of that, sir.

Mr. REDDAN. Was the one picked up in your S2 files or was it picked up in Sergeant Gerberding's desk?

Major SWAIN. It was picked up from the S2 section.

Mr. STRATTON. S2 safe?

Major SWAIN. S2 safe, yes, sir.

Mr. STRATTON. There was another one. Gerberding.

Mr. LALLY. Camell was the successor to him.

Mr. STRATTON. Sergeant Camell's, it was in the desk, and it was specifically not in the files?

Colonel BARLOW. I have no knowledge of that, sir.

Mr. REDDAN. Did you see the copy?

Colonel BARLOW. No, sir. I was not here at the time.

Mr. REDDAN. Is there anyone here that did see it?

Mr. STRATTON. Is that sergeant here?

Major SWAIN. Yes, sir; he is here.

Mr. STRATTON. Why don't we get him before we go so that we can talk to him.

Mr. GUBSER. While we are waiting I will ask the same question I asked here of the division.

What instructions do you give combat photographers assigned to a mission?

Colonel BARLOW. I have not given him any instructions, none whatsoever. I issued no specific instructions to my PIO people except to provide me with cover and pictures and input for news releases. As far as specific instructions, what not to do or what to do, I generally leave that up to the photographer.

Mr. GUBSER. Are the rules and regulations regarding the carrying of personal cameras understood now, or does the same situation prevail as did with Haerberle who took his own camera into combat assignments and felt that the pictures were his personal property? He was not even obligated to submit them to a security check? Is that the situation today?

Colonel BARLOW. Sir, we do not attempt to control the pictures that an individual takes or take them away from him in any shape, form, or fashion. When we send a combat photographer that is acting in his official capacity as PIO representative, those pictures then are the property of the Government, the property of the organization. We handle them accordingly. As far as an individual out and carrying his own personal camera, taking his own personal pictures, we do not try to restrict them. We do not try to censor him or in any manner take them away or look at them.

Mr. GUBSER. In other words, if a man were to be assigned to another My Lai operation today he could take a Government-issued camera and he could also take his own camera and, provided it was his own

film, keep it. Is that right? Keep the photographs he got on his own camera, his own film?

Colonel BARLOW. Any individual that took pictures with his own camera, with his own film, as long as he complied with security requirements, as far as classified material and what have you, we would have no objection.

Mr. GUBSER. What check would there be on the security requirement?

Colonel BARLOW. Each individual has received a security briefing, sir, in which he has an obligation not to divulge classified material. If in the course of taking pictures he took pictures of something that was a classified operation, he would have an obligation to handle it in accordance with the existing procedures of classified material.

Mr. STRATTON. I am not sure that you entirely understand Mr. Gubser's question. It is not a question of any individual. It is a question of an individual assigned to the PIO and as a photographer and whose uniform mission is photography; he goes on this mission and takes some cameras that have been given to him by the PIO office, also takes his own camera, shoots some pictures for the PIO, shoots some others for himself.

The question is: Those pictures which he takes on company time, is he allowed to take them himself and sell them to Life and Time if he wants to, instead of turning them back in to his employer?

That is basically what the question is.

Mr. GUBSER. That is right.

Colonel BARLOW. I personally feel they should belong to us.

Mr. DICKINSON. Do you have any sort of control? Have you tried to exercise any sort of control? Is it the same way as before?

Colonel BARLOW. I have not tried to exercise any control over individuals taking pictures with their own cameras and their own film. I do exercise control over the film and the camera of my photographers when they are functioning in an official capacity as PIO representatives.

Mr. STRATTON. How many photographers do you have?

Colonel BARLOW. One in brigade; total of five.

Mr. STRATTON. Do you have an operation here, Horse Climb, or something or other? If you go out on that, who are you going to take with you?

Colonel BARLOW. In the way of a photographer?

Mr. STRATTON. Yes, sir.

Colonel BARLOW. If I require PIO coverage, I send my brigade photographer out there.

Mr. STRATTON. When the operation is over, what do you get from him?

Colonel BARLOW. What I get from him is a news release sheet, together with pictures that he has taken of the operation.

Mr. STRATTON. Do you say, "Did you take any other pictures?"

Mr. DICKINSON. You don't have to say that. If he had his personal camera and took other pictures, he would have necessarily no responsibility to turn them in to you?

Colonel BARLOW. No, sir.

Mr. DICKINSON. They could become his private property as far as you are concerned?

Colonel BARLOW. Yes, sir.

Mr. STRATTON. That is contrary to the information we got.

Mr. DICKINSON. That is what he is talking about. That is what their policy is.

Mr. STRATTON. You have not seen any regulation that would direct otherwise?

Colonel BARLOW. I am not personally aware of any other regulation.

Major WRIGHT. I think Major Pauli might add something.

Major PAULI. We actually have three sources. My photographers, as well as the division photographers, will cover all brigade areas. In other words, our signal battalion will have a photographer working in the area and also my own photographers out of the division shop. They are working on that as well as the photographers here. Most of our field shots do come out of my source or the signal battalion.

Mr. STRATTON. That was not the case in My Lai. This was a brigade photographer.

General ZAIS. The process just kind of goes on, and you find someone like that and it's hard to legislate against that.

Mr. DICKINSON. Without something to prohibit it, you are going to find it again.

Mr. GUBSER. Off the record.

[Discussion off the record.]

Mr. STRATTON. Any other questions?

[No response.]

Mr. STRATTON. Sergeant, were you present at the time the Peers committee came to go through your files?

Sergeant SUHR. Yes, sir, I was.

Mr. STRATTON. They were looking, among other things, for a report on Colonel Henderson's investigation of the My Lai incident. They found a report here, I understand.

Sergeant SUHR. That is right.

Mr. STRATTON. Where did they find that report?

Sergeant SUHR. That was in my safe.

Mr. STRATTON. In your safe?

Sergeant SUHR. S-2 safe.

Mr. STRATTON. S-2 safe?

Sergeant SUHR. Yes, sir.

Mr. STRATTON. Did you know it was there when you became S-2?

Sergeant SUHR. No, I did not.

Mr. STRATTON. This was found in your safe and you were not aware it was in your safe?

Sergeant SUHR. No, sir. When I first got here and talked about Operation Barker, that is, Task Force Barker, we asked for all kinds of things in Task Force Barker and I didn't know anything about that, so I had my clerk go through the safe, cleared out some pamphlets and folders for task forces given to our security officer at that time. They never came back to my office. I was new here and they came through again. The Peers committee came down and they went through my safe, piece by piece, and found this pamphlet, this paper inside of one of my folders. It was unclassified.

Mr. STRATTON. Was Sergeant Camell your predecessor?

Sergeant SUHR. Yes, sir.

Mr. STRATTON. Did he not tell you when he turned over the desk to you that there was another copy of this report that he put in the desk?

Sergeant SUHR. Sir, I never saw Sergeant Camell.

Mr. STRATTON. Did you ever find another report in your desk?

Sergeant SUHR. No, sir.

Mr. STRATTON. There was just one copy of this report that was picked up by the Peers committee?

Sergeant SUHR. Right, sir; it was a carbon copy of the letter.

Mr. REDDAN. Was that a green copy, Sergeant?

Sergeant SUHR. It was either green or yellow, I am not sure.

Mr. STRATTON. Do you recall whether it had a heading at the top of the paper, Headquarters?

Sergeant SUHR. There was no heading on it, sir.

Mr. REDDAN. No letterhead, Department of the Army?

Sergeant SUHR. No letterhead.

Mr. STRATTON. Were there any initials at the top of it, File RKB?

Sergeant SUHR. No, sir; I didn't get that close, sir. It surprised me when he got it from my safe.

Mr. STRATTON. Did Colonel Henderson get in touch with you or somebody here earlier in 1969 to ask them to check in his safe to see if this document was available?

Sergeant SUHR. No, sir. I arrived here the middle part of October. Colonel Henderson had left.

Mr. STRATTON. The question was not that. I realize that he had left. When this matter broke, not in the papers but in the investigating channels of the Army, Colonel Henderson, as I understand it, tried to get in touch with the 11th Brigade to see if the copy that he had written of this particular report and had put in the safe was still there. Never heard of that?

Sergeant SUHR. No, sir.

Mr. REDDAN. Sergeant, did you turn over the copy that was in your safe, or was a photostat made of it?

Sergeant SUHR. There was no copy. It was an original copy.

Mr. REDDAN. Did the Peers group copy have the original copy in your safe?

Sergeant SUHR. Right; carbon copy.

Mr. STRATTON. As far as you know, did anybody at the time the Peers group was here undertake to make a true copy of the document that they picked up, sat down and retyped it, a certified true copy?

Sergeant SUHR. No, sir.

Mr. STRATTON. Not as far as you know?

Sergeant SUHR. As far as I know.

Mr. STRATTON. They didn't make any photostats to leave with you and your files?

Sergeant SUHR. Not a thing, sir.

Mr. STRATTON. Thank you very much.

Any other questions?

[No response.]

Mr. STRATTON. If not, thank you very much, Colonel.

Colonel BARLOW. Yes, sir.

[Whereupon, at 3:15 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Tuesday, June 9, 1970.

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert, Mr. Gubser, members of the subcommittee.

Also present: Mr. Frank M. Slatinshek, assistant chief counsel; Mr. John T. M. Reddan, counsel; and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. General, we have you here this morning on request by your counsel that you would like to reappear and further discuss the matters before us.

FURTHER TESTIMONY OF BRIG. GEN. GEORGE H. YOUNG, JR.

General YOUNG. Yes, sir.

Mr. HÉBERT. You may proceed as you wish.

Mr. REDDAN. Mr. Chairman, may I ask the general one or two preliminary questions?

Mr. HÉBERT. Yes.

Mr. REDDAN. General, you understand you were placed under oath at the last session and your oath continues.

General YOUNG. Yes, sir.

Mr. REDDAN. It is not necessary to reswear you.

Since you have not testified before the subcommittee up to this point, it will be necessary for us to make a complete record right from the beginning. So would you start by stating for the record your name and your present assignment?

General YOUNG. Yes, sir. My name is George H. Young, Jr. I am presently assigned to the Headquarters, 1st U.S. Army, Fort Meade, Md.

Mr. REDDAN. General, as you know, this subcommittee has been given the job of looking into the so-called My Lai incident, and we are particularly concerned with what took place in the way of investigation and resolution of this matter after March 16, 1968.

However, in order to understand what followed on, it is necessary for us to get as good an understanding as possible of what took place on that day.

So in March of 1968, sir, where were you stationed?

General YOUNG. In March of 1968 I was assigned to the Americal Division, and my station was at Chu Lai, Republic of South Vietnam.

Mr. REDDAN. In what capacity, sir?

General YOUNG. In March 1968 I served in two capacities. On or about the 15th of March of 1968 my capacity changed from the assistant division commander for support to the assistant division commander for maneuver.

Mr. REDDAN. Could you just tell us briefly what your concerns were in your former capacity and what they were—how did they change on the 15th of March? What were your responsibilities?

General YOUNG. The assistant division commander for support's primary responsibility was to assist and advise the division commander on the logistical support required by the division. This involved both the combat support and combat service support units, to insure that the combat elements of the division were adequately supported.

The assistant division commander for maneuver, his responsibilities were primarily concerned with assisting and advising the division commander in the employment of the tactical units of the division. That is the difference.

Mr. REDDAN. I see. Well, General, before we proceed any further, I think the record should show that you are represented here today by counsel. And, counsel, if you will please identify yourself for the record.

Colonel POYDASHEFF. All right, sir. I am Lt. Col. Robert S. Poydasheff.

Mr. REDDAN. And you are assigned where, sir?

Colonel POYDASHEFF. I am assigned in the Office of the Judge Advocate General of the Army, Department of the Army.

Captain THOMAS. I am Capt. Michael T. Thomas, and I am assigned to Headquarters, 1st U.S. Army, at Fort Meade.

Mr. REDDAN. Now, you also have with you a sergeant.

Mr. HÉBERT. Who is the soldier behind you?

General YOUNG. Identify yourself.

Sergeant COTTON. Sfc. Gerald Cotton, Headquarters, 1st Army, Fort Meade, Md.

Mr. REDDAN. Why is he here this morning?

General YOUNG. It won't be necessary as far as I am concerned, Mr. Chairman.

Mr. HÉBERT. Suppose the soldier excuses himself.

Sergeant COTTON. Thank you, sir.

Mr. REDDAN. General, in your capacities both prior to March 15 and after March 15, would you have any responsibility for making sure that air support was available for any contemplated ground action?

General YOUNG. Mr. Reddan, are you speaking of Army air support, or are you speaking of tactical air support?

Mr. REDDAN. Army air support.

General YOUNG. If I recall properly, sir, the assistant division commander for support was the adviser to the division commander for the Army aviation elements both organic to and attached to or in support of Americal Division.

Mr. REDDAN. You had no responsibility in that regard?

General YOUNG. I had responsibility as the assistant division commander for support to advise and assist the division commander in the deployment and use of his Army aviation elements. This is my recollection of the responsibilities, how it was divided out.

Now the reason I say that, Mr. Chairman, is because this is different in every division. Some division commanders have the aviation element supervised by the assistant division commander for maneuver.

And that is the distinction I am trying to make here. This is not steadfast in every division.

Mr. HÉBERT. Well, I think, General, Mr. Reddan, is trying to establish preliminarily your responsibility for the troops, whether air or surface, who were in the area on the day under question, and whether you were the responsible commander up the line.

General YOUNG. Yes, sir. I was not in the chain of command is the point I want to make, Mr. Chairman.

Mr. HÉBERT. That is, I think, what Mr. Reddan is trying to develop.

General YOUNG. Yes, sir.

Mr. REDDAN. Now, how long prior to March 15 had you been in Vietnam on this tour, General?

General YOUNG. I arrived in Vietnam on or about the 3d of March of 1967. From that period until the first of November of 1967, I was assigned at Headquarters, U.S. Army, Vietnam, in the capacity of the Deputy Chief of Staff for Plans and Operations. On November 1, 1967, I was transferred from Headquarters, U.S. Army, Vietnam, to the Americal Division.

Mr. REDDAN. Now, when you transferred to the Americal Division at Chu Lai, did you have occasion to familiarize yourself with what has become known as the AO extension down in the My Lai area—familiarize yourself with the nature of the enemy in that area?

General YOUNG. Yes, sir.

Mr. REDDAN. Could you tell the committee briefly what your estimate was at that time of the enemy strength and the enemy capability in the AO extension?

General YOUNG. Yes, sir. To the best of my ability, best of my memory.

Mr. REDDAN. Yes.

General YOUNG. When I first arrived at the Americal Division, the area immediately south of Chu Lai was occupied by the ROK Marine Brigade. This was a Korean organization. It was occupied by, I believe, three battalions of Koreans who were marines.

In early December, as I recall, these Korean marines were moved to the north just south of Da Nang. Their headquarters was just south of Da Nang. At that time it was necessary for the Americal Division to assume responsibility for the area previously occupied by this Korean Brigade.

The enemy in this area, to the best of my knowledge and recollection, primarily consisted of the 48th local force Viet Cong battalion. Now, this battalion was also often, if I recall properly, known as the 84th. The numbers were reversed. Now, for what reason, I don't know. But it seems to me that I can recall this same unit being designated both the 48th and the 84th.

In addition to that there were other nonorganized units, Viet Cong units, generally small type units, platoon, company size units, and I don't recall their designations. My memory couldn't tell me how many of these. But there was an additional enemy force in addition to this 48th VC battalion.

Mr. REDDAN. Did your intelligence indicate whether there were enemy base camps in that AO extension?

General YOUNG. I believe that we did have intelligence that, generally speaking, this unit, primarily the 48th VC battalion, did re-

turn periodically to the coast, land undoubtedly for refurbishing of their supplies and things of this nature, and then they would go back out into operations, generally to the west, in the vicinity of the area—the higher ground to the west of Highway 1. Also, I recall that—I believe the record will show that during the Tet offensive of 1968 they were quite active in the vicinity of Quang Ngai City.

I do recall that at some period of time, either in December of 1968 or January of 1969 it was reported that this unit attacked and overran the district headquarters located just south of Chu Lai along Highway 1, I believe a place called Binh Son. And they overran this headquarters. They destroyed a tremendous portion of the district headquarters, and they inflicted a number of casualties both on United States—a small number of United States, and a larger number of ARVN casualties at this headquarters. And it was reported at this time that this was the same unit that I am speaking of.

Mr. REDDAN. The 48th?

General YOUNG. Yes, sir.

Mr. REDDAN. What was the size of that in manpower? What was the enemy strength in manpower in that area according to your intelligence estimates?

General YOUNG. Sir, I don't recall the total enemy strength estimated in that area. I believe that the 48th battalion, although it was called a battalion, that wasn't near the size comparable to a U.S. battalion, and I would estimate—and this was an estimation—250 to 300, of this one unit. In addition to that, as I said before, I do believe that I can recall there were other reported enemy units located in the area.

I would be hard pressed to give you a figure as to the total number of enemy in that area.

Mr. REDDAN. Do you recall the formation of Task Force Barker?

General YOUNG. Yes, sir; I recall the formation of Task Force Barker.

Mr. REDDAN. Did you participate in any way in the decision to set up Task Force Barker?

General YOUNG. Not that I recall; no, sir.

Mr. REDDAN. Did you have anything to do with logistical support for the operations of Task Force Barker?

General YOUNG. Sir, if my memory serves me correctly, Task Force Barker was formed in late December of 1967—

Mr. REDDAN. That is right.

General YOUNG. Or early January 1968.

During the period of time that I was the assistant division commander for support, I did assist and advise the division commander in an effort to insure that Task Force Barker was properly supported.

On or about the 3d or the 5th of February of 1968 I left the division for 1 month to return to the United States for a month of leave, and I recall that I arrived in the United States on the 5th of February, and I departed the United States on the 5th of March.

So my responsibilities for the logistical support of Task Force Barker extended from the period of the time that it was formed until on or about the 3d. I would say, of February.

Mr. REDDAN. Did you report on duty back on station on March 5?

General YOUNG. Sir, if I recall, I reported several days after March 5. I don't recall the exact date because of the time change, but I do recall I left the United States on the 5th of March.

Mr. REDDAN. Oh, you left the United States on the 5th.

General YOUNG. Yes.

Mr. REDDAN. I see.

General YOUNG. And I don't recall, I would estimate it was about the 8th. Because of the time change I couldn't tell you the date I got back to Chu Lai.

Mr. REDDAN. Now, on your return to duty on March 8 or so, did anyone—did you have any briefings to be brought up to date with respect to the operations of Task Force Barker which had taken place during your absence from the country?

General YOUNG. I didn't have any formal briefing, sir, that I can recall. I did discuss with the division G-3 in very general terms what had taken place during the past month.

I do recall a discussion with General Lipscomb who at the time was the brigade commander of the 11th Brigade and responsible to General Koster for Task Force Barker. And I do recall that he told me that he had been—his unit had participated in the vicinity of Quang Ngai City during this period of time I had been absent.

Mr. REDDAN. Did you learn anything of the casualties which had been suffered by Task Force Barker during your absence in connection with any of their operations, particularly in the AO extension?

General YOUNG. Sir, I believe that I was informed that there had been operations conducted in the AO extension by Task Force Barker, and if my memory serves me correctly, it was indicated to me that they had suffered casualties primarily due to mines and booby traps. I don't recall the number, sir.

Mr. REDDAN. Did you receive any information concerning an operation of Company Able of Task Force Barker at the end of February where they were pinned down by the enemy fire in the Son My area and received numerous casualties?

General YOUNG. I may have, sir. I don't recall it.

I believe that that could have been the action where the company commander by the name of Trinkel—

Mr. REDDAN. Trinkel, that is right.

General YOUNG. Was wounded. But I don't specifically recall this particular action. I later knew Major Trinkel when he became the operations officer for his parent battalion, the 3d Battalion the 1st Infantry, I believe. But I don't recall specifically discussing this operation that you referred to, sir.

Mr. REDDAN. Now, coming up to the operation of Task Force Barker on March 16, 1968, did you participate in any of the planning for that operation, or were you privy to any of the planning?

General YOUNG. No, sir; I did not.

Mr. REDDAN. Well, as of March 15 you had taken over your new assignment?

General YOUNG. I believe that the record will show, sir, that on the 15th of March—I say on or about the 15th of March my responsibilities changed from that of the assistant division commander for support to the assistant division commander for maneuver.

Mr. REDDAN. I see.

Now, in that capacity did you have any duty or responsibility for assisting the commanding general in his decisions with respect to operations of the field units?

General YOUNG. As the assistant division commander for maneuver, I was responsible to assist and advise the division commander in the deployment of his tactical units. I do not recall discussing this operation with the division commander prior to the conduct of the operation.

Mr. REDDAN. When is the first time that you recall being aware of this operation of March 16? Were you aware of it prior to March 16?

General YOUNG. To the best of my knowledge and recollection, I don't specifically recall that I was aware of this prior to the 16th of March 1968.

Mr. REDDAN. Who would have had the responsibility of advising the commander on the use of his tactical elements at that time?

General YOUNG. At that time the assistant division commander for maneuver should have been responsible, and I undoubtedly was responsible to assist and advise the division commander on the deployment of his tactical units.

However, in this case I don't recall that I discussed this operation with General Koster, the division commander, prior to the operation.

Mr. REDDAN. General, do you know how many men were deployed by Task Force Barker in this March 16, 1968 operation?

General YOUNG. Sir, until this investigation began, my memory tells me that there was one company involved, C Company of the 1st Battalion, the 20th Infantry.

However, since reading the testimony, I have now learned that there were other units. I believe B Company of the 4th Battalion, 3d Infantry was involved, and I think there were elements of—I have to rely on the testimony. I think there was another element of another company involved.

Mr. REDDAN. A Company?

General YOUNG. A Company of the 3d of the 1st, I believe, sir.

Mr. REDDAN. In a blocking position.

General YOUNG. In a blocking position; yes, sir.

Mr. REDDAN. What I am trying to understand, General, is if our best intelligence indicated an enemy force of the size that you have indicated here this morning, did the commanding general have any advice or guidance as to the size of the U.S. forces needed to make a successful insertion into that area? In other words, were we putting enough men in there to do the job?

General YOUNG. Sir, I can't answer your question in all honesty. I am quite sure that the division commander had discussed this matter with the brigade commander. I don't know if he discussed it with anyone else involved. Undoubtedly he had discussed this matter with the brigade commander prior to the conduct of the operation.

Mr. REDDAN. From your experience in matters of this nature, what size force would you judge would be adequate for us to use in meeting an enemy of the size which you have indicated that intelligence suggested was in that area?

General YOUNG. Well, from my experience I would state, sir, that I would certainly prefer to go in with a larger force than I know—or than I had intelligence to believe was occupying the area. I wouldn't

want to go there with just an even force or certainly not with a lesser force.

If I had intelligence to indicate that there was a force of an estimated size x , I would certainly want to go in there with a force larger than the estimated size x .

Mr. REDDAN. What is the normal doctrine in matters of this nature? What are the standards which are used to—

General YOUNG. Well, I think, sir, that in our doctrine normally the parameters are a force of 2 to 1. Now sometimes this can vary. For example, if you are about to make a river crossing, for example, and if you know the enemy is heavily defending the far side of the river, well, I don't think that a parameter of 2 to 1 would be adequate.

Mr. REDDAN. An amphibious assault requires more?

General YOUNG. An amphibious assault requires a larger force. And an attack against a fortified position would require a larger parameter.

But normally speaking, I think in a situation such as you have described here this morning, sir, that a parameter approximately 2 to 1, and if it could be supported logistically, would be a good rule of thumb, I would say, sir.

Mr. REDDAN. Do you know whether or not that was considered at the time this operation was planned?

General YOUNG. I can't say that it was considered, sir; but I would certainly think that it was considered.

Mr. REDDAN. Now, have you told us when you first became aware of this operation on March 16?

General YOUNG. Sir, to the best of my knowledge and recollection, I am sure that this operation was briefed by the division G-3 on the morning of the operation to the division commander, and undoubtedly I was present.

Mr. REDDAN. Do you have any independent recollection, or are you saying this because this is the normal practice?

General YOUNG. I don't have any independent recollection that it was definitely briefed on the morning of the 16th. But I can tell you that on every morning 7 days a week, there was a meeting in the division commander's office at which time what had happened the night before was brought to the attention of the division commander and the operations to be conducted during that day were brought to the attention of the division commander.

So I feel certain that this was the case in this instance, sir.

Mr. REDDAN. Now, in your capacity as deputy commander for maneuvers, would you normally get periodic reports during the day from the TOC as to the progress or lack of progress being made by U.S. forces during the day on any planned operation?

General YOUNG. I don't believe that I would normally be contacted by the Division Tactical Operations Center and given a periodic update on the operations being conducted.

I think that on occasion it was certainly appropriate that I and the other members of the division headquarters would often contact the TOC and request specific answers to specific questions concerning the operations that had been conducted.

Mr. REDDAN. Did you receive any reports prior to the evening briefing on March 16, 1968, as to any incidents or any pertinent matters concerning the operation during that day?

General YOUNG. I don't recall receiving any reports prior to the evening briefing, sir.

Mr. REDDAN. During the evening briefing what reports did you receive?

General YOUNG. At the evening briefing, which was conducted every afternoon at the division headquarters, a briefing was given to the division commander of this operation and of the results of the operation and, as I recall, there was more than 100 enemy reported killed; there were a very few number of weapons reported captured, and a very few number of friendly casualties reported.

Now, when I say very few number of weapons, I mean someplace between 3 to 10. I don't remember the number. But it was a remarkably small number of weapons captured.

When I say a very few number of friendly casualties, I mean a few number of friendly casualties. I don't remember any number. Undoubtedly a number was given. I don't recall the number.

Mr. REDDAN. Do you recall what your reaction was to this report?

General YOUNG. Sir, I was—quite frankly, I was surprised, and I was disappointed in the fact that we had not captured the number of weapons which would be comparable to the number of VC or NVA reported to have been killed.

As a rule of thumb, the Americal Division, I think, had an outstanding weapons captured to kill ratio, and if I recall, this was approximately—and it is approximately—10 to 1 or 11 to 1. In other words, for each enemy killed—each 10 enemy killed or 11 enemy killed, we captured 1 weapon.

And I think that this, when compared to other divisions in the Republic of South Vietnam at this time, was considered to be a pretty good record. And when I heard the report at the evening briefing of more than 100 enemy killed and with a very small number of weapons captured, that is why I was surprised and disappointed, because I wanted to see the units capture the weapons.

Mr. REDDAN. Was there any indication during that evening briefing that there had been any civilian casualties at My Lai 4 or anywhere in that operation that day?

General YOUNG. Not that I can recall, sir.

Mr. HÉBERT. General, at the time you say you were disappointed and surprised. Did you confine this disappointment and surprise to yourself? You didn't make any remark to anybody?

General YOUNG. At the briefing, Mr. Chairman, I didn't discuss this matter with anyone present. After the briefing was over, if I recall properly, I mentioned this to General Koster, the division commander, as we walked from the place of the briefing back over to the command building. I indicated that I was surprised for two reasons, primarily: First, that they had found the 48th VC battalion; second, that we had only captured a very few number of weapons, yet we had killed a considerable number of enemy. And if my memory serves me correctly, Mr. Chairman, I mentioned this to the division commander during the period of time as we walked back to our headquarters.

Mr. HÉBERT. Did you offer any suggestion as to why?

General YOUNG. No, sir, I don't recall offering any suggestion as to why.

Mr. HÉBERT. This was an unusual thing, was it not?

General YOUNG. To me it was; it made my antenna strike up here, and that is why I said this. I was surprised and disappointed.

Mr. HÉBERT. Well, at that particular time when you were surprised and disappointed, was there any thought in your mind there could have been some killing of civilians counted as enemy?

General YOUNG. No, sir.

Mr. HÉBERT. That never entered your mind?

General YOUNG. I never thought that in my mind at that time, quite honestly.

Mr. HÉBERT. And what was General Koster's reaction? What did he tell you?

General YOUNG. I generally got the impression that he shared my opinion, quite frankly, Mr. Chairman.

I don't recall him saying anything specifically, but I generally recall him agreeing with my expression.

Mr. HÉBERT. Well, this was an unusual occurrence, I presume, from your surprise and disappointment.

General YOUNG. Yes, sir, I would say it was.

Mr. HÉBERT. That so few weapons would be captured and so many enemy designated as killed.

General YOUNG. Yes, sir, I would say it was unusual. But at the same time, I believe that there were other instances where we didn't capture the number of weapons that we should have captured—but not of the magnitude—which we are discussing here at the moment.

If I remember correctly, this is something we always attempted to stress and stress quite strongly, to be sure that we take every action that we could to capture the weapon, because if we didn't capture the weapon, we generally knew what to expect. The enemy would come back and reoccupy the area, or somebody else would take the weapon and there would be another casualty that we would have to suffer—normally.

Mr. HÉBERT. Let me ask this.

This being an unusual incident, in your experience during your service in Vietnam, were there any occasions where it was brought to your attention in which the rules of the Geneva Agreement, rather, on the conduct of the American soldier, contrary to instruction given him, had been violated in the killing of civilians?

General YOUNG. Sir, to the best of my knowledge, the Americal Division adhered to the rules of the Geneva Convention as they were supposed to, because this was a matter which was stressed. And quite frankly, I was proud of the Americal Division.

Mr. HÉBERT. That didn't quite respond to the question I asked you.

General YOUNG. All right, excuse me, sir.

Mr. HÉBERT. I asked you did you ever hear of any indications of any incidents of perhaps violation of these rules?

General YOUNG. There are two occasions in my mind that I believe that I can relate to you which indicate to me that the rules of the Geneva Convention were not followed.

On one occasion I was still assigned to the U.S. Headquarters, U.S. Army Vietnam, and I learned—I was told, and I cannot tell you who told me, but I think the record could indicate it—that in the 1st Infantry Division operating in the vicinity of Saigon, an American soldier had attempted or had been successful to remove the ear from a

dead enemy. This to me is—if I recall, this was in the press and so forth and so on. And this to me is not respecting the dead properly, and therefore, this to me means that the rules of the Geneva Convention were not being followed.

On another occasion, while I was assigned to the Americal Division, it was brought to my attention that soldiers of the 198th Brigade had not adhered to the rules of the Geneva Convention. And I would like to explain this to you, Mr. Chairman, so that your committee has all the facts.

On or about the third of June, 1968, the division commander, General Koster, departed for his new assignment in CONUS. During the period of about—

Mr. HÉBERT. Let me interrupt, General. June 8 is after the occurrence of March 16.

General YOUNG. Yes, sir.

Mr. HÉBERT. What I am directing my questions to is at the time you indicated this disappointment.

General YOUNG. Yes, sir. The only occasion I can relate to you is when I was assigned to Headquarters U.S. Army Vietnam, the occasion which I described to you very briefly.

Mr. HÉBERT. That was the ear incident?

General YOUNG. Yes, sir.

Mr. HÉBERT. All right. Now let's come down to the March 16 situation. You were in the chain of command.

General YOUNG. Sir, as the Assistant Division Commander, if I may say so, for maneuver, I was not in the chain of command.

Mr. HÉBERT. You were not?

General YOUNG. I was not in the chain of command.

I was the adviser—assistant and adviser to the division commander.

Mr. HÉBERT. Let me develop this now, if I may.

In other words, if a complaint had been lodged by a member of the landing party at My Lai 4 on March 16, a complaint had been lodged that there were violations of the Geneva Convention and that civilians were being killed unnecessarily; now tell me this—I want to get your participation in this. Then what would have been the procedure—let's take it from the filing of the charges of the individual. Let's be specific.

Thompson filed charges. You are familiar with that; you have read the testimony and heard us all discuss this since then. Thompson's complaint would have gone where?

General YOUNG. Let me attempt to trace it for you, sir.

Mr. HÉBERT. OK. Fine.

General YOUNG. Mr. Thompson was a member of B Company of the 123d Aviation Battalion. His company was commanded by Major Watke. His complaint first should have gone to Major Watke. Now, possibly there is someone between Major Watke and Mr. Thompson, a platoon leader or someone, but the company commander should have received the complaint.

The complaint should have then gone from Major Watke to the battalion commander, Lieutenant Colonel Holladay. The complaint should have gone from Lieutenant Colonel Holladay either directly to the division commander or possibly through, on the way to the division commander, the chief of staff, since the chief of staff is the senior individual on the staff.

Mr. HÉBERT. Who was the chief of staff?

General YOUNG. Colonel Parson at this time, sir.

This is the normal chain of command. The two assistant division commanders, one for support and one for maneuver, are just what the words say, Mr. Chairman, they are assistants and advisers to the division commander.

Mr. HÉBERT. Now where are you now with respect to Colonel Parson?

General YOUNG. Colonel Parson sits as the chief of staff, the individual who is responsible to insure that the general and special staff respond to the requirements of the division commander.

Normally the subordinate commander's report would go to the division commander through the chief of staff.

Mr. HÉBERT. Now, where do you fit into the picture between Colonel Parson and General Koster?

General YOUNG. The chief of staff works directly for the division commander, does not work for the assistant division commander.

Mr. HÉBERT. All right. And you were the assistant division commander?

General YOUNG. Yes, sir.

Mr. HÉBERT. So there was no occasion for him to go to you with this complaint?

General YOUNG. Let me—I haven't explained it to you properly. There was no occasion—I don't understand your question, Mr. Chairman, quite frankly.

Mr. HÉBERT. You don't, or you do?

General YOUNG. I do not understand your question, sir.

Mr. HÉBERT. Very simply, I am trying to get the situation in chronological order from the beginning of Thompson's complaint as it goes all the way up through the proper channels, where it should have gone and into whose hands this complaint was placed, or the individuals who became knowledgeable, by verbal or written communication.

General YOUNG. Yes, sir.

Mr. HÉBERT, Now, here we have gotten to Colonel Parson and here is General Koster. In your position of vice commander of the Americal Division you stand between that chief of staff and the commander, you are the vice chief.

General YOUNG. Sir, if I recall properly, the chief of staff works directly for—is directly subordinate to the division commanding general. The assistant division commanders are on the side. They are on the side.

Mr. HÉBERT. I know. This is your table of organization.

General YOUNG. Yes, sir.

Mr. HÉBERT. I recognize and understand that. But I want to find out what did happen.

General YOUNG. What did happen; yes, sir.

Mr. HÉBERT. Now, did Colonel Parson tell you anything about this alleged occurrence at My Lai?

General YOUNG. Not that I can recall, sir. But Major Watke and Colonel Holladay did come to me and make a report to me, sir.

Mr. HÉBERT. About this? About the alleged atrocities—alleged violations, call it whatever you want to call it.

General YOUNG. Let me tell you, if I may, Mr. Chairman, what they did tell me.

Mr. HÉBERT. All right.

Mr. REDDAN. Will you tell us when and where this took place?

Mr. HÉBERT. Yes, that is right. When and where this took place that they told you.

General YOUNG. To the best of my knowledge and recollection, Major Watke and Colonel Holladay came to my office, and I thought they came in the afternoon of the 16th after the evening briefing. Reading the testimony I could have been mistaken. But nevertheless, either they came on the afternoon of the 16th or the morning of the 17th. I don't recall specifically; I wouldn't tell you, Mr. Chairman, that they were by themselves. There could have been someone else. But I do know that Colonel Holladay and Major Watke came to see me, and as I said before, I thought they came after the evening briefing.

Mr. HÉBERT. It doesn't make much difference about that.

General YOUNG. I want to make this clear to you, sir.

Mr. HÉBERT. That is a difference of time and all.

General YOUNG. Yes, sir.

Mr. HÉBERT. I want to know the overall picture.

General YOUNG. All right, sir.

These two officers came in to see me, and if my memory serves me correctly, Colonel Holladay told me that he had received a report from Major Watke and he would like for Major Watke to tell me what he had to say. And Major Watke told me he had received a report from a helicopter pilot and possibly he used the name of Thompson, but I don't recall that name being used, wherein this pilot had observed non-combatant civilians caught in a crossfire as friendly ground forces engaged a small enemy force. And this pilot had taken two actions: First, he had landed his helicopter in the vicinity of these noncombatants, and he had attempted to protect them to the very best of his ability; second, he had departed from that area to the area of where the ground forces were advancing and had spoken to the—

Mr. HÉBERT. Excuse me. Colonel, don't prompt the General.

Colonel POYDASHEFF. I was just passing a point I would like him to—

Mr. HÉBERT. Don't prompt.

Colonel POYDASHEFF. All right.

General YOUNG. He had departed the area where the noncombatants were located, had flown over to the area where the friendly ground forces were located; he had explained to the commander of the friendly ground forces the exact location of these noncombatants, and he had further told the commander that if he continued to fire in their direction where these noncombatants were in the crossfire, that he was going to keep his own weapons on those friendly ground forces and, if necessary, he would have his people firing on the ground forces.

Now, that is the report, Mr. Chairman, that I received.

Mr. HÉBERT. If this were true, that these civilians were in danger of being killed, that was in violation of the Geneva Conference; wouldn't it be?

General YOUNG. If this were true that these civilians had been caught in this crossfire, then it is possible, in my mind, that some of the reported Viet Cong killed at the previous briefing could have been civilians and not enemy—Viet Cong enemy.

Second, it certainly brought to my mind a serious confrontation between friendly forces.

Mr. HÉBERT. Did you, in your conversation with General Koster associate this with what was reported to you, in view of your surprise and disappointment in the report?

General YOUNG. Sir, I don't recall any association. I took the information that I had been provided, located the division commander, and recommended that an investigation be conducted to determine whether or not these two allegations that had been made were valid.

Mr. HÉBERT. So this was brought to your attention, these alleged violations?

General YOUNG. It was brought to my attention, these two factors which I discussed.

Mr. HÉBERT. Yes; I mean it was brought to your attention?

General YOUNG. Yes, sir; it was brought to my attention.

Mr. HÉBERT. So now in the testimony that you have been given this morning, you said you only heard of two incidents. One was the ear incident, and the other was on June 16.

General YOUNG. Mr. Chairman, I stated that I had—before the 16th of March—and we are talking now either the afternoon of the 16th of March or the 17th of March—I had heard of the incident which I referred to while I was assigned to Headquarters U.S. Army Vietnam. The other incident which occurred on the 3d of June is the second incident which I was referring to, sir.

Mr. HÉBERT. That is right. This was an incident between them.

General YOUNG. Yes, sir.

Mr. HÉBERT. So you are knowledgeable of three incidents and not two.

Colonel POYDASHEFF. Mr. Chairman, may I counsel with my client for just one second? I think there is a misunderstanding here.

Mr. HÉBERT. Well, you can tell me what you are misunderstanding.

Colonel POYDASHEFF. All right, sir. The general was not advised of any war crimes violation. He was advised that there was a confrontation. He was advised that civilians were presumably caught in a cross-fire, and this, sir, I submit to you very respectfully, does not allege a war crime violation.

He was not told of any incident involving the indiscriminate killing of civilians.

Mr. HÉBERT. Would that be your testimony?

General YOUNG. That is the point I was trying to make to you, sir.

Mr. HÉBERT. OK.

General YOUNG. I was advised the noncombatants were located—

Mr. HÉBERT. Caught in a crossfire—

General YOUNG. I was not advised that there had been any noncombatants killed or wounded. I was advised that they were in danger.

Mr. HÉBERT. All right.

Now, let's continue. What did you do after that?

General YOUNG. Sir, to the best of my knowledge and recollection, I immediately attempted to locate the division commander. I located the division commander and reported to him exactly what I had been informed of, and I further recommended to him that he direct that an investigation be initiated immediately.

Mr. HÉBERT. This was all verbal, of course?

General YOUNG. This is all verbal, sir.

Mr. HÉBERT. And then what happened after that?

General YOUNG. He agreed with me that an investigation should be initiated, and he instructed me to direct Colonel Henderson, the brigade commander, to initiate an investigation immediately and to report the facts to him.

Mr. REDDAN. What were they to investigate, General?

General YOUNG. He was to investigate the two factors which had been presented to me, sir. First, had there been civilians caught in a crossfire between enemy forces and friendly forces; and second, had there been a confrontation between Army aviation elements and ground elements.

Mr. HÉBERT. Now, there was not to be investigated and reported to you any killing of civilians? I mean violation of the Geneva Agreements?

General YOUNG. Not to my knowledge, sir. No, sir. That was not my understanding.

Mr. HÉBERT. So, in other words, as of this point and as of the time Colonel Henderson was ordered to make an investigation, you relayed General Koster's orders to you.

General YOUNG. Yes, sir.

Mr. HÉBERT. You ordered him to investigate a crossfire incident and a confrontation of friendly forces incident, and at no time in these instructions was he told to investigate irregularities in the Geneva Agreements?

General YOUNG. I cannot recall that he was instructed in that line, sir.

Mr. HÉBERT. And then what happened?

General YOUNG. Assuming that—and I believe that this took place on the morning of the 17th, my conversation with General Koster, I instructed Major Watke and Colonel Holladay to meet me at Fire Support Base Dottie. And I further instructed him to have Colonel Barker, Task Force Barker commander, present at Fire Support Base Dottie.

I thought that the meeting that we referred to took place the same morning that I got the information, but the record now shows that it did not take place on the morning of March 17, but rather it took place at or about 9 o'clock on the morning of the 18th of March.

The only explanation that I can give you, Mr. Chairman, as to why the meeting was delayed 24 hours—and I would like to bring this out to you, if I may—is because evidently, trying to put this thing in sequence, evidently Colonel Holladay and Major Watke had already scheduled a meeting with Colonel Henderson at Duc Pho, which is south of this area, for the afternoon of the 17th of March, reportedly to have discussed aviation support provided by the 123d Aviation Battalion to the 11th Brigade. And I would like to bring out here that my knowledge of the testimony which I have read as a result of the Peers inquiry indicates that this meeting was held between Colonel Holladay and Major Watke and Colonel Henderson.

At this meeting the report which Colonel Holladay and Major Watke had made to me was not discussed. But nevertheless, on the morning of the 18th of March I met Colonel Henderson and Colonel Barker, Colonel Holladay and Major Watke at Fire Support Base

Dottie, and at that time I delivered to Colonel Henderson the instructions of the division commander. And I further directed that these two gentlemen, that is, Colonel Holladay and Major Watke, were present and that they could provide Colonel Henderson with the information that had been provided to me.

Colonel Barker was present. I departed the area at that time. To the best of my knowledge, this meeting was not of any lengthy duration. And this is generally what took place at that time, sir.

Mr. HÉBERT. Then what happened?

General YOUNG. Subsequent to that, on each occasion when I saw Colonel Henderson, I asked him, "What is the status of your investigation?" I was attempting to insure that he did make the investigation, that he did respond to the division commander's directive, and I don't recall when the next incident occurred, but each time I saw Colonel Henderson I did what I could to be sure that he was aware that the division commander had issued a directive which was essential for him to respond to as quickly as possible.

Mr. HÉBERT. Keeping in mind now—I don't want to interrupt you. Keeping in mind that this directive always related only to an investigation of crossfire and confrontation of friendly forces—

General YOUNG. This investigation, Mr. Chairman, related to the report which I had received, yes, sir.

Subsequent to our meeting at Fire Support Base Dottie, which the record shows took place on the 18th of March, and I would estimate maybe 5 to 7 or maybe 8 days—I don't recall the time span—on one occasion I asked Colonel Henderson, "What is the status of your investigation?" He told me at that time that he had just seen General Koster, that he had delivered to him an oral report.

I asked him, I said, "Well, what did General Koster say?"

He said that "He told me to put it in writing."

I said, "Well, what are your findings?"

And he discussed in general terms that there was no basis for the allegations that had been made; however, he did say that there had been a number of noncombatants, if I recall, killed by artillery fire.

The number that he used was someplace 20 to 30. I don't recall the exact number, Mr. Chairman.

Mr. HÉBERT. Now, did your association then with the investigation cease after that? You knew he had gone to General Koster?

General YOUNG. I went back to General Koster on the same afternoon that I received this report from Colonel Henderson; I told General Koster that I have seen Colonel Henderson, that he had told me that he had given you, General Koster, an oral report, and that you directed that it be placed in writing.

He said, "Yes, that is true, I did direct him to put it in writing."

I told General Koster also generally what—well, not generally—what Colonel Henderson had told me, and to my knowledge and recollection this is what Colonel Henderson had told General Koster.

So far as I was concerned at that point, Colonel Henderson had responded to General Koster's directive, and evidently General Koster, since he directed him to put it in writing, that was the end of the matter.

Mr. HÉBERT. And that was the end of your participation?

General YOUNG. To the best of my knowledge and recollection, that was the end of my responsibility and knowledge of this investigation.

Mr. HÉBERT. Now, one more question in another area, not related but certainly involved. Did it ever come to your attention when you were in your position that the reports of violation, of incidents had become—well, had grown to such moment that it caused General Westmoreland to have a special meeting to stress the necessity of respecting the Geneva Agreements?

General YOUNG. Sir, to the best of my knowledge and recollection, I was unaware then, and I am unaware now of the matter to which you are referring.

Mr. HÉBERT. You are unaware?

General YOUNG. Yes, sir.

Mr. HÉBERT. Then if a meeting composed of practically every commander in the division, or anybody involved in the Americal Division, had been conducted, at which General Westmoreland specifically stressed the necessity of respecting the Geneva Agreements, you do not know of such a meeting?

General YOUNG. The only possibility that I can offer in response to your question is this possibly could have been discussed by General Westmoreland at a commanders meeting at which I was not present. But I cannot recall—

Mr. HÉBERT. I am not saying you were present, General. I just wondered, did you know that such a meeting did take place? I mean did you hear about a meeting?

General YOUNG. Yes, sir.

Mr. HÉBERT. You were the vice commander of the Americal Division.

General YOUNG. I am trying to go through my mind to be responsive to your question, Mr. Chairman, and to the best of my knowledge I cannot recall at this time—

Mr. HÉBERT. Such a meeting?

General YOUNG [continuing]. Such a meeting.

Mr. HÉBERT. Have you heard about such a meeting since?

General YOUNG. I don't believe I have, sir.

Mr. HÉBERT. That is all I have.

Mr. REDDAN. In this connection, General, was there ever brought to your attention a message sent out by MACV from General Kerwin on the subject of mistreatment of detainees and prisoners of war? The date on this is February 2, 1968.

General YOUNG. I don't recall seeing that, sir. Very possibly I have seen it.

Mr. REDDAN. This is a message to all U.S. Forces in Vietnam. Should this have come to your attention?

General YOUNG. Undoubtedly I did see the message. I cannot recall it at this moment. I would normally see that.

Mr. REDDAN. Has it every been shown to you?

General YOUNG. To the best of my knowledge, I have not seen it, sir. Very possibly I have seen it. I have seen many documents come out. I cannot tell you what is the content of the message at this time.

Mr. REDDAN. General, I will show you a copy of the message to which I have just referred and ask you if you will look at that, please, sir. I would like to ask you a question or two about it.

MR. LAILY. To identify it, it is a two-page copy with the date time group of February 21, 1968.

General YOUNG. Sir, I don't recall seeing this before this morning.

Mr. REDDAN. Should that have come to your attention in your capacity as the assistant commander for maneuver?

General YOUNG. Undoubtedly I would have seen it, sir, yes, sir.

Mr. REDDAN. I will read this message to which we have just referred. It is from COMUSMACV Confidential. Subject: Mistreatment of Detainees and PW's.

1. Extensive press coverage of recent combat operations in Vietnam has afforded a fertile field for sensational photographs and war stories. Reports and photographs show flagrant disregard for human life, inhuman treatment and brutality in the handling of detainees and PW's. These press stories have served to focus unfavorable world attention on the treatment of detainees and prisoners of war by both ARVN and FWMAF.

What is FWMAF?

General YOUNG. Free World—what is the next letter?

Mr. REDDAN. MAF.

General YOUNG. Free World Military Assistant Forces, I believe, sir.

Mr. REDDAN. Armed forces?

General YOUNG. I remember that alphabet.

Mr. REDDAN. OK. The remainder reads as follows:

2. These actions will not be condoned.
3. Vigorous and immediate command action is essential to insure that all personnel are familiar with and observe strictly:
 - (a), FM 27-10, Law of Land Warfare.
 - (b), UCMJ, Article 93.
 - (c), Geneva Convention relative to the treatment of P.W. (Articles 12 through 20 and 121).
 - (d), Geneva Convention for amelioration of condition of wounded and sick armed forces in the field, Articles 12, 17 and 50.
 - (e), MACV Directives 20-4, 27-5, and 190-3.

In that connection, General, whether or not you have ever seen this message, do you recall whether there was any vigorous and immediate command action early in February to insure that all personnel were familiar with and observed these various points to which I have just referred?

General YOUNG. I don't recall seeing the message that you have referred to before this morning. I don't recall this message being the basis for any vigorous command action which you referred to, sir.

Mr. REDDAN. Yes, but do you recall any vigorous command action?

General YOUNG. I don't recall, but constantly the Division Commander emphasized the necessity to insure the protection of noncombatant civilians and their personal and private property.

Mr. REDDAN. But you don't recall anything exceptional sometime after the 2d of February?

General YOUNG. No, sir. But I want to make the point, Mr. Chairman, if I may, that in my opinion the division commander constantly emphasized adherence to the proper rules of land warfare.

Mr. REDDAN. I will continue reading.

(4). In addition, U.S. advisers will themselves adhere strictly to these provisions and make every effort to influence their counterparts to observe humane principles and the Geneva Conventions. Advisers must not become involved with war crimes and atrocities and shall advise their counterparts that they are required to report these incidents to higher headquarters. Advisers will use all in-

fluence to stop and prevent any maltreatment, war crimes or atrocities, and will inform the senior in the chain of command of all details surrounding such incidents as quickly as possible.

(5). All known, suspected, or alleged war crimes or atrocities committed by or against U.S. personnel will be investigated in accordance with MACV Directive 20-4.

Now, since you had not seen that message before this morning, I will not ask you anything more about it right now. But I would like to go back to this matter of General Koster's direction to you to have these allegations concerning the incident at My Lai investigated. As I understand it, there is a two-point thing. One was the confrontation and the other was the crossfire allegation.

Now, General, just what were you supposed to investigate about the crossfire incident? What was wrong about the fact that some people had been caught in crossfire?

General YOUNG. Sir, it was my understanding that the intent was to investigate whether or not noncombatant civilians had in fact been caught in a crossfire between advancing friendly ground forces and enemy forces, and if so, what was the effect, if any.

Mr. REDDAN. Well, now, I will ask you specifically, General, wasn't the allegation that civilians had been killed by the crossfire, not that they were just caught, but that they were actually hit and they became casualties as a result of the crossfire? Wasn't that the allegation?

General YOUNG. Sir, as I stated before, that was not the allegation.

Mr. REDDAN. Well, I don't understand, General, what is worth investigating, just because somebody happens to get caught in a crossfire but is not hit.

General YOUNG. To me this is something that is essential to investigate, sir, if I may say so.

Mr. REDDAN. All right. Now, if you will tell me why, sir?

General YOUNG. Because here you are attempting to engage an enemy forces and you have got noncombatants in the area.

Mr. REDDAN. Yes. And is that the fault of the U.S. forces? Whose fault is that that they are there? I don't understand why you are investigating something if it is nobody's fault. What did you expect to prove by your investigation, or determine by your investigation?

General YOUNG. I expected Colonel Henderson to investigate the allegation that civilians, noncombatant civilians, had been caught in a crossfire, and to determine what had happened, why did it happen, what was done about it. These are the factors that were investigated.

Mr. REDDAN. What should you do about it, General? If a jaywalker runs across the street and doesn't get hit, you might charge him with jaywalking, but the people driving the cars are not responsible for that. And the same, if you have opposing forces here and a civilian runs across between them, this is his fault. Are you going to charge the civilian with something?

Frankly, I have difficulty following your testimony. There are numerous allegations, according to the testimony—numerous allegations prior to this time that you became cognizant of the My Lai operation—numerous allegations that civilians had been killed. These were the allegations which came to any number of people prior to Major Watke's appearance before you. And as I understand your testimony, you were shielded from this fact, nobody ever told you that a civilian was killed.

Now, is that your testimony, sir?

General YOUNG. That is my testimony, sir. I was not informed that any noncombatants had been killed.

Mr. REDDAN. Well, when you talked with Colonel Henderson and told him he was to investigate, did he say "Well, what in the world and I supposed to investigate about civilians running across the field?"

General YOUNG. I don't recall Colonel Henderson having any questions about what he was supposed to investigate, sir.

Mr. REDDAN. He just said, "All right, I will see if civilians were caught in a crossfire?"

General YOUNG. I don't recall what he said, sir. As I said before, I don't recall him having any questions about what the purpose of the investigation was.

Mr. REDDAN. Now, you testified that after he made his investigation, he told you that he found there was no substance to the allegation, as I recall your testimony, but there had been several civilians killed by artillery fire or gunship fire, something to that effect.

General YOUNG. To the best of my knowledge and recollection, this is what he told me that he had informed the division commander, sir.

Mr. REDDAN. Now, under the MACV directive, should these findings have been brought to the attention of either General Cushman or to MACV?

General YOUNG. I believe that the MACV directive—I don't recall the number—

Mr. REDDAN. 20-4.

General YOUNG. If this is a directive written in March of 1967, I think that the division commander or the division is responsible to report suspected or—I think the word "suspected" is used there. However, in this incident, to the best of my knowledge, based on the information that I obtained from Colonel Henderson, there was no suspected war crime having been committed.

Mr. REDDAN. I know. But there was a finding of civilian casualties due to artillery fire.

Now, shouldn't that fact have been referred both to General Cushman and to MACV? The mere fact that there were civilian casualties?

General YOUNG. Sir, I don't quite honestly and frankly—I know that we have procedures established for reporting accidental killing of civilians. And I don't recall exactly what they were, I know that we were required to insure that when a civilian was accidentally killed, that proper payment to the dependents or to the relatives was made. But I would have to go back and review the existing directives of the division and also the higher units to answer specifically your question.

Mr. HÉBERT. I don't want to be unfair to the General, and I think in good conscience I should make this observation at this point, if I am correct.

General YOUNG. Yes, sir.

Mr. HÉBERT. Let's concede the whole directive, accept it on its face value. The responsibility of making the report to MACV was not yours and was your commanding officer's, it was up to General Koster.

General YOUNG. Sir, I had no responsibility to report to the CG of the 3d Marine Amphibious Force whatsoever. I reported to General Koster.

Mr. HÉBERT. And the decision to refer this to MACV must rest with the commander?

General YOUNG. It would not be my decision, sir.

Mr. HÉBERT. I think in fairness, I should point that out, Mr. Reddan.

General YOUNG. Thank you, sir.

Colonel POYDASHEFF. Mr. Chairman, may I make one statement to Mr. Reddan?

Mr. HÉBERT. Yes, go ahead.

Colonel POYDASHEFF. You were concerned about what was there to investigate. And perhaps you—

Mr. REDDAN. I asked the general the question. Now if you have got an answer that the general doesn't know about, I will talk to you after the hearing on the thing. But we want to get the general's reaction to this dependence upon his understanding of the situation and the rules of engagement and the MACV directives that were followed. So your testimony on the point here would not be helpful.

Colonel POYDASHEFF. No, I just wanted to clarify—if not clarify, just fortify what the general has already testified to, and that was the confrontation.

Mr. HÉBERT. You weren't there.

Mr. REDDAN. Oh, no, this is a two-pronged thing. I am not talking about the confrontation.

Colonel POYDASHEFF. Oh, I see. OK.

Mr. REDDAN. General, to go back to another collateral matter here, I believe you testified in response to a question by the chairman that the proper reporting procedure would have been from Thompson to Watke to Colonel Holladay to Colonel Parson or to General Koster.

General YOUNG. This is normally the operation, the normal chain, sir. However, I believe I can understand why Colonel Holladay and Major Watke came to see me.

Mr. REDDAN. Well, why?

General YOUNG. Since I was the assistant division commander for maneuver, this had occurred, they possibly thought it would be better for me to know about it first and then for me to inform the division commander.

Mr. REDDAN. Well, now, did they inform you that they had already talked to Colonel Parson?

General YOUNG. I don't recall that they informed me that they had talked to Colonel Parson.

Mr. REDDAN. But did you know that they had?

General YOUNG. I don't recall having any knowledge either that they had or they had not.

Mr. REDDAN. Did it subsequently come to your attention that they had talked to Colonel Parson prior to coming to you?

General YOUNG. I don't recall that, sir.

Mr. REDDAN. You have no recollection—did you ever know that they talked to Colonel Parson?

General YOUNG. I am trying to separate what I have read in the testimony and what actually occurred, Mr. Reddan.

To the best of my knowledge at that time I didn't know whether they had or had not talked to Colonel Parson. I believe that I have read in the testimony, either Colonel Parson's testimony or Colonel Holladay's testimony, that they had not, I believe that, and that Colonel Parson had said something to Colonel Holladay for not telling him before he came to see me. Maybe I have got the testimony confused.

Mr. REDDAN. Well, did you tell Colonel Holladay to go to Colonel Parson since he was the chain of command?

General YOUNG. No, sir, I did not. Not that I recall, sir.

Mr. REDDAN. Did you tell him to go to see General Koster?

General YOUNG. I cannot recall telling him to go see General Koster. I can recall that I told both Major Watke and Colonel Holladay that I would get in touch with a division commander just as quickly as possible and make a recommendation to him.

Mr. REDDAN. Did you say anything else to either Colonel Holladay or Major Watke during this reporting of the incident to you other than these comments you have just referred to?

General YOUNG. Undoubtedly I asked them some questions. I don't recall what they were. I don't recall—I do recall also telling him what my recommendation was going to be and that I would want them present at the meeting if the division commander approved my recommendation.

Anything specific other than that, I cannot recall at this time, sir.

Mr. REDDAN. Well, then, I will ask you specifically whether you made any comment to the effect "My God, that's murder"?

General YOUNG. No, sir; I did not.

Mr. REDDAN. How long did this conversation take place?

General YOUNG. I cannot recall specifically how long this conversation took place. I would estimate possibly 15 minutes, 20 minutes, I don't recall.

Mr. REDDAN. Could it have lasted 45 minutes?

General YOUNG. I don't believe it did, sir.

Mr. REDDAN. Did you have conversations with anyone else besides General Koster and Colonel Henderson concerning this investigation to be made of the matter?

General YOUNG. As I recall, Colonel Barker was present at the time when we met at fire support base Dottie, along with myself, Colonel Holladay, and Major Watke. I don't recall discussing the report that I had received from Major Watke with anyone other than General Koster. Very possibly I did, but I don't recall it.

Mr. REDDAN. Did you ever talk to Warrant Officer Thompson?

General YOUNG. About this incident, sir?

Mr. REDDAN. Yes, sir.

General YOUNG. I cannot recall talking to Warrant Officer Thompson about this incident or any other incident. I don't believe that I ever discussed any matter with Mr. Thompson.

Mr. REDDAN. Is there any reason why Thompson wasn't called in to give his version of this thing firsthand to you and General Koster?

General YOUNG. I can think of no reason, no, sir. He had told his company commander, and his company commander came with his battalion commander and told me what I have testified here, sir.

Mr. REDDAN. Was there ever any other investigation in 1968, to your knowledge, of this incident, other than the one conducted by Colonel Henderson?

General YOUNG. Not to my knowledge, sir; there was no other investigation.

Mr. REDDAN. Did you ever hear that Colonel Barker had been directed to make an investigation of this matter?

General YOUNG. To the best of my knowledge and recollection, I did not hear in 1968 that Colonel Barker had been directed to make an investigation of this matter.

Mr. REDDAN. If he had been, is this the sort of thing which would normally have come to your attention?

General YOUNG. I believe I would have known about it, sir, had he been directed to make an investigation.

Mr. REDDAN. How would that come to your attention? I mean, how would it have been brought to your attention in the normal course of events?

General YOUNG. It could have been brought to my attention in, I believe, sir, several ways. Possibly through the brigade commander, it could have been brought to my attention by a member of the—the Chief of Staff, for example. It could have been brought to my attention by the division commander.

I attempted to visit all units of the division as often as I possibly could, and very possibly it could have been brought to my attention during one of these visits.

Mr. REDDAN. Well, is this something that should have come across your desk routinely, the appointment of a task force commander to investigate an incident of this sort? This, as I understand, is done in writing; is it not? This is not something you do verbally. When the division commander orders a formal investigation, there are certain prescribed procedures which you follow, is that not right, sir?

General YOUNG. Normally, sir, when a formal investigation is conducted, an investigating officer is appointed on division orders, yes, sir.

Mr. REDDAN. Now, would a division order of that sort have come over your desk had it been written at this time? Would you have received an information copy.

General YOUNG. I don't believe normally I would have, sir, I would have received an information copy. Undoubtedly I would have been—the chief of staff, or someone, would have told me that a formal investigation is being conducted, or has been directed to be conducted.

Mr. REDDAN. But you say that normally this would not come to your attention, not even an information copy?

General YOUNG. Very possibly, Mr. Reddan, it could have been. It could have come to my attention.

Mr. REDDAN. I don't mean it could, but should it have, that is what I am trying to find out, what your procedures were.

General YOUNG. I don't believe that normally the procedures would have been that an assistant division commander, either myself or the other assistant division commander, would have been on the distribution list for the appointment of the order for the investigating officer.

Mr. REDDAN. Now, did you ever see anything which purported to be an investigative report prepared by Colonel Barker?

General YOUNG. To the best of my knowledge and recollection, I can never recall having seen a report prepared by Colonel Barker.

Mr. REDDAN. And is your testimony that you never heard of any such report while you were in Vietnam?

General YOUNG. Sir, my testimony is that I never heard of a formal investigation being conducted until this was brought out in the Peers inquiry.

Mr. REDDAN. And by formal investigation, you mean the investigation allegedly conducted by Colonel Barker?

General YOUNG. Yes, sir.

Mr. REDDAN. Had Colonel Barker made an investigation and had he submitted a report, would such a report—should such a report have normally come to your attention?

General YOUNG. Normally I don't believe it would have come to my attention. I believe it would normally have gone to the chief of staff, and then from there to the division commander. Very possibly the chief of staff could have received this matter, had it reviewed by this staff judge advocate, or possibly by his inspector general, and then to the division commander, sir.

Mr. REDDAN. Well, in view of the fact that you were the one that brought this matter to General Koster's attention, you feel that if such a report had been made, it should have been brought to your attention?

General YOUNG. I don't feel that there was any obligation on anyone's part to bring it to my attention, but I do feel that I would have known about it in my normal dealings with the staff and with the division commander.

Mr. REDDAN. Now, did you ever have any conversations with Colonel Guinn concerning allegations arising out of this March 16 operation of Task Force Barker?

General YOUNG. Sir, I had conversations with Colonel Guinn on a quite frequent basis. I do recall that at some subsequent date after the Task Force Barker operation—and I would estimate that in my mind this was a month or 6 weeks after the operation—on one of my visits to the Province chief, headquarters in Quang Ngai, Colonel Guinn mentioned to me, among other things, that the Province chief, Colonel Kim, had received—if I recall, it was a letter from a district chief concerning some Viet Cong propaganda—I believe that is what the report was, or some information indicating that American soldiers had committed atrocities at a location which I can't recall, but I do remember it was in the vicinity of Quang Ngai City.

I did not link the information that Colonel Guinn relayed to me to the matter which we previously discussed here, sir.

Mr. REDDAN. What did you do about that?

General YOUNG. I asked—to the best of my knowledge I asked Colonel Guinn what was he intending to do about it, and I think he told me that Colonel Kim, the Province chief, was going to investigate the matter.

I am positive that I informed General Koster of my conversation with Colonel Guinn. I don't believe that General Koster linked the information which Colonel Guinn had given us to the previous operation that we were discussing, sir.

I did inform General Koster to the best of my knowledge and recollection.

Mr. REDDAN. Did Colonel Guinn show you the document to which he had made reference?

General YOUNG. I don't believe he did, sir. I cannot recall seeing the document.

Mr. REDDAN. Did you request that he show it to you?

General YOUNG. I don't think I did, sir.

Mr. REDDAN. Did you ever receive a copy of the report of the investigation of the allegation?

General YOUNG. I have never, to the best of my knowledge, received a report of this investigation, if it was investigated.

Mr. REDDAN. Did you ever see a copy of the so-called Henderson report dated April 24, 1968?

General YOUNG. The first time I saw that report, sir, was on one of my previous appearances before General Peer's panel.

Mr. REDDAN. You didn't see it at any time when you were in-country?

General YOUNG. Not to my knowledge and recollection, sir.

Mr. HÉBERT. Mr. Gubser, any questions?

Mr. GUBSER. No.

Mr. HÉBERT. Mr. Lally?

Mr. LALLY. Yes, sir.

General, at the March 16 evening briefing, do you recall any murmur or buzz among the participants there when the VC body count was announced?

General YOUNG. To the best of my knowledge and recollection, I cannot recall any murmur or buzz or discussion by any members who were assembled.

Mr. LALLY. Do you recall, General, at that same briefing whether there was any comment passed that of this 120-some VC's, that there were only 4 male VC's?

General YOUNG. I don't recall that, sir.

Mr. LALLY. Do you recall, General, whether after the briefing that you, in your conversation with General Koster, emphatically—or at least it has been described here as emphatically—said that you wanted to know why there was this disparity between body count and weapons captured and you were going to find out why?

General YOUNG. Sir, to the best of my knowledge and recollection, my discussion with General Koster was as I have indicated here this morning. I do not recall emphatically demanding that I be told why this large disparity, nor do I recall that I emphatically emphasized to General Koster that I intended to find out.

Mr. LALLY. Now, at your meeting with Colonel Henderson and the other officers on March 18 at Dottie, do you recall at that time, General, whether Colonel Henderson indicated that he had already spoken to the aircraft pilot and heard his allegation?

General YOUNG. To the best of my knowledge and recollection, that was not discussed while I was present with Colonel Henderson and Colonel Holladay and Colonel Barker and Major Watke.

Mr. LALLY. It is your recollection at your meeting that Colonel Henderson was hearing the allegation for the first time; is that correct, sir?

General YOUNG. Yes, sir.

Mr. LALLY. I have no further questions.

Mr. REDDAN. General, do you recall that in Major Watke's reciting to you the allegation made to him by Warrant Officer Thompson that he told you that Thompson advised the ground troops not to engage the Vietnamese civilians with any further ground fire and that if they did he would bring fire from his helicopter on the friendly forces?

General YOUNG. Sir, to the best of my knowledge and recollection, Major Watke did not report to me that Mr. Thompson had advised this.

I do recall that Major Watke reported to me that Mr. Thompson, a pilot—and evidently his name was used—the helicopter pilot had advised the ground force commander that if he fired into the area occupied by these noncombatants he was going to bring his fire onto his—the helicopter fire into the ground troops.

Mr. REDDAN. But you don't recall—

General YOUNG. The word engagement, I got no impression that there was an engagement between the noncombatants and the ground troops, sir.

Mr. REDDAN. General, I would be very happy if you can help me with one point here, and that is—I mentioned it before—what was the allegation all about other than this confrontation if it didn't involve civilian casualties? I just for the life of me—I will be perfectly honest with you—I can't understand any of this excitement about a few civilians who happened to get caught in crossfire if they didn't get hit, if they didn't get hurt. This is the thing that I can't understand what all the to-do was about if there was no allegation that civilians had been killed.

Now, as you know, we have had testimony from many, many witnesses about civilian casualties there, about civilians getting killed. And I for the life of me can't understand why all this to-do about civilians getting caught in a crossfire if they weren't hit. Can you help me with that in any way?

General YOUNG. Mr. Reddan, I will do anything I can to assist you or this committee. I volunteered, as you well know, to come here today for this very purpose. But let me again attempt to explain to you my understanding of the purpose of the investigation that was being directed by the division commander. And I might say at the outset that I am convinced that all the senior commanders in the Americal Division were quite conscious of the desire to protect the lives and the property of the noncombatants. This, as I indicated before, was emphasized, in my opinion, constantly in order to insure that the non-combatant's life and property was not destroyed. And here we have a situation where we have a group of noncombatants inadvertently caught in a crossfire between an advancing ground force—U.S. ground force unit against a small enemy force. The point that was made to me was this was the situation. The first question that hits in my mind is, well, why did this develop? Second, what was the result of it, and what was done about it to prevent it from occurring again?

This, in my opinion, was what the purpose of the investigation was to attempt to determine, point 1. Point 2 was the confrontation that we discussed previously.

But I tell you now, and as I have said before, Mr. Reddan, there was no statement given to me that noncombatants had been killed, had been wounded. And if I may, Mr. Chairman, if I may, I would like to relate another instance, if I may, sir, wherein I will attempt to prove to you the actions that I took when it was clearly brought out in my mind that an allegation concerning a war crime had occurred. And this is the matter that occurred in June, which I would like for you to know about, Mr. Chairman, and the members of your committee.

As I indicated before, General Koster departed the division on or about the 3d of June for reassignment to CONUS. I don't recall the specific date, but I was informed of an allegation of a rape and a

murder. If my memory serves me correctly, there were two nurses involved, one a VC nurse and one an NVA nurse, allegedly. There were a number of male civilians. Now, by number I mean some place 5 to 10, I would say. It was reported to me during the period of time that I was the acting division commander, which took place between about the 3d of June to about the 23d of June, this allegation. My action was to officially appoint an investigating officer, a nonbrigade investigating officer, a senior officer who was not a member of the unit involved. I immediately informed Headquarters U.S. Army Vietnam; in fact, I requested that they provide me a lawyer to oversee the investigation.

I informed the provost marshal, or had him informed, of U.S. Army Vietnam. And I believe the record will indicate that the information officer was also informed. But Headquarters U.S. Army Vietnam was informed. I am sure that the 30 MAF Headquarters was informed.

The investigation was conducted by Colonel Rose, who is currently assigned here in Washington, since he was the investigating officer, the officially appointed investigating officer. This investigation concluded that an atrocity had occurred, and the records are available that the individuals who were accused were court martialed, and I had departed the division when they were court martialed, but my point here, Mr. Chairman, is if I took this action on the 3d of June for an alleged war crime which had occurred several weeks before, which would be either in May or late April, I don't see why I would take any other action to suppress or not to thoroughly insure that an investigation was conducted concerning the operation in March.

I am positive that had I been informed that there had been a war crime committed, that I would have insured that a proper investigation had been conducted.

Mr. REDDAN. How did that allegation come to your attention, General?

General YOUNG. The allegation in June, sir?

Mr. REDDAN. Yes, sir.

General YOUNG. This allegation, to the best of my knowledge, came to me from Colonel Parson. I don't recall whether it came through the inspector general channel or whether the inspector general was present or not. I think the record will show that a soldier who had been a member of B Company, the 1st Battalion, 52d Infantry, later transferred to the 11th Brigade, had either talked to the inspector general and made the allegation to the inspector general, or possibly to the chaplain. But it was brought to my attention either through the inspector general channels or possibly through the chaplain channels of this allegation.

Mr. REDDAN. General, returning to that meeting with Colonel Henderson and Colonel Barker and Major Watke, do you recall anything being said at that meeting to the effect that the confrontation incident should be worked out between Colonel Barker and Colonel Henderson?

General YOUNG. Between Colonel Barker—

Mr. REDDAN. Yes; that Colonel Henderson suggested the confrontation incident be worked out by Colonel Barker or Major Watke?

General YOUNG. I don't recall that being said, sir.

Mr. REDDAN. Would you normally or routinely get copies of the Task Force Barker journals?

General YOUNG. No, sir; I believe that the Task Force Barker journals would have been submitted to the 11th Brigade, and the 11th Brigade journals would have been submitted to the division. They would not normally come to me, sir.

Mr. REDDAN. Are you familiar with the Task Force Barker journal entries for March 16, 1968? Has it ever been shown to you, specifically entry No. 39?

General YOUNG. I don't recall that entry, sir. Very possibly it was shown to me in my appearance before the Peers Committee. I don't recall, sir.

Mr. REDDAN. I will read it to you and see if it refreshes your recollection.

The entry reads "Company B reports that none of the VC body count reported by his unit were women and children. Company C reports that approximately 10 to 11 women and children were killed either by artillery or gunships. These were not included in the body count." And the action taken indicates 11th Brigade notified.

Now, should information of that sort, going to the 11th Brigade, have been passed to the division?

General YOUNG. I would think that that information should have been passed to the division; yes, sir.

Mr. REDDAN. Do you recall ever having had that information brought to your attention while you were incountry?

General YOUNG. No, sir.

Mr. LALLY. General, in connection with civilian casualties in this March 16 operation, did General Koster ever show you a 3 by 5 card, or several 3 by 5 cards, tabulating the civilian casualties during this operation and the manner in which they had been killed?

General YOUNG. No, sir.

Mr. REDDAN. Did you know Major McKnight?

General YOUNG. Major McKnight, if I recall, was the S-3 of the 11th Brigade, sir. I know him; yes, sir. But not intimately.

Mr. REDDAN. Did you ever hear that Major McKnight made an investigation and a report of this My Lai incident?

General YOUNG. No, sir.

Mr. REDDAN. I have no further questions.

Mr. LALLY. Mr. Chairman, one further question.

General, throughout your testimony here today you have stated that you were directed by General Koster to order Colonel Henderson to conduct an investigation, and you did so. There is no question in your mind that this was the process of this investigation; is that correct, sir? The reason I ask this question is there has been conflicting testimony that the investigation was initiated by Colonel Henderson without direction.

General YOUNG. There is no question in my mind that the division commander directed that I tell Colonel Henderson to initiate the investigation.

Mr. REDDAN. When you told him that, did he say anything to you to the effect that he had already started an investigation of this matter?

General YOUNG. I cannot recall him telling me that; no, sir.

Mr. HÉBERT. Well, thank you very much, General.

General YOUNG. Sir, may I say one thing before we close?

Mr. HÉBERT. You can say anything you want to.

General YOUNG. I would like to point out that—and I have read the testimony of Colonel Holladay, and I am not here to criticize his testimony, but there are several factors that took place which I have no explanation for.

Mr. REDDAN. Excuse me, General. You say you read his testimony. You mean his testimony before the Peers Committee?

General YOUNG. I read his testimony before the Peers Committee, sir.

Mr. REDDAN. Yes, sir.

General YOUNG. This is what I am referring to. And there are several factors here that I have learned since my appearance before you, sir, on the 22d of April which I cannot explain, and I have no explanation for it. First is I have a hard time in my mind understanding how two officers can go to the brigade commander supposedly on the afternoon that they had told me, informed me of an alleged war crime and speak to the individual responsible for the operation for more than an hour, or approximately an hour and not mention the report that had been given to me. I don't comprehend that. If they felt as strongly as they had testified, then I have a hard time understanding how they can talk to the man who is responsible for it and not mention it. That is my knowledge—that is one factor I cannot explain.

Second: I—

Mr. HÉBERT. To whom did he talk?

General YOUNG. Colonel Henderson, sir.

Mr. HÉBERT. You are referring to Colonel Henderson?

General YOUNG. Yes, sir.

Mr. HÉBERT. All right.

General YOUNG. Second: I reviewed some of the citations, both for Mr. Thompson and the two crew members of his helicopter since I appeared before you on the 22d of April. And it is interesting to read the citations, because the words in the citations are exactly what I have testified before you this morning, or words to this effect. There is no indication of an alleged war crime having occurred insofar as these citations are concerned on the 16th of March 1968.

It is also interesting to observe that the recommendation for the award for the crew members—one crew member, at least was signed by Major Watke, was endorsed by Colonel Holladay, for an operation conducted on the 16th of March at My Lai 4. I fail to comprehend this if they had reported to me an alleged war crime.

It is interesting to review, also, the citation which Mr. Thompson received, the Distinguished Flying Cross, on the 16th of March for an operation, wherein the words are used—those words I quote: "Intense enemy crossfire."

Further, I have difficulty understanding how Colonel Holladay can provide testimony which is damaging to me when he sees the division commander almost daily, if not daily; when he accompanies the division commander on numerous occasions throughout the division area and evidently never mentioned it to him.

Also I have difficulty understanding how Colonel Holladay can remain a member of the division from the alleged date of March 16 until some time in July and not bring this to the attention of someone to insure that it was properly evaluated—investigated and evaluated. To the best of my knowledge, Colonel Holladay never indicated to me

that he thought that anyone in the division was attempting to suppress or cover up an alleged war crime.

As you may know, Mr. Chairman, one of the closest members in a unit is your executive officer. Major Langston was the executive officer for Colonel Holladay. They lived together in the same hootch. Supposedly the closest man that Colonel Holladay knew in Vietnam. Two members lived in the same small building referred to as a hootch for a period of time; yet Major Langston said they discussed everything of significance in this battalion. Yet this alleged war crime was never discussed between his executive officer and Colonel Holladay.

These are points which I have difficulty understanding, sir.

I would like to also tell you, Mr. Chairman, that I have almost 28 years of service, and I am proud of every day. I have assisted in the defense of our country for three wars, and this is the first time that my integrity, my courage has been questioned.

I have nothing further, sir.

Mr. HÉBERT. Thank you very much, General. We appreciate your cooperation, and appreciate the fact that you did make the decision to return. I think it has been helpful to the committee in a great measure. And of course the committee comments not on any testimony given, but I will say that there are many loose ends that we can't find ends to tie. That is why we are sitting here.

General YOUNG. Yes, sir.

Mr. HÉBERT. Thank you very much.

[Whereupon, at 11:56 a.m., the subcommittee recessed until 2 p.m. on the same day.]

The subcommittee met, pursuant to recess, at 2 p.m., in room 2337, Rayburn House Office Building, Hon. F. Edward Hébert presiding.

Present: Mr. Hébert and Mr. Gubser, members of the subcommittee.

Also present: Mr. Frank M. Slatinshek, Assistant Chief Counsel, Mr. John T. M. Reddan, Counsel, and Mr. John F. Lally, Assistant Counsel.

Mr. HÉBERT. The subcommittee will be in order.

General, thank you for coming over.

TESTIMONY OF LT. GEN. ROBERT E. CUSHMAN, JR.

General CUSHMAN. Yes, sir.

Mr. HÉBERT. I will have to instruct you the same as we instruct all other witnesses so the record will show that you have been informed.

The subcommittee wants to tell you that you are under the full protection of the subcommittee when you are here. Apparently you are not going to be subjected as some others have been, but this whole area is secure, and when you leave the room an officer will meet you and escort you out. And the whole news media is allowed one representative, and he is allowed to ask one question, and that question is, "Do you care to say anything?" If you say no, that is the end of the meeting. They can't steal pictures of you, they can't stick microphones under your face. You know what the usual procedure is. We give you full protection on that and see that you are not molested or harassed in any way at all.

Now, in your appearance before the subcommittee I assume you are familiar with the rules of the subcommittee. You have been given the rules of the subcommittee?

General CUSHMAN. I don't know whether I am or not, sir.

Mr. HÉBERT. Well, the rules of the subcommittee, in effect, tell you exactly the conduct of the subcommittee. It also tells you that if you want counsel you may have counsel.

General CUSHMAN. Oh, yes, sir.

Mr. HÉBERT. Obviously you do not care for counsel.

And that is about a summation of what it is. And every witness is placed under oath, as you readily realize and understand.

So you don't have any questions?

General CUSHMAN. No. Mr. Chairman.

Mr. HÉBERT. All right. I will give you the oath.

[Witness sworn.]

Mr. HÉBERT. All right. Now, General, I understand that you have a prepared statement.

General CUSHMAN. Yes, sir, I do.

Mr. HÉBERT. You may proceed.

General CUSHMAN. Yes, sir.

My full name and rank are: Lieutenant General Robert E. Cushman, Jr., United States Marine Corps, No. 05062. I was commanding general, III Marine Amphibious Force with headquarters in Da Nang in I Corps from June 1, 1967 to March 26, 1969. During the month of March 1968, I commanded both administratively and operationally all U.S. Marine Corps forces in I Corps area in South Vietnam. In addition, I had under my operational control for tactical purposes three Army divisions, one of which was the Americal Division with headquarters at Chu Lai. I further had under my operational control a U.S. Army advisory group which advised Republic of Vietnam Army units. I also was responsible for civil operations and revolutionary development within my area and for this purpose commanded an organization, part civilian and part military, known as the Civil Operations and Revolutionary Development Staff, or CORDS. This organization included advisors at Vietnamese governmental levels down to and including the district. Finally, I was the senior advisor to General Hoang Xuan Lam. As such I saw him every day for personal liaison and coordination of strategy and tactics within I Corps.

At no time did I have any knowledge, either official or unofficial, written or verbal, direct or indirect, of the alleged unauthorized killings at My Lai. None of the channels mentioned above—military or civilian, command or advisory—United States or Vietnamese, reported any such incident to me.

Mr. REDDAN. General, who was the civilian deputy for CORDS in March of 1968?

General CUSHMAN. Mr. Charles Cross, now the Ambassador to Singapore.

Mr. REDDAN. Could you tell the committee, please, when you first heard that any investigation was being made of an alleged incident which took place on or about March 16, 1968, as a result of Task Force Barker operation?

General CUSHMAN. I first learned of it in the Washington Post, if I recall, whenever that story was broken in the paper, some 6 months ago, I guess, now.

Mr. REDDAN. Did you ever have any conversation with General Koster while you were in country relative to an investigation which

he was making, or having made, of some incident in the AO extension there in Son My?

General CUSHMAN. No, not to my recollection. And I had many conversations, of course, with General Koster; I saw him frequently.

Mr. REDDAN. Did General Koster have any requirement to pass on to you allegations of war crimes?

General CUSHMAN. I will put it this way, sir. I would have expected him to. However, administratively he did not have to. He had to report it to U.S. Army Vietnam, whose headquarters were in the vicinity of Saigon.

Mr. REDDAN. He didn't have to report it through you?

General CUSHMAN. No. I would have expected him to, however.

There had been on some occasions, as I recall, an isolated act or two which had been reported to me in which Army troops were involved. Nothing like this alleged incident, but a single soldier or two was involved. And I would usually learn of this by an informal report.

But the required reporting from Army units went to Saigon.

Mr. REDDAN. General, I assume you were familiar with the MACV directives with respect to the reporting of allegations of war crimes?

General CUSHMAN. Yes. We had a similar order out in III MAF.

Mr. REDDAN. Yes. Would you tell the subcommittee whether in your opinion this permitted any discretion on the part of the commanding officer to whom the allegation was made; that is, was there any discretion in reporting it on to MACV?

General CUSHMAN. No, I would not think there was.

If there was a suspicion that the rules of land warfare had been violated, to my mind it had to be reported right away as being an incident which the commander should know about. This would not, of course, prejudice the situation, but it should be reported that there was a reasonable suspicion that something had occurred.

Mr. REDDAN. Were you familiar with a message that went out to all U.S. forces in Vietnam in February of 1968, from General Kerwin, reemphasizing the MACV directive with respect to the handling of detainees and prisoners of war?

General CUSHMAN. I can't recall it.

Mr. REDDAN. I will show you a copy of that message and ask you whether or not the original ever came to your attention in Vietnam.

Should you have been on the distribution list for that message?

General CUSHMAN. Yes. It went to all the units.

Mr. REDDAN. That should have gone to your unit?

General CUSHMAN. Yes; so I am quite sure we got it.

Mr. REDDAN. When you have a chance to look at it, if you will look at the last paragraph on the second page of the message.

General CUSHMAN. Yes. As I say, we had a similar order.

Mr. REDDAN. Yes. You would interpret that, General, as being a mandatory requirement to report all allegations despite what subsequent investigation may have shown as to the truth or falsity?

General CUSHMAN. Yes.

Mr. REDDAN. You will report them first and then make your investigation?

General CUSHMAN. Yes. And I had the same requirement, I might add, in my own administrative chain of command. I had to report within Marine channels if any Marine was involved.

Mr. REDDAN. Now, did you have that same requirement in the administration of the CORDS group?

General CUSHMAN. Of CORDS?

Mr. REDDAN. Yes.

General CUSHMAN. I would say yes, in that the III MAF order was directed at everybody in III MAF who was responsible to me in an administrative manner, and that CORDS was so under my command. There was nothing directed to them specifically as CORDS that I can recall.

Mr. REDDAN. But the MACV directives would be applicable to them?

General CUSHMAN. Yes, I would consider them to be applicable—doubly, as a matter of fact.

Mr. REDDAN. Did any of those connected with the CORDS organization ever bring to your attention or have any discussion with you relative to so-called propaganda, Communist propaganda which related the essential facts of this My Lai incident?

General CUSHMAN. No, I can't recall any specific mention.

There had been Communist propaganda from time to time of such a nature, but I don't recall any directed at My Lai. In fact, I can't remember the locations, if they were spotted. But they were accusatory statements made by the enemy from time to time that we were committing atrocities.

Mr. REDDAN. Well, the committee can understand that lack of specificity might cause some of these allegations to be brushed aside. But we do have testimony that with respect to the My Lai matter allegations were made pinpointing the place of the alleged offense, the U.S. troops involved, the date that the offense was alleged to have occurred, and the approximate size of the alleged atrocity.

Would a specific charge of this kind—or should a specific charge of this kind, regardless of the source, have been forwarded up the chain of command to you in your capacity?

General CUSHMAN. I don't—well, I don't know. I don't know.

Mr. REDDAN. I mean this is information coming into the CORDS organization. Should this have been passed on to you?

General CUSHMAN. Well, it is hard to evaluate. I would think it might have been wise to do it. Although there were a lot of, as I say, such reports and accusatory statements by the enemy. They weren't, of course, forwarded to me personally in every case. There might be a summation of the general trend of propaganda for a period.

It is hard to say whether in their judgment they would think this was worth looking into or not.

Mr. REDDAN. This brings me back to this judgment factor again, General. This is the thing that bothers us here a great deal.

As I understood, General Kerwin's message, which reemphasized the MACV directive, took away any judgment factor in this so far as the reporting was concerned. And I thought allegations of this sort had to be sent through you. And I also understood from your testimony that this applied to the CORDS organization also.

General CUSHMAN. Well, I think it does. But as I say, in the welter of propaganda that was put out, I don't know that this would come under the suspected incident type of thing or not. This is what is difficult, of course, to say.

Mr. REDDAN. Well, of course the headquarters of the CORDS organization for that province was very close to the site of the alleged incident on this occasion. You had your people in Quang Ngai City, and just north of Quang Ngai City, did you not?

General CUSHMAN. Yes. The CORDS people were in Quang Ngai.

Mr. REDDAN. Yes. And that is approximately 7 miles from My Lai 4?

General CUSHMAN. I guess so. Until this broke, I didn't know where My Lai was, as a matter of fact.

Mr. REDDAN. The committee, as you can well imagine, is quite puzzled over the fact that apparently everybody dismissed this thing as having no value whatever, no credence should be placed in it. And in view of the number of the intelligence community that were stationed practically on the doorstep of the site of the alleged incident, it might suggest to some that this was a reflection on either the quality or the capability of those members of the intelligence community on whom we were relying for information. Would you think that that is a fair assessment?

General CUSHMAN. Well, I would say that people weren't listening to the propaganda, giving it any credence.

Mr. REDDAN. Well, that has created the problem we find ourselves in now. They apparently reached the judgment that this was propaganda without investigating it, and you get yourself into a lot of trouble, as they have in this particular case.

Now, do you know whether or not they ever investigated—I mean have you subsequently found out. You say you didn't know about it at the time, but have you subsequently found out anything which would lead you to believe that our intelligence community did investigate these allegations at or about the time that they were made?

General CUSHMAN. Well, it wouldn't have been the role of the intelligence people to check it if this is American personnel.

Mr. REDDAN. But they were evaluating, however, for the Vietnamese, were they not?

General CUSHMAN. Not that I know of. No.

Mr. REDDAN. Well, some of them told us that they thought that was one of their functions and that is what they were doing.

Have you subsequently determined, however, that any investigation from any source other than the Americal Division—any investigation was ever made during 1968?

General CUSHMAN. Not that I know of.

I say my headquarters didn't know about it, so of course we didn't report it or investigate it, either one.

Mr. REDDAN. Yes. But I was wondering if you subsequently found out that anyone down the line had investigated it and failed to report the matter up to you.

General CUSHMAN. No. I didn't know if there had been any investigation at all by anybody until I read in the newspapers that apparently there had been. I still don't know to my own knowledge.

Mr. REDDAN. Who was General Von Risen, R-i-s-e-n? Did you have a deputy—

General CUSHMAN. Oh, Von Risen. Yes. I had a deputy for a short time. I guess he spanned that period.

Mr. REDDAN. Since this matter has come to your attention, have you had any conversation with him about the matter?

General CUSHMAN. No, I haven't.

Mr. REDDAN. At any time did he suggest to you that he had had any conversation with General Koster about an incident?

General CUSHMAN. No, he never has.

Mr. REDDAN. Then I believe you have already said that General Koster never mentioned it to you; is that right?

General CUSHMAN. No, not that I know of.

Mr. HÉBERT. General, the thing that puzzles and concerns the committee a great deal is that in an area as farflung as our troops were over there when this incident allegedly took place, we find it very difficult to find anybody who even knew anything happened, even in view of the investigation which the testimony shows did take place. Of course you say you didn't hear about that.

Wouldn't you say that would be an unusual thing in an Army, not to find out something like this? Wouldn't it be a word-of-mouth thing?

General CUSHMAN. Well, I couldn't really say.

Mr. HÉBERT. I know it is an opinion I am asking. I am not asking you to state that as a fact. This is in the case of human behavior.

General CUSHMAN. Well, I can't really say, because I don't know what went on.

Mr. HÉBERT. Well, let me put it this way: Did you hear rumors or complaints of incidents which would lead to a violation of the Geneva Agreement that would cause concern at the highest level in Vietnam?

General CUSHMAN. No.

Mr. HÉBERT. Such as to sound a warning to be sure the troops—

General CUSHMAN. No, the only ones I ever heard of were investigated. And I say there were isolated incidents, usually involving perhaps a small patrol, three, four people who had shot somebody. There were some by marines and some by the Army, and they were ordinarily tried by general court. And these are the only ones I know of.

I did not hear any rumors or I would have been forced to try to find out if something had gone on.

Mr. HÉBERT. It would have been the natural reaction.

Now, if it wasn't untoward, can you conceive that General Westmoreland as an example, would be so concerned about the reports of these incidents that he would devote himself entirely to a huge meeting of all commanders to warn them and to reiterate that the Army must be sure that these agreements are agreed to? That would be an unusual subject, wouldn't it, if there was nothing to base it on?

General CUSHMAN. Well, I would say that we were all concerned because of the cases that had arisen; generally a small patrol had committed an act that was not in accordance with the rules of ground warfare and they had been tried.

There had been a couple of these cases before I went to Vietnam in the Marine Corps, and there was no question in my mind when I went out there that this was wrong and that the troops would be told so. And so this sort of thing went on, trying to educate the troops to act in accordance with the rules of land warfare.

Mr. HÉBERT. What I am referring to—

General CUSHMAN. And I am sure the Army did the same thing.

Mr. HÉBERT. Do you recall in December of 1967 a full-fledged briefing, or—I use the word "briefing" loosely, but certainly a statement

or presentation by General Westmoreland to all the commanders just on this one subject of violations, of incidents?

General CUSHMAN. Mr. Chairman, let me say I have heard him talk about this. I can't remember whether it was in one of our commanders' meetings or personally talking to me.

He used to come up every week, at least once, sometimes more often. So we talked continuously about the problems of the war of all kinds. And I have heard him speak quite heatedly on the subject of educating the troops, putting a stop to any tendency to go overboard and violate the rules.

And so there is no question in my mind that he was concerned about it and was trying to make sure it didn't occur.

But as I say, to my recollection these were based—it seems to me there were a few marines on patrol accused of killing a woman and a man, as I recall. It seems to me there was an Army fellow accused of cutting off an ear or something of this kind. And General Westmoreland, of course, got upset about this, as we all did, and there was no question but he discussed it I would say in very forceful tones with me. I don't know whether it was in a briefing of all commanders or whether it was to me personally.

Mr. HÉBERT. If I were to say a meeting was held with probably 30 or 40 commanders, or however many—general officers and all—which has you listed as being present at that meeting—

General CUSHMAN. I would probably have been present.

Mr. HÉBERT. That is what I mean. I am not trying to—

General CUSHMAN. He had these periodically. I mean fairly frequently. And they lasted all day. So I am sure he probably may have said this during the course of one of these. I know where he stood on it. I just don't remember where I was when he said it.

Mr. HÉBERT. Well, to refresh your memory, we have reason to believe that this particular meeting was held for all commanders, on December 3, 1967, and that is the reason I asked you. Because you were listed as being present among those officers.

General CUSHMAN. I just can't say.

Mr. HÉBERT. I want to bring your attention to this subject matter, and what arouses a question in our mind is that this was no passing by the night of disconnected incidents, but I feel that General Westmoreland felt so keenly about it that he had a reason to believe it was a wanton violation in many instances, to devote such attention at a full commanders' conference to it.

You see, the trouble we have, General, and I am sure you realize this again in the light of normal human behavior, we didn't know about this either until we got the letter from this man Ridenhour, whose letter you are familiar with now, which broke in the newspapers.

Now, he didn't see anything. He didn't see anything at all. All he did was write hearsay. This book that this fellow wrote and got the Pulitzer prize for, he never saw anything, somebody told him. It is all secondhand information. And then when we talked to the officers and the people there, nobody ever saw anything. And this is what puzzles us.

Now we are just trying to find out what caused this unusual type of human behavior.

General CUSHMAN. Well, some of the problems, of course, stem from the conditions of warfare in South Vietnam, I would imagine, if you are seeking to explore why an American would violate the rules of land warfare.

This related, one, to the fact that if you are being fired at from a village, you are liable to fire back. If there are women and children who emerge from the village, that close a dividing line between shooting them and having just previously been shooting at enemy whom you couldn't see would put you in violation of the rules of land warfare.

As I recall, the marines that got in trouble, they usually were part of a patrol that got fired on from a village, perhaps several times, and it would seem their patience snapped and they took vengeful action. That is about what it amounted to.

Mr. HÉBERT. Oh, I can agree with you on that, and I am sure we do understand it. But in our function here—and we understand a lot of things mutually which other people don't because they won't understand it. And what we are trying to do is—we recognize the impetus given and the reflex action on the part of that man in combat and what causes it. This committee is chartered and we are determined in following the line very closely—we recognize certain individuals are under court-martial, to be tried by court-martial. In those instances we have refrained completely during these hearings from encroaching on the evidence.

It is perfectly obvious that something of a more than usual tragedy took place at this place My Lai. Now, why it took place, how it took place, who did it, whether the individuals who are charged with having participated in it are guilty, that is not our function, nor are we attempting to fix guilt or innocence in that area.

The thing that confuses us beyond that area is why if so many people were involved and so many people knew about it, if it did take place, that nobody knows anything about it. That is one of the things that just puzzles us.

General CUSHMAN. Well, I don't know. I didn't check with General Van Risen as you had asked me whether I had, mainly because he had been there such a short time I didn't even think of it. I did check with my chief of staff, who was there the entire time, and a very sharp fellow, and he had never been apprised of it.

Mr. HÉBERT. You mean you checked with him after you found out?

General CUSHMAN. Yes, 6 months ago, whenever it broke in the papers.

Mr. HÉBERT. Yes.

General CUSHMAN. And I realized this happened in I Corps so I asked him if he knew anything about it, and had he heard any rumors, or had there been any report, of course, that hadn't been shown to me. And he said no, none had come to him.

As I recall the III MAF log for that day, which was shown to me a few months ago in connection with my testimony before the Peers group, simply indicated so many Viet Cong killed, and that was an item which was usually entered every day with some number or another after it, and sometimes weapons, and sometimes no weapons, since the Viet Cong usually carried hand grenades and so on.

So the checking I made informally, way after the events, and in fact way after my tour there, was that we didn't know anything at my headquarters about it. And as you say, this—

Mr. HÉBERT. Have you checked extensively, or just to your former chief of staff?

General CUSHMAN. Checked with the former chief of staff, who talked with everybody every day.

Mr. HÉBERT. And he hadn't picked anything up?

General CUSHMAN. No; he is the one who I think would have heard of it, if anybody in the headquarters knew about it, he probably would have heard about it. And the kind of fellow he is, I am sure he would have told me.

At that time, of course, my attention was directed to the north rather than to the south since the bulk of the Tet offensive was over in the south, but we were getting ready to move on out to Khe Sanh and other places in the north. And we were having a logistics battle at the same time. So I was usually gone every day and out trying to get things straightened out up in the north.

So of course he stayed all day long and ran the details of the staff and so on and gave me the information at night when I would come back.

So I simply point this out to indicate that in checking with him, I checked with the man who would have known, and he said no.

Mr. HÉBERT. Would it be possible—and again this is an opinion, which you don't have to express the opinion—would it be possible that this is war and the attitude of the individual soldier would be, oh, hell, that is just another incident, just pass it over, don't even mention it, it is a commonplace occurrence.

General CUSHMAN. It should not be.

Mr. HÉBERT. It should not be, but couldn't that be possible too?

General CUSHMAN. Well, I can't speak for the Army training, but marines were supposed to be trained—well, they were trained, as I had charge of some of them before I went out there, in the rules of land warfare, which of course as you know, state that even an enemy soldier with his hands up can't be shot; he has to be captured, taken prisoner. And of course even more so women, children, noncombatants, farmers, and so on. And in my opinion, the troops knew this.

I have given what I think was probably their rather human reaction, but the fact remains, they are taught not to give in to that.

Mr. HÉBERT. I admit that.

General CUSHMAN. And I am certain from listening to General Westmoreland that whatever control he had over Army training, he insisted that they be trained the same way.

Now, there is another factor, of course, and that is this: This is hearsay as far as My Lai goes, but I have heard it was in a free fire zone. If I can describe that, it might be of some assistance.

Ordinarily during this period in Vietnam, the period that I was there, before you could fire artillery or bring in an air strike, you had to check with the district chief to make sure that it was not going to hit noncombatants. In areas which the Viet Cong had substantial control, it was sometimes the custom, since you would always get fired at

from that area, to call it a free fire zone. This meant you could fire in there without notifying the district chief.

The district chief's job, if this was agreed upon, that this was a free fire zone, was to get the word to the Vietnamese people in there that this is what it was and they should move out, go to a refugee village or move in with relatives or something; anyway, get out of there if they didn't want to be subject to fire.

And if My Lai was in a free fire zone, then there would be a question in my mind that if the facts showed that artillery fire or perhaps air support had been brought against that village before the troops got in there, that this might be another explanation for the deaths of non-combatants.

But this is strictly not within my knowledge, except that those were the rules of engagement, you might say.

Mr. HÉBERT. Let me pass on to another subject. I want to say you are helpful in explaining this to us. And this is in the area of decorations. Have you come to notice or form any opinion that decorations were sort of passed out over there like you get a gimmick out of a crackerjack box?

In other words, decorations for something that didn't occur, on the highest level? I mean like a DFC.

General CUSHMAN. Well, no, I haven't noticed that. Well, except that on a high level, myself, for example, I consider the performance of the troops, and so on, really gives you your decoration, and if you succeed you get a decoration; if you don't, you bear the onus.

As far as that goes, I guess it has always been that way in warfare when it comes to general officers.

Mr. HÉBERT. What concerns us a lot is we have a lot of testimony here which concerns the decoration of an individual warrant officer named Thompson and his two crew members. The two crew members recommended him for a DFC and he recommended them for a lesser decoration, but both citations carried "fire in the face of an enemy," and there was no fire. And we just wondered how in the world these things are passed around.

General CUSHMAN. Well, again, you will have to ask General Westmoreland, because, of course, administratively I only worried about Marines, and we had to make our recommendations through me and they went through a board, and then back to Pearl Harbor, which was my administrative chain of command, to the Marine commander there. And if they were—and most of them, in fact, had to come all the way back to Washington. They didn't delegate much authority.

So we tried to keep it pure. I guess you can always find somebody that—

Mr. HÉBERT. Oh, definitely, you can find some. But this seemed—of course the Marines are not involved in this decoration, and I was merely asking for your experience in the thing, and I recognize what you have said concerning the Marines. You can't speak for the Army.

But it is a little puzzling for us to sit up here and read a decoration of a man who has faced fire and there hasn't been a shot fired. And it makes you wonder.

General CUSHMAN. Well, sir, as I say, I can't answer that. I do know that our own rules in the naval service, as I recall, a junior cannot rec-

ommend a senior, for obvious reasons, that the senior is probably making out the junior's fitness report.

So I don't know what the Army's rules are and I can only respectfully ask the chairman to check with the Army on that.

Mr. HÉBERT. Well, don't worry, we will. But I wanted to compare to find out how much uniformity we have in awarding these, because I have a great respect for a decoration on a man's chest, and I want it to mean everything that it says it means and not let the others slip by. Very high regard.

Mr. Gubser?

Mr. GUBSER. No questions.

Mr. HÉBERT. Mr. Lally?

Mr. LALLY. General Cushman, in answer to Mr. Reddan's question about the district and Province advisory teams, you said you thought they might have discounted it as propaganda. Now, that would only refer to allegations originating with the Viet Cong, would it, that they could discount as propaganda?

General CUSHMAN. With the enemy side, the NVA and so on. I have a hard time answering the question about that because I don't remember ever paying any attention to any of it. It was just going on all the time, and it was nothing but a distraction to worry about it. So we went in for so-called hard intelligence.

Mr. LALLY. If the allegation had originated, General, with the Vietnamese Government authorities, would you think it would be entitled to any more credibility?

General CUSHMAN. Yes, indeed. As I mentioned, I saw General Lam every day, and I would have expected him to mention it to me if there had been problems.

Mr. LALLY. In this instance, General, there was a report from the district chief to the Province chief describing the action and the villages, the date of the action, and the number of people killed in the villages. This information we have pretty good reason to believe was in the possession of both the district and Province advisory teams.

I will show you at this time a copy of this report of the district chief, dated April 11, 1968, to the Province chief, and ask you if you think that allegations of that nature should have been forwarded through channels?

General CUSHMAN. In my opinion, this would come under the MACV regulation and should be reported.

Mr. LALLY. Thank you, sir.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. General, you already testified that this matter was not brought to your attention while you were there incountry, so the question I am going to ask you doesn't reflect on that testimony at all.

However, we do have testimony here to the effect that General Koster brought this matter to a member of your staff and advised him that the matter was being investigated, and that General Koster received no guidance in connection with the investigation from your staff.

If in fact General Koster had discussed this with any member of your staff, do you feel that that individual should have brought the matter to your attention?

General CUSHMAN. I would have thought so. As I say, his responsibility was not to me, but to General Westmoreland as commander, U.S.

Army Forces, Vietnam. So I presume the staff member figures he is letting him know. Then why the staff member did not let me know, I could not say.

I would, of course, not—he would not have to forward that investigation to me in any event.

Mr. REDDAN. Well, did you have any responsibility for the development of the psychological warfare, in effect, that portion which would create a good image of the American and South Vietnamese Forces and encourage the Viet Cong to abandon their ways and come over to our side?

Was this part of your operations?

General CUSHMAN. You mean the Chieu Hoi?

Mr. REDDAN. Yes; that is right.

General CUSHMAN. Well, Chieu Hoi is a Vietnamese program, and we assisted with advice. We did have psychological warfare programs which were targeted against the enemy. We did not have the—I would say the Voice of America-type program, which was run out of Saigon.

By this you mean the image of the American?

Mr. REDDAN. Yes.

General CUSHMAN. What we tried to do, of course, was to impress upon the troops that the image was important, impress it on their mind, that they had to help the South Vietnamese; and we all had civic action programs going, this sort of thing.

Mr. REDDAN. This was part of the CORDS general thrust, was it not?

General CUSHMAN. Yes; it was a combination. In some cases only American troops could have the muscle to do some of the civic action in terms of trucks or bulldozers, something of this kind, bridge building, engineer advice, and so on.

CORDS had some—a lot of advice to give concerning programs in the agricultural fields, education, public safety, and this sort of thing.

Mr. REDDAN. Well, in view of that, the committee would like to get your observation as to the requirement for reporting incidents to your command that could adversely affect the aims and purposes of the CORDS organization. In other words, if allegations were made of serious incidents of war crimes, of alleged atrocities, obviously these would militate against the work that the CORDS organization was seeking to perform, at least in part. Is that correct?

General CUSHMAN. Yes; I would think they would—well, not report. They would, as you say, complain that this would interfere with the program.

Now, I still think that if it comes to an atrocity, that they were bound as much by the MACV order, which you have mentioned, as anyone else. And I presume this is what you mean. So I would say yes, they should report it, but it wouldn't be on the basis you are hurting our programs. It would be on the basis of the MACV order.

Mr. REDDAN. Yes; but wouldn't you also have a very real interest in the allegations because of their effect on your program? Certainly they should be reported to MACV for that and for other reasons, but it would seem to me that the CORDS organization was also immediately concerned with the effect of these allegations.

General CUSHMAN. Yes; that is right.

Mr. REDDAN. So therefore I am just wondering why you wouldn't feel more strongly about the obligation of your subordinate or staff

member of your organization failing to report to you conversations which he allegedly had with General Koster about this matter?

General CUSHMAN. Well, of course hindsight, I think he should have reported it.

Mr. REDDAN. Yes; well, this is what it would appear to us, the same way. And I just wanted to get your present thinking on it.

Now, has the so-called Henderson report come to your attention either while you were incountry or subsequent to your return?

General CUSHMAN. No. No, that doesn't ring any bell.

Mr. REDDAN. A report dated April 24, 1968, by Colonel Henderson, which relates to this My Lai incident and investigation which he allegedly made of certain allegations. I will read you one of his conclusions.

No. 4. It is on page 2 of the report.

It is concluded that 20 noncombatants were inadvertently killed when, caught in the area of preparatory fires and crossfires of U.S. and VC forces on March 16, 1968. It is further concluded that no civilians were gathered together and shot by U.S. soldiers. The allegations that U.S. forces shot and killed 450 to 500 civilians is obviously a Vietcong propaganda move to discredit the United States in the eyes of Vietnamese people in general and the ARVN soldiers in particular.

In view of what we have just been discussing about the CORDS organization, should this report have been brought to your attention, this finding?

General CUSHMAN. It is hard to say. I think CORDS would have brought it to my attention—no, I don't think they would have brought that to my attention.

Mr. REDDAN. No, this is a report to General Koster by Colonel Henderson. And what I would like to know is whether or not, because of the control which you exercised over the Americal Division, this sort of thing should have been brought to your attention by General Koster?

General CUSHMAN. No. This sort of thing happened I would say not that infrequently.

Mr. REDDAN. Allegations of 450 to 500 civilians being killed?

General CUSHMAN. No, I am talking about the 10 to 20 or whatever it was.

Mr. REDDAN. Oh. This is the 20 noncombatants inadvertently killed.

But he further comments upon the allegation that 450 to 500 civilians had been killed, and he concludes that this is obviously propaganda to discredit the United States. And he goes on to say, "It is recommended that a counterpropaganda campaign be waged against the VC in eastern Son Tinh District."

Now, if a counterpropaganda campaign were to be waged in the Son Tinh District, would your organization have any responsibility for that?

General CUSHMAN. Well, probably somebody in the staff would work up a theme on it.

I don't know that that necessarily would have—that report indicates he is saying the enemy did it—I mean the enemy claiming this. I don't know that that necessarily would have been reported.

I think I did make it clear that if the Vietnamese said it, then I think I should have heard about it.

General Lam never mentioned it to me, and he was quick enough to mention problems where his people were—perhaps shouldn't be in a free-fire zone, this sort of thing.

Mr. REDDAN. General, in your statement you say you had operational control for tactical purposes of, among others, the Americal Division. To what extent, to what degree did III MAF exercise operational control? How was this done?

General CUSHMAN. Well, we prepared the operation plans indicating the major objectives that we wished them to achieve, and they executed them.

The Army, of course, retained the administrative control, which included practically all the logistics except common items that we happened to have and could furnish them. Training, discipline, personnel, awards, and all the rest of it.

Mr. REDDAN. Did III MAF play any part in the organization of Task Force Barker?

General CUSHMAN. No. Not that I know of, no.

Mr. REDDAN. Were any guidelines or operational orders—general operational orders issued for the use of Task Force Barker?

General CUSHMAN. Not by III MAF, as far as I know. Our orders would be in terms of the period of probably several months to the division. For example, targeting them against certain base areas and against certain enemy units was probably the way I directed their operations.

Mr. REDDAN. Now, did you ever direct any operations for the Americal Division in the so-called AO extension there in the Son My area and against the 48th VC Battalion?

General CUSHMAN. I don't think so. I don't think so.

Mr. REDDAN. Well, now, they conducted one of their biggest operations down in there with Task Forces Barker. Was this done without the approval of III MAF?

General CUSHMAN. It might very well have been simply reported that within this large area they were conducting this operation. That looks like Batangan Peninsula. This was a hot spot. And I would know that they were operating in there, yes. But as I say, ordinarily I would tell the division to do certain long-range and larger objectives. And this, I guess Task Force Barker is probably what amounts to a reinforced regiment, actually, or brigade as the Army calls it, of which they had three or four, different numbers at different times. So I wouldn't get into those operations.

Mr. REDDAN. Well, do you recall whether any general operational directives were given by III MAF to the Americal Division with respect to cleaning out the 48th Battalion down in the Son My area?

General CUSHMAN. Oh, I am sure they were targeted. Now, whether my order specified it, I don't know. It probably did. Because we usually targeted against enemy units, and that was one of the toughest ones, the 48th, which used to have its base upon that peninsula sticking out there.

Mr. REDDAN. Now, do you recall whether or not III MAF suggested in any way to the Americal Division that they conduct search and destroy operations in the Son My area for the purpose of denying the use of that area to the 48th Battalion and the VC?

General CUSHMAN. Let's see. I couldn't say. This was in a period just after Tet when we had had to do a lot of moving of the Americal Division. We had to leap frog their units up to South Da Nang and do all kinds of maneuvering, and we cleaned that up, and I think I just con-

tinued them on the missions that they had before Tet, probably, while I worried about the north.

I just can't answer your question. I don't know.

And, of course, my G-3 was in contact with them every day on the radio; on the phone. So whether this was discussed in detail, I just couldn't say.

Mr. REDDAN. General, were you airborne over that area or in that area on March 16?

General CUSHMAN. March 16?

Mr. REDDAN. Yes. That is the date of the initial Task Force Barker operation.

General CUSHMAN. I don't know. Certainly not looking at any battle. I could well have been airborne anywhere in I Corps on the 16th of March. I just can't remember.

Mr. REDDAN. Were you monitoring—

General CUSHMAN. No, I was not monitoring.

Now, I could very well have been on the way to Quang Ngai or something of that sort, to visit Vietnamese or Americans or something of that type. But I don't recall it.

Mr. REDDAN. Did your command normally have morning and evening briefings on planned actions and the results of the actions?

General CUSHMAN. Always had; yes. Every morning we had a morning briefing and then I would go over to General Lam and we would have our daily get-together to decide, particularly in the Da Nang areas, how our forces would coordinate there, and also in the broader picture required, about every day. He had some independent outfits right under him and, of course, I had a division right there. And while I had a corps organization in the North, I didn't have a corps organization in the South. So I had to be my own corps commander as far as coordinating U.S. units and ARVIN units went.

I did not have an evening briefing unless something was going on that required it. So it was not a regular procedure.

Mr. REDDAN. Do you recall any evening briefing with respect to this particular operation of Task Force Barker?

General CUSHMAN. No.

Mr. REDDAN. Do you recall receiving any information with respect to a large number of Viet Cong killed in an operation of Task Force Barker?

General CUSHMAN. Only after the fact, as I mentioned. The Peers committee showed me my operations center log which indicated 129 Viet Cong killed, which I couldn't distinguish from any other day. In other words, I am sure I sat at the morning briefing and heard that figure, and it didn't ring any bells at all.

Mr. HÉBERT. Well, thank you very much, General. We appreciate your appearance.

General CUSHMAN. Yes, sir, Mr. Chairman.

Mr. REDDAN. Mr. Chairman, could I ask the general one more question?

Mr. HÉBERT. Go ahead.

Mr. REDDAN. Do you recall a time early in April 1968, when General Westmoreland came up to Chu Lai to discuss with the area commanders their operations and problems?

General CUSHMAN. I can't say that I do, because he did it so frequently. This was Chu Lai?

Mr. REDDAN. Yes.

General CUSHMAN. Well, obviously, I guess there was one, but I don't recall.

Mr. REDDAN. OK, fine.

Mr. HÉBERT. Thank you, General.

[Whereupon, at 3 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Wednesday, June 10, 1970.

The subcommittee met, pursuant to adjournment, at 10:10 a.m., in room 2339, Rayburn House Office Building, Hon. F. Edward Hébert (chairman of the subcommittee) presiding.

Present: Mr. Rivers, Mr. Hébert, Mr. Gubser and Mr. Dickinson.

Also present: Mr. Frank M. Slatinshek, assistant chief counsel, Committee on Armed Services, Mr. John T. M. Reddan, counsel, and Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. The subcommittee will be in order.

General Westmoreland, the Chair will give you the same instructions that it has given every other witness who has appeared before the subcommittee.

I am sure you are familiar with them, but for the record, we do give them.

No. 1, you are under the full protection of the subcommittee at all times when appearing here. By that protection I mean that you will be saved from harassment by the news media. You do not have to speak to the news media. It is your own desired choice. When you leave, a uniformed policemen will meet you at the door. And one representative of the news media is allowed to ask you one question, and that is: "Do you care to make any comment?" If you say no, the show's over; there will be no microphones shoved in your face or pictures taken. And then you will be escorted out. As you recognize, the whole area here is secure.

Now, you have been before the subcommittee and you know the rules of the subcommittee as related to your testimony, and you are allowed counsel if you desire counsel. Apparently you do not, but you asked that an aide be with you here today. Will you identify the aide for the record? And under the rules of the subcommittee, none of this testimony is released to anybody except the individual giving the testimony himself. Nobody can read your testimony except you, and it will be available to you here at this office at any time that you want. That is the same courtesy we have extended to all the other witnesses.

We have refused to allow it to be removed from the room here. We have denied the Army access to it on the same principle that we deny the others access. We make it a very pointed thing during the hearing to stay away from any questioning that would indicate the guilt or innocence of those individuals who are now charged. That is a distinction to other people who have been named but are not brought to court-martial. We do not want to prejudice the court, nor do we want to prejudice the individual, as that is not the function of this subcommittee, and we keep away from that.

Now I will swear you in.

Do you swear to tell the truth, the whole truth and nothing but the truth as related to the matter before the subcommittee, so help you God?

General WESTMORELAND. I do, so help me God.

Mr. HÉBERT. All right, sir.

Now, General, I understand you have a statement. You may proceed with the statement.

Let the record show that the chairman of the full committee is here also, Chairman Rivers.

General Westmoreland.

TESTIMONY OF GEN. WILLIAM C. WESTMORELAND

General WESTMORELAND. Mr. Chairman, subcommittee chairman, members of the subcommittee. I have with me today Col. David L. Jones, my staff assistant, who is with me for the purpose of providing me backup information if needed in the course of the hearing.

I do have a prepared statement which is unclassified. In this statement I have avoided any reference to specific cases now being investigated or prepared for trial. However, to avoid any possibility of prejudicing the rights of those who have been accused of offenses in connection with the Son My incident, I ask that you do not release this statement to the public until all the cases have been settled, which I understand is your intent.

Mr. HÉBERT. This is the policy of the subcommittee, General, already established.

General WESTMORELAND. I appreciate the opportunity to appear before the subcommittee today. My interest in the Son My incident stems both from my current position as Chief of Staff of the Army and from my former assignment as commander, U.S. Military Assistance Command, Vietnam.

When the allegations in Mr. Ridenhour's letter of March 29, 1970, were brought to my attention shortly after the letter was received, my initial reaction was one of disbelief. Group conduct of the sort described in the letter was so out of character for American forces in Vietnam that I was quite skeptical. In spite of the apparent sincerity of Mr. Ridenhour's letter, I felt I could not give credence to the charges until they were checked out thoroughly. So in early April 1969, my staff questioned the Army headquarters in Vietnam if, to their knowledge, there was any substance to the allegations as described in the Ridenhour letter. Ten days later we were advised that Mr. Ridenhour's information concerning the general operational situation at Son My was essentially correct, but that no evidence of an atrocity had been uncovered—nor any evidence that an investigation had been made. Therefore, we immediately initiated a full investigation by the Inspector General's Office of the Department of the Army. Because of the difficulty in identifying, locating, and contacting prospective witnesses, the validity of the allegations was difficult to determine. It was not until July that we had sufficient evidence of criminal acts to warrant transfer of the investigation to the Criminal Investigation Division of the Provost Marshal General, and this was done early in August.

As a result of evidence uncovered by both the Inspector General and the Provost Marshal General Investigations, criminal charges were

preferred against suspected offenders beginning in September 1969. By October, it had become apparent that the tragedy at Son My was one of major proportions. Further, there was reason to suspect that persons in the chain of command had failed in their responsibilities to report and investigate the incident. It was because of this—and the fact that the matter had not come to light earlier—that Secretary Resor and I launched the special inquiry headed by Lt. Gen. Ray Peers. At the same time, I directed the Provost Marshal General to expedite his criminal investigation. General Peers was instructed to concentrate on determining the adequacy of command actions in connection with the incident, while the Provost Marshal continued to investigate the other aspects of the incident. We have continued with this twofold approach. General Peers completed his task in March. The criminal investigation should be completed in July or August.

From evidence uncovered by the Peers inquiry, a total of 14 officers were charged with offenses growing out of the Son My incident. Monday, June 8, the charges against one were dropped, leaving a total of 13. These charges are primarily concerned with violation of regulations and neglect or dereliction of duty. In addition, a total of four officers and nine enlisted men have been charged with acts against the persons or property of Vietnamese inhabitants of Son My. Twenty-five former enlisted men—now civilians—are under suspicion of criminal offenses. Their cases are still under investigation by the Provost Marshal General.

As I said earlier, I could scarcely believe the allegations made against American soldiers when they were first brought to my attention. To help you understand why I felt this way, I would like to describe the situation in Vietnam at the time of the Son My incident.

First, let me take a moment to explain the command structure which existed at that time. As you know, I wore three hats in Vietnam. First, I was senior advisor to the Vietnamese Armed Forces. Second, as commander of the U.S. Military Assistance Command, Vietnam, I established policies and prescribed operational objectives for our forces in Vietnam. Third, as commander of U.S. Army, Vietnam—or USARV—I was responsible for the administration and logistic support of the Army forces. However, my Army deputy, General Bruce Palmer, largely controlled these support activities of USARV, while I concentrated on policy and operational matters. For operational purposes, I controlled the I and II field forces—predominately Army troops—and the III Marine Amphibious Force. The III Marine Amphibious Force, or III MAF, as it was called, was commanded by Lt. Gen. Robert Cushman, USMC. He exercised operational control over the ground forces in the northern portion of Vietnam—I corps tactical zone—including the Army's Americal Division. In matters of administration and logistics, however, the Americal Division dealt with General Palmer of USARV. Thus, the Americal Division was subject to operational orders from III Marine Amphibious Force, and training, logistical and administrative orders from U.S. Army, Vietnam. General Cushman, commander of the III Marine Amphibious Force, had responsibility for the U.S. advisory effort supporting Vietnamese ground forces and advisory functions in all provinces of the Vietnamese I corps tactical zone, which included Quang Ngai province.

I believe this summary of the command structure at the time of the Son My incident may be helpful in understanding the flow of instruc-

tions and directives to the Americal Division and to our advisors in Quang Ngai province.

Among the policies I established as the commander in Vietnam were detailed rules of engagement—particularly concerning the use of our firepower—as well as instructions on minimizing noncombatant casualties and procedures for the reporting and investigation of war crimes. I considered it extremely important that our policies on these subjects be carefully spelled out in Vietnam, because of the peculiarities of the conflict there. For one thing, enemy forces were frequently intermingled with the civilian populace. For another, our forces were “guests” in a foreign country, and their conduct therefore had to be exemplary.

Your subcommittee had already been given copies of most of the directives which spelled out my policies and procedures to prevent just the sort of incident which apparently happened at Son My. They fall into five general categories: Geneva Convention training, rules of engagement, treatment of noncombatants and prisoners of war, war crimes, and serious incidents. I would like to touch briefly on each of these.

1. GENEVA CONVENTION TRAINING

All soldiers were required to receive 1 hour of training in the Geneva and Hague Conventions during basic training. In addition, Army regulations require that qualified legal officers conduct refresher training in this subject once each year. Every replacement arriving in Vietnam was also given several wallet-size cards containing instructions pertinent to this and related matters. Two of these concern the treatment of noncombatants and prisoners of war. They are entitled “Nine Rules” and “The Enemy in Your Hands.” Copies of these cards have been provided to your subcommittee. These cards stressed humanitarian treatment and respect for the Vietnamese people, and stipulated that each individual would comply with the Geneva Convention. Additionally, commanders down to battalion level received a card entitled “Guidance for Commanders in Vietnam” which, among other points, emphasized the commander’s responsibility for the conduct of his subordinates.

2. RULES OF ENGAGEMENT

These rules are based on guidance provided by the Joint Chiefs of Staff. Because of the constant turnover of personnel in Vietnam, I established a policy in 1966 of frequent review, revision, and republication of the rules of engagement. This was to insure maximum visibility to all U.S. personnel during their tour of duty, and was done at least once each year. These rules provided specific guidance for the conduct of combat operations—particularly the control of firepower—and directed that all possible measures be taken to reduce the risk to the lives and property of friendly forces and civilians.

3. TREATMENT OF NONCOMBATANTS AND PRISONERS OF WAR

A series of directives were published which sought to minimize casualties among noncombatants, to protect the property of Vietnamese citizens, and to preserve the rights of those persons captured by us. I wanted commanders at all levels to become involved in these

matters, since so much of our success in Vietnam depended on winning and retaining the respect of the Vietnamese people. To that end, I required that commanders repeatedly emphasize to their troops both the short-range and long-range importance of minimizing civilian casualties. I also required that each combat operation be preceded by a briefing which outlined the procedures for safeguarding noncombatants and their property.

4. WAR CRIMES

My directives covering war crimes, in addition to defining the term, cited examples of incidents which could be considered "grave breaches" of the Geneva Convention. The directives required that anyone having knowledge of an incident or act thought to be a war crime report it to his commander. The commander, in turn, was required to report this matter to my staff at MACV headquarters. Procedures were established for the investigation of all such incidents, under the direction of my staff judge advocate.

5. SERIOUS INCIDENTS

As I indicated earlier, the nature of the Vietnam war created special hazards for noncombatants. The infiltration of the nonuniformed enemy into the local populace made identification difficult, and increased the likelihood of injury to innocent people. Early in the conflict these factors, and many others associated with this unique war, caused me great concern. I wanted to know about each incident as it occurred, so that we could benefit from our experience and correct our mistakes. As a result, we published a directive in September 1966 which required that my headquarters be notified of any incident involving major property loss; death, injury, or mistreatment of noncombatants; or the killing, wounding, or mistreatment of friendly personnel by United States, Vietnamese, or free world forces. The directive was designed to cover incidents not specifically mentioned in other MACV directives.

In very general terms, those were the sort of directives which were in effect at the time of the Son My incident. They were supplemented by others published by USARV and III MAF. They were also reflected in the regulations and procedures in effect within the Americal Division in March 1968.

I realized that written directives fall into disuse unless they are repeatedly emphasized. For this reason, I periodically restated my concern for matters of attitude and conduct of subordinates. Let me cite a few instances of this.

My basic attitude on noncombatant casualties—and that of my command—were well expressed in a statement I made to the press in August 1966. A copy of that statement has been furnished to your subcommittee. In it, I stated that, "one mishap—one innocent civilian killed, one civilian wounded, or one dwelling needlessly destroyed, is too many." I emphasized to the press that, "we are sensitive to these incidents and want no more of them," and that we were attacking the problem aggressively. To make sure that my message to the press also got to the troops, at a meeting of my commanders a few days later I gave each of them a copy of the rules of engagement, reiterated the statement I had made to the press, and directed that my commanders

insure that their subordinates were thoroughly familiar with the appropriate regulations.

Periodically at meetings with my subordinate commanders I would discuss this matter to insure that new commanders and newly arrived troops were aware of the importance that I attached to troops conduct and avoidance of civilian casualties. For example, on December 3, 1967, I discussed these matters in a long meeting and in rather strong terms with my senior commanders who had assembled at Nha Trang. I again directed that my commanders take a personal interest in the attitude and conduct of our troops in their dealings with the Vietnamese and the importance of minimizing casualties among the civilian populace. I am leaving with your subcommittee staff a summary of that discussion, to add to the background papers you already have.

Later, during the Tet offensive in early 1968, photos and articles appeared in the press in which newsmen reported alleged mistreatment of civilians and prisoners of war. On February 21, 1968, I cited such reports in a message to all of my commanders, stating in clear terms that such actions would not be condoned. This message was also dispatched to U.S. advisory personnel directing they make every effort to influence their Vietnamese counterparts to observe the rules which we had adopted.

On February 21, 1968, the day I sent the message to the field, I sent a copy of this message to General Vien, chief of the joint general staff of the Vietnamese Armed Forces, pointing out my concern over these matters and encouraging him to take similar action within Vietnamese channels.

MACV also made extensive use of the command information media to get word of its policies to troops in the field. In place of "commercials," the Armed Forces radio and television network used spot announcements. Frequently these concerned methods of handling prisoners of war, the importance of proper individual conduct, and our relationship with the Vietnamese. Similar items were included in the MACV newspaper, *The Observer*, which was distributed to all units in Vietnam.

To complete the picture for you, Mr. Chairman, I believe it would be helpful if I provided some background on those units most directly involved in the Son My incident. Those were the Americal Division and the 11th Light Infantry Brigade.

In early 1967, enemy activity in the I Corps tactical zone created the need for another division-size force in that area, at a time when no division could be spared from the II or III Corps tactical zones, so a provisional organization—called Task Force Oregon—was formed. It consisted of the 196th Light Infantry Brigade, the 1st Brigade of the 101st Airborne Division, and the 3d Brigade of the 25th Division. This latter brigade subsequently was redesignated the 3d Brigade of the 4th Infantry Division. This interim organization met the immediate tactical needs of III MAF, but at the expense of other major commands and tactical areas. As additional troop units were scheduled into Vietnam, plans were made to replace the brigade of the 101st and the brigade from the 4th Division. In late October 1967, the 198th Light Infantry Brigade—which had been undergoing training in Texas—arrived in Vietnam and was assigned to the newly activated Americal Division, which at that time consisted of all of the units

from Task Force Oregon. After a month's training at Duc Pho, which is the southernmost district in Quang Ngai Province, this new brigade assumed a tactical role, releasing the 1st Brigade of the 101st from I Corps. The 11th Brigade, which had been training in Hawaii, arrived in Vietnam in December 1967. Upon arrival, this brigade—like the 198th which preceded it—began a training period under the sponsorship of the 3d Brigade, 4th Infantry Division. In January 1968, the 3d Brigade of the 4th Division was released from the Americal Division, and the 11th Brigade assumed a tactical role in the Americal Division area of responsibility.

The impetus for the additional training of newly arrived brigades in Vietnam came from Gen. Harold K. Johnson, then the Chief of Staff of the U.S. Army. In September 1967—in connection with the deployment of additional forces from the United States—he sent a message calling attention to the state of training of these forces. Of particular concern to him was the need to provide additional training in Vietnam for those units which were being deployed earlier than planned. As a result of this message, we took extraordinary precautions to insure that both of the new brigades to arrive were not committed to intense combat until they had received a period of in-country training orientation and shakedown. Therefore, each of the brigades was placed under the sponsorship of a combat experienced brigade of the Americal Division for a period of several weeks. They were then assigned to areas which were relatively quiet in terms of combat activity. I would have preferred additional training time for these units, but the intense activities during the enemy's 1968 Tet offensive ruled this out. Because of the threat posed by the buildup in the area of the Demilitarized Zone—DMZ—the 11th Brigade on February 4, 1968, expanded its area of operation to the north in order to release the ROK Marines for movement further north to assist the 1st Marine Division—the U.S. 1st Marine Division.

As to the reports of the 11th Brigade's operations around Son My in March 1968, the picture my headquarters in Saigon received was favorable. It appeared that the operation—with 128 Viet Cong killed and 3 weapons captured at the cost of only 2 U.S. soldiers killed—was a tactical success. In fact, from the operational reports we received, it appeared so successful that I responded with a congratulatory message. Such messages were habitually sent in those instances of conspicuous tactical success. During the first 3 months of 1968, for example, 47 messages of that type were sent to units in the field in my name.

Mr. Chairman, I hope that this brief review will help you in your evaluation of the Son My affair. I will now be happy to respond to questions, sir.

Mr. HÉBERT. Thank you very much, General. There are four areas I would like to ask you about before we proceed with the questions by the other members of the committee.

No. 1, of course, is a very obvious question. You were in Vietnam in command of our troops there, wearing three hats as you have testified here, and you never heard anything at all about anything untoward at My Lai 4 during your time in-country?

General WESTMORELAND. I heard nothing suggesting any irregularities. The only report that I received was the operational report that I made reference to in my prepared statement.

Mr. HÉBERT. And to which you wrote a letter?

General WESTMORELAND. And to which I responded with a congratulatory message.

Mr. HÉBERT. Now in that report, in which there were 3 weapons captured and 129 killed, did that arouse any suspicion in your mind?

General WESTMORELAND. At that time, Mr. Chairman, this was the period of the Tet offensive. It was not unusual to have a very few weapons captured in relationship to enemy killed.

The enemy during the Tet offensive put forth their maximum effort. Their logistics system was very much strained.

A lot of the enemy, therefore, were not armed with weapons. They were armed with explosive charges and grenades in lieu of weapons.

In addition to that, weapons were so precious to them that extraordinary steps were taken by the enemy to try to avoid the loss of those weapons, and frequently they would be thrown into canals or rice paddies later to be recovered. So it was not unusual to find relatively few weapons captured in consideration of enemy killed.

I do not know whether my headquarters and the intermediate headquarters questioned the Americal Division or the III Marine Amphibious Force on this matter or not. Frequently this was done. It may have been done in this case. The records would not necessarily show that because the questions were usually by telephone.

Mr. HÉBERT. So it really didn't arouse any—

General WESTMORELAND. It was not an unusual thing during that period of time. And very recently we have gone over the operational reports at that time, and this was not an unusual occurrence, because so many of the enemy were armed with explosive charges and grenades.

Mr. HÉBERT. Well, of course, you can't speak for anybody else except yourself, but what would be your reaction if we would tell you that the testimony we have from seasoned officers, and officers who are recognized to be substantial people, was that they were surprised about this?

General WESTMORELAND. Surprised at the—

Mr. HÉBERT. At the number of weapons.

General WESTMORELAND. At the few weapons captured?

Mr. HÉBERT. And that the comment was made when the report was turned in on March 16, 1968—the testimony we have, General, is, there was a buzz that ran through the room when they announced 3 weapons and 129 killed. Would that be unusual?

General WESTMORELAND. I wouldn't think it would be unusual. I think it is very logical to question this. But there were any number of cases of this type at the time, and I don't know whether this was questioned or not.

I questioned a lot of reports of this type. I may have questioned this one. I just don't know, because this is one of many.

Mr. HÉBERT. But certainly there was no indication there was anything untoward?

General WESTMORELAND. There were no indications there were any irregularities. I frequently questioned these small numbers of weapons. We would then query the subordinate commands and we would get answers to the effect that, well, many of the enemy were armed with explosive charges and grenades, or they threw their weapons away, and things of this type.

Mr. HÉBERT. Now, when is the first time you heard about these allegations?

General WESTMORELAND. After the Ridenhour letter, which is in my prepared statement—the date of his letter was March 29, and I received a verbal report that such a letter had been received several weeks later from a member of my staff, General Knowlton, my secretary of the general staff.

He told me that a letter had come in referring to Pinkville. I had never heard of Pinkville. And we finally discovered that Pinkville was the nickname that soldiers had given because of the color on the map of the My Lai village, or I think it was specifically My Lai 4.

That was the first I heard of it, which was almost a year later.

Mr. HÉBERT. Again it becomes the concern of the committee and it is hard for us to realize that something of this nature did not surface itself, when so many people apparently knew so much about it, but yet nobody knew anything about it.

General WESTMORELAND. Well, this is absolutely unexplainable to me.

Mr. HÉBERT. It is fantastic, I will say that much.

General WESTMORELAND. It is absolutely unexplainable, and it is incomprehensible to me, particularly in view of all the orders that were issued. I mean the policy was very clear as I have tried to point out in the statement.

Mr. HÉBERT. Well, obviously you were concerned about violations of the Geneva Agreement because you were so forceful, particularly in your presentation to your senior commanders. I have had the privilege of reading a summation of those remarks. And was there any other incident like this that caused you to have this constant pounding to subscribe and carry out the Geneva Agreements?

General WESTMORELAND. Well, the nature of the conflict was such that the enemy was intermingled with the population, and frequently enemy elements would penetrate in civilian clothes, so that we had to be extremely sensitive to matters of this type. And as I pointed out in my prepared statement, I was very concerned that the American troops would antagonize the Vietnamese people and the Vietnamese people would turn against the American troops as they did against the French Foreign Legionnaires. This was uppermost in my mind from the very beginning, and when the decision was made to commit ground forces, I considered this a very serious hazard. And I immediately took extraordinary measures to try to create a different image in the eyes of the Vietnamese for the American troops in contrast to the image that still lingered in their minds with respect to the French, particularly the French Foreign Legionnaires.

Chairman RIVERS. When you are speaking of the French Foreign Legions, you are speaking of the Senegalese that were there?

General WESTMORELAND. Yes, sir. Dahomeans, Senegalese—well, of course the Foreign Legion had a lot of Germans in it too. All nationalities really belonged to the Foreign Legion.

Mr. HÉBERT. I am not going to go into detail. I will let the other members of the committee go into more detail except to touch on these particular highlights that I want to be discussed.

Now, in this area in particular reference to the My Lai incident and the decorations and citations given, Warrant Officer Thompson was

given a Distinguished Flying Cross. You signed it. It was under your orders.

Now, what does a Distinguished Flying Cross carry? What are the ingredients for it?

General WESTMORELAND. Well, I was not personally involved in this, but it was given under my authority, but it was handled by the division, which in this case was the approving authority. But the Distinguished Flying Cross involves heroic action against an armed enemy that is involved in air action. And he was—of course he was a pilot at that time, and presumably somebody wrote him up for a citation, this was reviewed by a board of officers, considered to be meritorious, and he was so awarded.

Mr. HÉBERT. He was recommended by his crew.

General WESTMORELAND. Frankly, I don't know. I haven't researched the matter at all.

Mr. HÉBERT. See, these are things that we find are very puzzling and of concern to us, because if decorations are given out like you take things out of a popcorn pack, it demeans that decoration.

General WESTMORELAND. I couldn't agree more, sir.

Mr. HÉBERT. Now, this decoration of Distinguished Flying Cross is in the face of enemy fire. There was no fire.

General WESTMORELAND. Well, of course, his crew recommended him and, of course, any military man can recommend another man for a citation.

Mr. HÉBERT. But he recommended his crew, by the way, too. Thompson recommended the crew. It was a little pat on the back both ways.

Chairman RIVERS. Now right there, doesn't that—I try to think in terms of a lawyer. Doesn't that cast some shadow on his overall credibility?

General WESTMORELAND. Mr. Chairman, frankly I would hesitate to answer that question until I had looked into this matter further.

Chairman RIVERS. I mean if the fact that Mr. Hébert has related is accurate?

General WESTMORELAND. Well, if he accepted a Distinguished Flying Cross based on a citation that was false, and he knew it to be false, this would certainly reflect on his character.

Chairman RIVERS. Why, certainly.

Mr. HÉBERT. Well, now, here too I understand in the Navy a junior officer cannot recommend a senior officer for a decoration. Is that correct?

General WESTMORELAND. I don't know.

Mr. HÉBERT. But in the Army, a junior officer can?

General WESTMORELAND. Surely.

Mr. HÉBERT. Now, of course you understand our concern, because we hold very dear and precious these decorations. We believe that the ribbons you wear on your chest are merited. But if you have these things happening there, it doesn't only demean the decoration, but it sort of casts a shadow and a reflection, and that concerns us a great deal.

Now this man was first recommended—it took him a year to get this decoration. It was turned down the first time and went back. And of course all we can go by is what is on the documents, and it ended up with your signature.

Now, the next area—

General WESTMORELAND. The citation had my signature on it, sir?

Mr. HÉBERT. Yes, sir.

General WESTMORELAND. Well, it was not a matter that I personally signed. I was not—I did not get personally involved in decorations of that type.

Mr. HÉBERT. It may have been by order of. We will check that out.

Mr. DICKINSON. Off the record.

[Discussion off the record].

Mr. HÉBERT. General, I was in error. Colonel Parson signed the decoration. But it came from a recommendation through your staff, of course.

General WESTMORELAND. I don't know who Colonel Parson is.

Mr. HÉBERT. Now, I want to get to two other things which are very, very important and current. No. 1, what concerns us a great deal is the manner in which the charges against officers and enlisted men has been handled by the Army. We have discussed this privately before, and I repeat it now for the record. Here is a situation where you have two categories of people. You have one category of people who have been publicly charged and then set for trial. Now, they are indicted and they are set for trial.

You have another group who have not been set, or as we use the term "indicted." But the charges have been publicly announced.

Now, to bring it into focus very sharply, this captain—yesterday, was it, that the charges were dropped against—Willingham?

General WESTMORELAND. Willingham.

Mr. HÉBERT. All right. This man was publicly charged with something which later you all dismiss and say we don't have enough evidence. Now, there is something wrong with the system and we want to find out what is it. Are we at fault?

It has been suggested maybe it is in the Code of Military Justice. We don't know. But I certainly do think I would like to have your comment on this, because these men are damned, they are gone. They have been tried in the public press.

General WESTMORELAND. I would like to address the general subject, Mr. Chairman. I know exactly—I understand your question precisely.

Mr. HÉBERT. What I am attempting to say, too, in the civil law—and recognizing you are under military law—nobody announces that a grand jury is charging General Westmoreland or somebody else with something before an indictment is brought in. If no indictment is brought in, nothing is ever said. And I think this is the American way of justice.

Now you may comment.

General WESTMORELAND. Well, unlike civilian criminal law, there is no indictment in the military. The fifth amendment specifically excludes the land and naval forces from the constitutional requirement that criminal proceedings be initiated only upon indictment or presentment by a grand jury. Instead, in the military, criminal proceedings are commenced by the preferal of charges sworn to by persons subject to the Uniform Code of Military Justice. Once such charges have been preferred, the individual concerned is considered to be an accused, and no basis exists for withholding the general nature of the charges from the public.

Mr. HÉBERT. Now, what are you reading from, General?

General WESTMORELAND. I am reading from an answer to the question that you posed that the Judge Advocate General prepared for me.

Mr. HÉBERT. Who was this?

General WESTMORELAND. The Judge Advocate General.

Mr. HÉBERT. Does he say—I am not clear on this. Does he say—is this an opinion that he is giving you, or is it in the code, in the law? Or is this his deduction of the law?

General WESTMORELAND. Well, unlike criminal law, there is no indictment in the military. This is a matter of fact.

Mr. HÉBERT. All right.

General WESTMORELAND. The fifth amendment specifically—this is not an opinion. The fifth amendment specifically excludes the land and naval forces from the constitutional requirement that criminal proceedings will be initiated only upon indictment or presentment by a grand jury.

Mr. HÉBERT. I will let the lawyers develop that for us. I will just pass over that.

Mr. DICKINSON. That is a fact. But you go on, the last sentence I think that he read is opinion, which is a valid opinion.

General WESTMORELAND. In the military, criminal proceedings are commenced by the preferral of charges sworn to by persons subject to the Uniform Code of Military Justice.

Mr. HÉBERT. Now right there, General, is it the policy of the Army to immediately announce publicly that those charges have been filed?

General WESTMORELAND. Well, the point is that once a man has been charged, he has—he knows that he has been charged. He can release this to the press.

Mr. HÉBERT. Yes, he can. But I am trying to find out what happened in this particular instance. Didn't the Army make the release and make these accusations?

General WESTMORELAND. Well, there were several factors involved there. One was that the statute of limitations was about to run out, and we had to stop the clock on—

Mr. HÉBERT. That doesn't require you to make the announcement, General. That is what I am talking about.

General WESTMORELAND. Well—

Mr. HÉBERT. This is spread out all to the world for God and all his children to see and hear.

General WESTMORELAND. Well, the point is that we—the Secretary and I considered not releasing the names, but then the press would have come back and would have asked who had been charged, and there was no policy basis for denying the release of those names.

Mr. HÉBERT. Was there a policy basis for giving them out?

General WESTMORELAND. In accordance with the policy, yes. And of course if they hadn't been given out, contrary to policy, there would have been all sorts of speculation.

Mr. HÉBERT. Well, this committee sits down here and we haven't given anything out. There is a lot of speculation, but we haven't given anything out. We could have a field day in here, as you well know. Let the press sit in on these meetings. That is the reason we are having executive sessions.

And now in that area, too, I would like you to comment on the fact that the Army has held men over from their discharge in order that they could be charged.

General WESTMORELAND. We have extended the tours of individuals under investigation, and this is our normal practice. A man is not discharged when he is under investigation. And this is the case with Calley. Calley was due for separation.

Mr. HÉBERT. Is he the only one that was due?

General WESTMORELAND. No; there have been others.

Mr. HÉBERT. All right.

General WESTMORELAND. But the justification was that he was under investigation.

Mr. GUBSER. This fellow the charges were dropped against yesterday was one of them. He had been extended.

General WESTMORELAND. He was also extended.

Mr. HÉBERT. He was extended, and the charges were announced on him. This is the point I make.

Now, General, there is another area—and I am just going rapidly because I don't want to use all the time up but I want to lay the subject on the table for our general discussion.

The procedure of filing charges or making an accusation, as I understand it, rests with the commanding officer of a certain Army area, is that correct?

General WESTMORELAND. The officer who has jurisdiction.

Mr. HÉBERT. The officer who has jurisdiction.

Now, it has come to our attention, and now we want to check it and find out if this is correct or not correct, that in at least one instance, the instance of Captain Kotouc, that he was sent to one area, say the 4th Army or wherever it was, the accusations were made known to the commanding officer, and the commanding officer refused to file the charges or make the accusation, and so then he was sent to another one, another area, then that officer did. Now, is that a practice, or is that a fact? I mean, did I state it fairly?

General WESTMORELAND. I am familiar with the case involving Capt. Eugene Kotouc, who is now charged with murder, maiming and assault in connection with the Son My incident.

In January and February 1970, two CID reports of investigation were forwarded as normal practice to the authorities at Fort Carson, Colo., where Captain Kotouc was assigned. No action was taken on the information in those reports pending further investigation.

As the investigation proceeded, the commanding general, 3d U.S. Army, requested on February 11, 1970, that Captain Kotouc be assigned to Headquarters, 3d Army with duty station at Fort Carson. This request was consistent with the Department of the Army decision announced on January 13, 1970, to consolidate the remaining cases involving criminal allegations under the jurisdiction of the commanding general, 3d U.S. Army.

This consolidation was made to facilitate access to witnesses and evidence to insure that proceedings to dispose of the allegations would be as fair and efficient as possible. Before Captain Kotouc's reassignment, there were no charges preferred against him. Neither had a convening

authority dismissed any charges against him, and no decision was made by Fort Carson authorities concerning these allegations.

In fact, Captain Kotouc was not charged until March 10, 1970, almost a month after he was reassigned to Headquarters, 3d Army.

Mr. HÉBERT. So the statement that I have made is inaccurate, that the charges were not—

General WESTMORELAND. It is inaccurate, sir.

Mr. HÉBERT. I want to clear the record, that is all.

General WESTMORELAND. Yes, sir.

Mr. HÉBERT. Well, these are the areas now that I just wanted to throw out, General.

Chairman RIVERS. Could I ask him a couple of questions before I leave?

General WESTMORELAND. Yes, sir.

Chairman RIVERS. Now, you place great emphasis on protection of the noncombatants. This was a 1,000 percent Communist area, had always been a Communist area, had it not?

General WESTMORELAND. Well, it had been for many, many years, sir. Quang Ngai Province and—

Chairman RIVERS. This was one of the—

General WESTMORELAND. One of the strongholds.

Chairman RIVERS. And you had people there before trying to clear this area. This was not the first—when I say “you” I am talking about the Army. This is not the first time that an effort was made to clear this thing out, is that right?

General WESTMORELAND. We had troops in the area. We had American troops, and Republic of Korea troops, of course, were in the area before the 11th Brigade moved in.

Chairman RIVERS. Well, somebody said that these men got orders to clear this thing out once and for all. Is this factual, this Americal Division?

General WESTMORELAND. I just don't know, sir.

Chairman RIVERS. Mr. Reddan, is this—

General WESTMORELAND. They didn't get orders from my headquarters.

Chairman RIVERS. Of course your headquarters wouldn't have handled it.

General WESTMORELAND. Well, what the specific orders were I don't know, sir, Mr. Chairman.

Chairman RIVERS. Yes; but I mean you would know?

General WESTMORELAND. I would normally know.

Chairman RIVERS. Are you sure these men are guilty as charged?

General WESTMORELAND. Well, I certainly am not sure of anything. I think the court has to decide. And of course they are certainly innocent until proven guilty in accordance with the Uniform Code of Military Justice.

Chairman RIVERS. Have you ever voiced any statement that these people are guilty and a disgrace to the Army?

General WESTMORELAND. Never. My statements were very carefully couched in language to the effect that they are innocent until proven guilty by a court.

Chairman RIVERS. Are you aware of the fact that the General Counsel of the Army made a statement to the Army advisers whom you

addressed the other day that these men were guilty, and his hand was called at the meeting? Do you know the crowd I am talking about?

General WESTMORELAND. I heard some discussion on it, but I don't have the—I was not present so I don't know what was said.

Chairman RIVERS. I got it from the horse's mouth. He wouldn't lie, would he?

General WESTMORELAND. I am in no position to confirm it, Mr. Chairman.

Chairman RIVERS. If he said it, would this jeopardize a fair trial for these people?

General WESTMORELAND. Well——

Chairman RIVERS. Can you imagine a general counsel for the Army——

General WESTMORELAND. I don't think it would necessarily do so, because this was a civilian group, and it was a privileged session. They were civilian aides to the Secretary of the Army, a privileged session, and they were not people that would be associated with court-martial action or board action that could——

Chairman RIVERS. Well, you are really not competent to answer that question. I don't think you are competent to answer.

Mr. HÉBERT. I may say this, Mr. Chairman and General, this is not testimony, but information that has come to us on two or three different occasions, that the conduct of the Peers group, the people around, left something to be desired. One man was brought before them and the counsel said "So you were with that Mad Dog Medina." That is a fine way to talk.

Chairman RIVERS. I am trying to get to that.

Mr. HÉBERT. There is another one where the lawyer, the man wanted to take the fifth and the lawyer tells him "You better go get another lawyer, you got a bum lawyer." Now this is a trick that a lot of us are concerned about. However, this is just for information.

Chairman RIVERS. We were one of those who sent this letter from Ridenhour to the Army. I got Mr. Slatinshek and Mr. Blandford to send it over. And the speed with which the Army acted on this thing was fantastic, as you indicated, and I am not sure it would have been surfaced had it not been for the Ridenhour letter.

Do you have anything to say about that?

General WESTMORELAND. Well, I just don't know, Mr. Chairman.

Chairman RIVERS. Is there any way in your mind you can account for these charges not having—with all the magnitude and the importance that you, the chief of staff, have attached to them——

General WESTMORELAND. It is incredible to me.

Now, on the assumption that there was——

Chairman RIVERS. This Ridenhour letter was a pieced thing. He put bits and things together, so he told me.

General WESTMORELAND. It was based on hearsay.

Chairman RIVERS. All right.

Now, in view of this, and the fact that somebody wrote a book on it—I heard him on the radio the other day—can these people get a fair trial?

General WESTMORELAND. Well, I am just not competent to pass judgment on that question.

Chairman RIVERS. Would you deny any command influence on bringing these charges of anybody in the Army?

General WESTMORELAND. I would.

Chairman RIVERS. You would, or you do?

General WESTMORELAND. I deny that there has been any command influence.

Chairman RIVERS. You said there hasn't been any?

General WESTMORELAND. Absolutely not. I have been very, very careful.

Chairman RIVERS. You turned it over to the normal channels of investigation and told them to investigate it? Just how did you go about this thing? Mr. Hébert touched on it. You just took it and you didn't put whatever you stamp on there—what is it they put on it, urgent, or full speed forward?

I mean, you didn't put any accelerating gadgets on there so this thing—

General WESTMORELAND. Well, as I pointed out in my prepared statement, the first step was to determine if this thing had any basis. It was inconceivable to me.

Chairman RIVERS. Well, you must have attached a lot of importance to it when you appointed the Peers group to investigate it. Is this the first time a thing such as this has happened? The investigators were investigated?

General WESTMORELAND. Well, the Peers group was appointed to determine if there had been any dereliction in the chain of command in reporting this matter. In other words, had there been a conspiracy to cover it up? I mean, had the chain of command performed their function properly. And this is the heart and soul of the Army, which depends on the adequacy and the effectiveness of the chain of command.

Chairman RIVERS. Well, we understand that, of course it does.

General WESTMORELAND. And the Secretary and I, we were obligated to determine if the chain of command had broken down, if there had been dereliction of duty. And that is why General Peers was appointed, and I would like to—

Chairman RIVERS. Well, you must have made a decision when you relieved Koster.

General WESTMORELAND. Well, I want to correct your impression on this, Mr. Chairman. Koster was not relieved. He asked for relief.

Chairman RIVERS. I did hear a speech to the West Point cadets—

General WESTMORELAND. In that speech, he said he had asked for relief.

Now, I would like to mention, Mr. Chairman, that there were two civilian lawyers that were requested by General Peers to assist him, two individuals that had reputations in the legal profession, Mr. Bob MacCrate and Mr. Jerome Walsh, and they monitored this entire Peers investigation very carefully.

Chairman RIVERS. Are they criminal lawyers?

General WESTMORELAND. I believe they are, sir.

Chairman RIVERS. Is the General Counsel of the Army a criminal lawyer?

General WESTMORELAND. I do not know. Mr. MacCrate talked to the Secretary and myself afterward and he had nothing but praise and admiration for the way General Peers handled the investigation.

Chairman RIVERS. And you don't have any opinion on this case as to whether or not these men disgraced the Army from what you know about it? You don't have any opinion on it?

General WESTMORELAND. Well, I think we have to divide the case into two parts. You have got the criminal part, and then you have got the dereliction of duty involving the 13 officers who failed to investigate this when certain reports were made at the time—at least allegedly certain reports were made at the time.

Of course if the allegations are determined to be accurate by a court of justice, I think it is going to—certainly going to reflect on the leadership of the units involved, and by the same token, if the courts or a board of officers or a judge—however this is handled by General Seaman, the commanding general of the First Army, in the cases of the officers who have been charged with administrative irregularities and dereliction of duty—if these charges are determined by judicial processes to be valid, it is certainly a reflection on that chain of command.

Chairman RIVERS. Did you feel the same way about the *Green Beret* case?

General WESTMORELAND. Of course the *Green Beret* case was a case of an entirely different character.

Chairman RIVERS. The Secretary of the Army was very active in that. He was active in my office.

General WESTMORELAND. Well—

Chairman RIVERS. Were you with him?

General WESTMORELAND. No, sir; I was not with him.

Chairman RIVERS. He had the General Counsel of the Army with him and they were convinced the people were guilty. He said they had to bring them to trial. I don't know whether he said they were guilty, but they had to bring them to trial.

General WESTMORELAND. Well, General Abrams made that decision, and he was backed up by the Secretary. General Abrams had the jurisdiction.

Chairman RIVERS. You have exercised no undue activity in this other than let it take its normal course?

General WESTMORELAND. Your statement is correct, Mr. Chairman.

Chairman RIVERS. I won't take up any more time.

Mr. HÉBERT. Mr. Gubser.

Mr. GUBSER. General, I have to leave, but I would like to ask one question first. I have been very concerned throughout this entire investigation about the rules which pertain to the assignment of a combat photographer to an operation, and what I consider to be lax rules which allowed him to take his own personal camera into that action, and to retain the film which he took in his own personal camera without any security check being made whatsoever.

My personal feeling is that this is a combat operation to which he is assigned and that his exclusive attention should be devoted to fulfilling his assignment. Now, we were at Chu Lai a few weeks ago, and the PIO made the statement that he had issued a directive that henceforth combat photographers could take their personal cameras into the action, but they were required to give the film to their commanding officer or to their superior.

We got in a helicopter from division headquarters and went down to 11th Brigade Headquarters, accompanied by the PIO, who had just

told us this, and the PIO officer at brigade headquarters had never heard of the directive.

Now, really, the question I have pertains to the future. Isn't it possible for the Department of the Army to do something about issuing a regulation which at least provides for a security check on film taken in a combat photographer's personal camera and which is to be his personal property?

General WESTMORELAND. In November 1969, based on my concern about the matter which you have just discussed, I directed an examination of this subject as an effort parallel to that of the Peers inquiry. On March 12, 1970, as a result of this study, a DA directive was dispatched worldwide to assure control of photographic material exposed and sound recordings made by Army personnel on official assignments.

An Army photographic handbook for the individual photographer and a revision of applicable regulations are now under preparation to amplify and to replace the March 12, 1970 directive. These publications will delineate doctrine, advanced training, control procedures and career planning for officers and NCO supervisors and individuals engaged in Army photography?

Mr. GUBSER. Could I ask what the March 12 directive said, in essence?

General WESTMORELAND. I can provide a copy for the record, sir. I don't have it with me. But it did make the point that an Army photographer has been assigned that as an official duty and that the film does not belong to him: if he uses his personal camera, this film has to be made available to the Army.

Mr. GUBSER. That is fine. I am glad to hear it. But I hope it gets down to the troops, because it isn't there now.

General WESTMORELAND. Well, it should have gone down, because the headquarters in Saigon got it. They got the message that I referred to.

Mr. HÉBERT. Well, even in the incident, General, of My Lai itself, the fellow that took the pictures, there was a written order from the PIO man, and we can't find the order. And this fellow, as you well know—you probably heard about it—keeps insisting it was his personal camera. There is nothing personal in my book about it. He is out there in that foreign land, it belongs to the Army, and he got paid well for it, he did.

General WESTMORELAND. He certainly did, from all reports.

Mr. HÉBERT. He did.

Mr. GUBSER. I couldn't take my personal camera into a prize fight and record it and sell the pictures without permission of the promoters. But here this fellow is allowed to take his camera into a combat assignment without permission and sell it for profit. It is no good in my book.

I am through.

Mr. HÉBERT. Mr. Reddan?

Mr. REDDAN. General, I just had two or three questions here I would like to clear up.

Could you enlarge for us just a bit, sir, how this My Lai incident came to your attention, and when you first heard of it? I am talking now about the allegations of war crimes in the Ridenhour letter.

General WESTMORELAND. Well, I have covered that in my prepared statement. I did not see the letter when it first came in. It was called

to my attention orally by a member of my staff. We all expressed disbelief. I remember that when he first reported to me the word "Pinkville" was used, and I had never heard the word Pinkville, and I didn't know of any Pinkville in Vietnam that was on the map or that was used by the soldiers in the field.

It was explained to me that Pinkville was a town, a village in Quang Ngai, and that there were some allegations based on hearsay evidence in the Ridenhour letter.

Mr. REDDAN. Do you know how long after the Ridenhour letter came in to the Department of the Army that the matter was brought to your attention?

General WESTMORELAND. Frankly, I don't remember, but I believe it was several weeks.

Mr. REDDAN. Could you tell us what action you took when this was brought to your attention?

General WESTMORELAND. Let me see. I may have a memorandum here that has some dates on it.

Of course the first step was on April 11 when the DA staff notified the USARV staff of the Ridenhour allegations and asked for a report on their validity.

Mr. REDDAN. Prior to that time, General, did you bring this matter to the attention of Secretary Laird?

General WESTMORELAND. I didn't do so. I don't know whether the Secretary of the Army did or not. I believe he did. He did somewhere in this general time frame. But specifically when, I don't remember.

This can be established as a matter of record.

Mr. REDDAN. Do you know what, if any, instructions Secretary Resor received from Secretary Laird after he brought this to Secretary Laird's attention?

General WESTMORELAND. I really am not competent to testify as to what the Secretary of the Army received from the Secretary of Defense.

Mr. REDDAN. Did you talk to Secretary Resor after his conversation with Secretary Laird?

General WESTMORELAND. I recall vaguely that he told me he had reported the allegations to Secretary Laird and told Secretary Laird the steps that were being taken to determine if there was any validity to the allegations.

Mr. REDDAN. He advised him that you were requesting USARV or had requested USARV to check on the validity of the allegations?

General WESTMORELAND. It is my understanding he outlined to the Secretary the steps we were taking. But he does this routinely.

Mr. REDDAN. Yes.

General WESTMORELAND. But I don't—I remember very vaguely that he did report to me the report to the Secretary of Defense. But exactly what he said, I don't recall.

Mr. REDDAN. Now. I would like to come to another point, General.

The chairman had asked you about the announcing of charges by the Army, and I think you stated that had you not released the names, the press would have come back and they would have hounded you, wanting to know who had been charged.

Do I correctly recall your statement to that effect?

General WESTMORELAND. Well, this matter was discussed carefully and deliberately as to how we would handle the public relations aspect, the public exposure aspect of the Peers investigation.

The Secretary spent hours on this, and he had the benefit of the views of the Army Judge Advocate General and the General Counsel of the Army and the Army's public information officer, General Sidle.

I was not in on all those deliberations. However, it was finally decided that Peers would have a press conference, that it would have to be pointed out that questions had been raised by his investigation as to the propriety of the action taken by certain individuals in the chain of command, that certain individuals had been accused. And I do know that the first course of action that was considered was not to announce the names.

I favored during the discussion that course of action, but then I was convinced after further discussion that if we didn't announce the names, the press would say, "Who are they?" and then we would have to give them in accordance with the policy, as it was explained to me, of the Secretary of Defense.

So if that was the case, there was really no point in not giving them to them in the first place.

Mr. REDDAN. Yes.

That brings me up to my next question, General. Is there any Army policy which required you to make the initial announcement that charges had been filed?

General WESTMORELAND. That was the only way—

Mr. REDDAN. Apparently, once having done that, the fat was in the fire, and then the Army felt that under their established policy they would have to announce the names. But my question is, is there anything which required them to make that initial announcement that charges had been filed against unnamed individuals?

General WESTMORELAND. Well, with respect to the charges arising from the Peers inquiry—and you are referring to that?

Mr. REDDAN. Yes.

General WESTMORELAND. The Department of the Army did not have any knowledge of the alleged incident until over a year after the incident. By the time the Peers investigation—which, as you know, was complex and painstaking—was sufficiently detailed to consider charges, the statute of limitations was about to expire as to certain alleged offenses.

As a result, the evidence gathered by the Peers inquiry had to be evaluated while the inquiry was still continuing. Based on this study, certain charges were preferred just prior to the conclusion of the Peers investigation and just prior to the expiration of the statute of limitations.

A public announcement was made concerning the general nature of the charges. There was no basis for withholding this information from the public.

Mr. REDDAN. Was there any requirement that it be made public?

General WESTMORELAND. It was my understanding, and it is my understanding, that this was DOD policy.

Mr. REDDAN. Is this a written policy directive?

General WESTMORELAND. Well, the point is we couldn't—the clock could not be stopped on the statute of limitations unless there were some charges.

Mr. REDDAN. Yes; that is true.

General WESTMORELAND. Now, the charges having been made, the policy has been made to make them available to the public.

Mr. REDDAN. Do you want to ask some questions?

Mr. DICKINSON. Yes; but go ahead and develop whatever thoughts you have on that and I will go on to something else.

Mr. REDDAN. I think the general has covered the point I was trying to make.

Mr. DICKINSON. General, I was very interested in your prepared statement here, one statement you made particularly on the first page. You said, "but that no evidence of an atrocity had been uncovered—nor any evidence that an investigation had been made."

Now, you make that as a definite fact so far as your headquarters is concerned. And you made inquiry and you made a search. And so far as MACV is concerned, or any level over General Koster, no report ever got to MACV of any alleged atrocity, is that correct?

General WESTMORELAND. That is correct. At least that is what was reported when we inquired in April 1969. And I believe that the Peers investigation reaffirmed this.

Mr. DICKINSON. Yes, so far as you know, and it is your understanding, that there was some notice—they were at least put on notice all the way up to and including General Koster, but above that level, it stopped there, being even put on notice, and what investigations were made got that far but no further and were never transmitted from that command to MACV, is that your understanding?

General WESTMORELAND. Certainly it was not transmitted to MACV. Now, it is alleged that it got up to the Koster level. This is an allegation.

Mr. DICKINSON. I see. All right, sir.

Now, I am very much concerned over our former military people who are now civilians and the equities involved here simply because a fellow takes his uniform off.

Now, according to your statement, 25 former enlisted men, now civilians, are under suspicion of criminal offenses. It is your understanding that there is no legal remedy, if you want to call it a remedy, but there is certainly no redress or no way to reach these people if they are in fact guilty, no way they can be brought to trial for any crime that they might have committed while in uniform?

General WESTMORELAND. Well, this is a highly technical point.

Mr. DICKINSON. I realize that.

General WESTMORELAND. Frankly, I don't know.

Mr. DICKINSON. You are not a lawyer and I am. But I know you must have gone into this with your legal shop and also on the policy level.

General WESTMORELAND. I discussed it with the Secretary, who is a lawyer, and I also discussed it with the Judge Advocate General of the Army. And it is my understanding from talking to them that there probably is a way this can be done.

Mr. DICKINSON. That there is a way?

General WESTMORELAND. Yes.

Mr. DICKINSON. Well, can you tell us then, you are proceeding to explore the possibility of bringing some legal action against those who are now civilians? Or are you planning to just let that drop?

General WESTMORELAND. I am informed that the Secretary and his General Counsel are working diligently on this matter with the Department of Justice.

Mr. DICKINSON. Well, speaking for myself and not for the committee, I certainly hope that some individuals who might be guilty of offenses will not get off scot-free and not even have to stand trial simply because they got out in time and the rest of these guys have to bear the brunt of the whole thing. I think if there is any possibility on the part of some—we have a photographer, for one, that has had guilty knowledge, so to speak, and acknowledged the fact that he didn't report it. And yet he profited to the tune of some \$40,000—\$40,000 or \$50,000 by selling the information that he had and was in his possession, which the simple retention of which made him guilty, and I don't think anyone should profit at the expense of everyone else. But I am giving you a personal opinion there.

You stated that your primary concern, and justly so, was: Did the chain of command work, or did it break down; was there something basically wrong with the chain of command; was it some innate flaw; or was it just a breakdown that did not reflect policy or anything organically or innately wrong with the chain.

Were there other reports of atrocities that did show that the orders functioned and chain functioned and this was just a breakdown in this one instance? What was the situation?

General WESTMORELAND. There were any number of reports of atrocities responsive to the directives, and these were immediately investigated and appropriate action was taken. And there were courts-martial that resulted from these investigations.

If we in my headquarters received a picture taken by a news photographer, if there was an allegation made by a news photographer that there had been irregularities, civilians killed or an atrocity, it was immediately investigated. Sometimes we found that these allegations couldn't be supported and there were other cases when they were supported, and following this, disciplinary action was taken.

Mr. DICKINSON. Well, if I understand you, then, you say there was nothing basically or organically wrong with the way the chain of command is structured or the orders given for the reporting of incidents, but this was just more or less a unique occurrence and an accumulation of circumstances that made it unique. It is not likely to recur, and there is nothing wrong with the organization as set up by the Army or the orders given from MACV. Is this in substance what you are saying?

General WESTMORELAND. I would agree with your assessment, Mr. Congressman. In my opinion, the command structure is sound and the orders were fully adequate. But it would seem to be a breakdown if these allegations are proven to be accurate.

Now, going back to your earlier statement as to other reports of atrocities, I would like to emphasize that most of these involved individuals and not group action, and it was unusual in that regard—the allegations involved group action.

Mr. DICKINSON. Yes. The individual actions you are talking about are possibly individual rapes or where an individual was shot by an individual—

General WESTMORELAND. An individual was shot. Or someone cut off the ear of a corpse. We had this happen one time. One time a picture was presented to me where a body was being dragged behind a tank—a rope was tied around the feet of a Viet Cong corpse.

Mr. DICKINSON. Yes. That made all the press in this country, too.

General WESTMORELAND. Yes, dragged behind a tank, and when I saw this I was astonished and very forceful action was taken in that regard to avoid that type of practice.

Mr. DICKINSON. I think for the record, where you commented on the extending of time in order that a person wouldn't be discharged and be beyond legal process, what is the Army policy now and what has been the Army policy on freezing a person's discharge?

General WESTMORELAND. When an individual is under investigation, we do not allow him to be discharged.

Mr. DICKINSON. Is this anything new?

General WESTMORELAND. It is not, sir. It is an old practice.

Mr. DICKINSON. Going back to World War II, anyway, whether you were under investigation for a theft or simply short in your turning in equipment or whatever, until any investigation of a supposed crime or misdemeanor or whatever, for over 20 years that has been the Army policy; has it not?

General WESTMORELAND. I would say 20 years or longer.

Mr. DICKINSON. Yes.

General WESTMORELAND. I think it has been a policy as long as the Army has been around.

Mr. DICKINSON. Now, I am interested in the consolidation aspect of this, because it doesn't look good on the surface, and I would like for you to explain to me and the committee and for the record also just what are the mechanics of bringing an individual to trial? Now you have mentioned it briefly, but if you would sort of go through the steps with us, because I think it is important to know, were these people transferred from wherever their duty station might be to a command where the command was more or less under the gun, and precommitted to bring charges against these individuals where if they had been allowed to remain at their normal duty station, there is a possibility that their commanding officer wouldn't have seen enough merit in it to allow charges to be brought? How does this come about and then bring it up to what did occur in this occasion.

General WESTMORELAND. First, we are guided by the Uniform Code of Military Justice, which of course is an act of Congress. Any man subject to the Uniform Code of Military Justice can prefer charges against another. Once charges have been preferred, the—

Mr. DICKINSON. What does this consist of, first, the preferring of charges?

General WESTMORELAND. Where an individual accuses an individual of violation of a particular article of the Code of Military Justice, there is a general charge and then a specific action.

Mr. DICKINSON. This is a formal act?

General WESTMORELAND. This is a formal act.

Mr. DICKINSON. Reduced to writing and signed by the one preferring the charges.

General WESTMORELAND. That is correct.

Mr. DICKINSON. And at that point, the defendant—the person who is accused then is put in the position of being a defendant? Is this correct? Or am I getting too technical for you? Is he the same then as under indictment?

General WESTMORELAND. No. As I have pointed out—

Mr. DICKINSON. He is the same then as having a warrant sworn out for him? Or would you know that?

General WESTMORELAND. Well, let me trace this process—

Mr. DICKINSON. All right.

General WESTMORELAND [continuing]. A little further; and let me remind you again that this is the way it is prescribed in the Uniform Code of Military Justice, which is passed by the Congress of the United States.

Mr. DICKINSON. Yes, that is what I am asking.

General WESTMORELAND. Now, once he has been accused, the charges are then received by the officer that has general court-martial jurisdiction or has special court-martial jurisdiction, or who has the appropriate jurisdiction.

Mr. DICKINSON. Which is his commanding officer normally?

General WESTMORELAND. Which is—yes, the commanding officer of the individual accused.

Mr. DICKINSON. Right.

General WESTMORELAND. Now, the next step is an article 32 investigation, and the officer with court-martial jurisdiction appoints an officer to conduct an article 32 investigation, and the accused at that time can be represented by counsel. He makes this investigation; then he turns it over to the convening authority—the officer with court-martial jurisdiction—who has his staff judge advocate review it from a technical standpoint. The staff judge advocate then presents his review to the officer who has the court-martial jurisdiction; and this particular officer—commanding officer—decides whether, based on the article 32 investigation, the charges should be dropped or how they should be handled.

Now, they can be handled in several ways. They can be handled under article 15, with nonjudicial punishment. They can be handled under a summary court-martial, a special court-martial, or a general court-martial. And then, when you get to the court-martial, if the accused would like to be tried by a judge rather than a jury, this is his prerogative. The accused will be, of course, supported by counsel.

Now, —

Mr. DICKINSON. Just as a technical matter, doesn't the nature of the offense determine whether it will be a special or a general court martial?

General WESTMORELAND. Precisely. But it is an article 32 investigation, and the man is really not indicted. I guess, to use the counterpart civilian term, until the convening authority has made his decision following the article 32 investigation.

Mr. DICKINSON. And the convening authority is the commanding officer?

General WESTMORELAND. He is. He is the convening authority.

Mr. DICKINSON. All right.

General WESTMORELAND. He is the convening authority. And he is the one that makes the decision as to how the matter will be handled following the article 32 investigation.

Mr. DICKINSON. Right.

General WESTMORELAND. Now, your next question is why were people transferred. Well, these people were all over the United States—

Mr. DICKINSON. I understand that. Before we get into that phase of it let's go on and let me clear up just a couple of questions in the initial and basic part of it now. Does a person preferring the charges have to have any personal knowledge of it, or can he just say that based on information coming to him he has reason to believe and, therefore, does charge that Joe Blow is guilty of an offense of so and so? Can anyone prefer charges whether he has personal knowledge or not?

General WESTMORELAND. He can prefer charges after a review of an official record or an official investigation.

Mr. DICKINSON. Just based on his information and belief, without any personal knowledge on his part?

General WESTMORELAND. Well, for instance, the charges preferred following the Peers investigation were based upon review of the testimony given to General Peers by a great number of witnesses.

Mr. DICKINSON. All right.

Now, getting this down to a specific case that was mentioned before, in the case of Captain Kotouc, charges were preferred in his case, were they not, while he was on one base, and was an article 32 investigation run on him?

General WESTMORELAND. Quite the contrary. He was at Fort Carson, Colo.

Mr. DICKINSON. Yes.

General WESTMORELAND. A CID—criminal investigation division—report came to the commanding general at Fort Carson. It was merely reported.

Mr. DICKINSON. All right.

General WESTMORELAND. This investigation was continued. No charges were preferred. He was not accused.

Mr. DICKINSON. All right.

General WESTMORELAND. It was merely a report from the criminal investigation division.

Mr. DICKINSON. And at that point, then, there was nothing that the commanding officer could have done, if I understand the process properly. At Fort Carson, nothing Kotouc's commanding officer could have done at that particular point without either himself or someone else preferring charges to go forward over the article 32 investigation. Is that correct? If I am being too technical for you in the legal thing, say so.

General WESTMORELAND. I suppose—there was a report of an investigation. It was alleged that he had been associated with certain irregularities. The investigation, however, was not complete. This was merely, I would say, an initial report—

Mr. DICKINSON. Right.

General WESTMORELAND [continuing]. From the investigators.

Now, as to Captain Kotouc, I don't know whether his battalion commander or his brigade commander saw this or not. But nobody preferred charges at that time.

Mr. DICKINSON. Well, as a technical matter, his commanding officer on the basis of the CID report could have preferred charges, but you say the CID report was not completed at that time?

General WESTMORELAND. Well, yes, he could have. But it was not considered a complete report.

Mr. DICKINSON. Well, was there any point in time that he made a conscious decision—his commanding officer at Fort Carson made a conscious decision not to prefer charges, or did he just fail—

General WESTMORELAND. Not that I am aware of.

Mr. DICKINSON. Did he refuse—

General WESTMORELAND. It was reported to me that it was an open case.

Mr. DICKINSON. I see. He was not requested to and refused to prefer charges so far as you know?

General WESTMORELAND. So far as I know he was not.

Mr. DICKINSON. All right. Then before charges were preferred, Kotouc, along with others that now have charges preferred against them, were transferred and the charges consolidated. Is that correct?

General WESTMORELAND. That was done for practical and equitable reasons.

Mr. DICKINSON. All right. Will you go on and discuss that area of it, then, please?

General WESTMORELAND. It was decided by the Secretary, and I support this, that the Commanding General of 3d Army would have jurisdiction over the criminal type cases with the exception of a man named Mitchell who had already been charged at Fort Hood and who was not transferred—Sergeant Mitchell.

Mr. DICKINSON. I am glad to get that because I didn't know that this was the case. He was charged at Fort Hood and he will stand trial at Fort Hood?

General WESTMORELAND. That is correct.

Mr. DICKINSON. And he is not under the 3d Army and he won't be transferred to Fort Benning and be tried in the same status as the other defendants?

General WESTMORELAND. Mitchell will be tried at Fort Hood because he was charged there.

Mr. DICKINSON. I didn't realize that.

General WESTMORELAND. Now, those cases growing out of the Peers investigation involving officers, involving dereliction of duty and other related irregularities, false swearing in some cases, we decided to put under the Commanding General of the 1st Army at Fort Meade, because we are dealing with the same group of witnesses. And in order to get some equity in the case rather than having multiple reviewing authorities dealing with these cases, we thought that it would be fairer to the individual and certainly more expeditious if they were put under a single commanding officer with general court martial jurisdiction, and the 1st Army was chosen.

Mr. DICKINSON. Was there any reason why 3d Army was chosen for the criminal type and 1st Army was chosen for the dereliction type?

General WESTMORELAND. There was a practical reason, because some of the accused, a number of them, were in Fort Benning, which is in 3d Army, and a number of the officers associated with the dereliction of duty charged following the Peers investigation were stationed in the 1st Army area, General Koster, Colonel Henderson, and several officers stationed in the Pentagon, were in the 1st Army

area. But there were others that were not, such as General Young—

Mr. DICKINSON. I understand you had to pick one site.

General WESTMORELAND. Yes, we had to pick one site and General Young and others had to be transferred in.

Mr. DICKINSON. Would it be fair to say those you anticipated bringing criminal charges against were in the 3d Army, the majority, and the majority of those of the other type were in the 1st Army?

General WESTMORELAND. I wouldn't say a majority. I would say a plurality.

Mr. DICKINSON. All right, a plurality. More in that Army than any other Army? Would that be true?

General WESTMORELAND. Yes, sir, that is correct.

Mr. DICKINSON. All right.

Now, subsequently some have been transferred from Benning to Atlanta, McPherson, or McClellan. What was the reason for this?

General WESTMORELAND. Because it was decided to put those cases other than the cases that were already underway—Mitchell and Calley, as an example—under the jurisdiction of the Commanding General of 3d Army, concentrate them at Fort McPherson. They could have all been placed under the Commanding General of Fort Benning, but he is such a very busy man and it was felt more practical to put them under General Connor at Fort McPherson.

Mr. DICKINSON. Well, I had heard that one of the reasons for the transfer was because of the personnel available in McPherson, that they were better equipped to handle this job. I don't know if you subscribe to this or not.

General WESTMORELAND. Well—

Mr. DICKINSON. Or are you that familiar with it?

General WESTMORELAND. Well, this may be the case. I just—I can not respond to that.

Mr. DICKINSON. I had a JAG officer in my office in Montgomery this past weekend who is working on these cases, and he said they pulled half the legal staff out of Benning and sent them to Atlanta to handle these things when they were already working on them at Benning. So it wasn't the fact that they—if they might ascribe it to that reason, that they had the personnel up there to handle them, because they didn't.

And I was wondering why they did move them.

General WESTMORELAND. The situation was such that I am sure they had to concentrate their talent.

Mr. DICKINSON. In conclusion let me say as surprising as this might come to you, General, and to the committee here, I have read the Peers report; I read it in full, unexpurgated. And I started off hostile to it. I think that that might have been the attitude of some of us on this committee because of what we felt was pretty poor cooperation that we got out of the Army when we first started our hearings in December—that the only witnesses we got were those who had gone before the Peers committee, we couldn't talk to anyone that hadn't been to the Peers committee. And when we talked to them, quite often they would say, well, I thought it was so and so, but after I went to the Peers committee, they showed me documents and so forth and convinced me it was different. And this happened time and time again, and we couldn't get a witness who hadn't been thoroughly refreshed

in his recollection and his testimony changed in his own mind by appearing before the Peers committee. And this to me, certainly hampered what we were able to do and I thought affected our effectiveness.

I mention that by way of background for saying why I approached the Peers report somewhat hostile, with grave reservations. But I have gone all around it and over it and through it, and I have to admit that I have come to the conclusion he did a hell of a good and thorough job. There are just a very few areas that I can find any fault. And if we are going to go around attacking it, I am going to have to find some other way to do it, because I agree with almost everything in the report, and I am surprised that he was as thorough as he was. The only complaint that I could find, possibly, was that the Army, and not necessarily the Peers group, overreacted in some instances. They were even thinking about trying a chaplain, I think. And I think they brushed with such a broad brush some have been wrongly smeared or tarnished, and their professional careers will suffer, maybe. And I know this is going to have an effect on the morale of our boys in the service category. We have already heard this. But by and large, I think he did a hell of a good job, and in a short time, and I don't know of anybody—I haven't discussed this with the chairman or the staff or anybody, but I just finished reading the thing. But I think he did a good job, and I want to say so.

With that, Mr. Chairman—

Mr. HÉBERT. Off the record.

[Discussion off the record.]

Mr. HÉBERT. Back on the record.

General, I want to ask you one question in connection with the MACV directive as to reporting atrocities.

Was there intended in any way by the chain of command to give an individual the discretion of determining whether it was a war crime, and if, in his judgment, he did not determine it to be a war crime, would he be under the compulsion of the directive to report it to MACV anyway?

General WESTMORELAND. The intention was that any allegation, any rumors, any reports, any evidence would be reported.

Mr. HÉBERT. Well, in other words, the mere allegation in the beginning would determine that it had to go to MACV?

General WESTMORELAND. Yes, sir.

Mr. HÉBERT. And nowhere was there a discretion as to whether it should or should not go, whether true or false?

General WESTMORELAND. That was the intent of the directives.

Mr. HÉBERT. That was the intent. So if the decision was made that it didn't deserve to go to MACV, that was wrong?

General WESTMORELAND. That was a judgment that intermediate headquarters or commanders were not expected to exercise.

Mr. HÉBERT. That is what I wanted to clear up.

Mr. DICKINSON. You used the word "rumor," did you really mean to use the word "rumor"? Was it that broad?

General WESTMORELAND. I don't think the word "rumor" was actually ever used in the record. No.

Mr. DICKINSON. No, but I mean, as I understand you, would you expect rumor to be included in that classification?

General WESTMORELAND. Let me substitute the word "allegation" for "rumor."

Mr. DICKINSON. Yes. Wouldn't you class a Viet Cong pamphlet in the rumor class, though, rather than an allegation?

General WESTMORELAND. Well, not necessarily.

May I read the language here?

Mr. HEBERT. Certainly.

General WESTMORELAND. This is a directive dated April 27, 1967. The subject is "Inspections and Investigations—War Crimes." Responsibilities, under paragraph 5:

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

Mr. DICKINSON. Counsel just commented and we all noticed, when you used the term "war crime", then you have to get back to definitions. And we read the definitions I know, but a war crime in the mind of most is not just a violation of the Geneva Conventions. It is more of an atrocity-type thing.

General WESTMORELAND. Well, paragraph 3 of the directive is entitled "Definition" and reads:

Subparagraph a. War Crimes. War crimes are violations of the law of war (Field Manual 27-1, The Laws of Land Warfare, July 1956).

Subparagraph b. A grave breach of any of the Geneva Conventions constitutes a war crime. Some examples of grave breaches are as follows: When committed against persons taking no active part in hostilities, including the members of Armed Forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any cause, wilfully killing, torture or inhuman treatment wilfully causing great suffering or serious injury to body or health.

Mr. DICKINSON. I have no further questions.

Mr. REDDAN. General, your directive I believe was reinforced and emphasized by General Kerwin in his message to all the troops under date of February 21, 1968. Do you have a copy of General Kerwin's message to the troops?

General WESTMORELAND. I do. I made reference to that in my prepared statement, and I have a copy for you for the record.

Mr. REDDAN. Yes. Well, I have a copy of that. Then, as you know—

General WESTMORELAND. I think I had previously given it to you, hadn't I?

Mr. REDDAN. Yes. The last paragraph in that message says "All known, suspected, or alleged war crimes or atrocities committed by or against U.S. personnel will be investigated in accordance with MACV Directive 20-4."

General WESTMORELAND. Yes, sir.

Mr. REDDAN. Just one or two things, General, to wind this up. Would you be good enough to supply the committee with that portion of DOD policy which refers to the announcing of charges?

General WESTMORELAND. I will try to find that, Mr. Reddan, and get it to you.

Mr. REDDAN. OK. Could you also give us the name of Kotouc's commanding officer at Fort Carson?

General WESTMORELAND. At Fort Carson. I will provide that for the record.

Mr. REDDAN. General, do you know of any other incidents which proved to be true incidents that were brought to light by news media in Vietnam?

General WESTMORELAND. Well, you remember the case of cutting off the ears of a Viet Cong corpse. That was a photographer named Smith who took a picture of that.

Mr. REDDAN. What I am getting at, General, is whether or not there have been other instances which would suggest that the chain of command might not be properly functioning, if things were brought to your attention by the news media rather than in accordance with the directives which you had issued.

General WESTMORELAND. Well, there is the case reported by Captain Sugarman which took place in the spring of 1969, which involved the charging of a Captain Hartmann and a Lieutenant Lee. That case involved firing allegedly by order of Captain Hartmann into a Vietnamese populated area, and Sugarman made such a report and when it was investigated it was determined to be valid, at least to the extent that charges have been preferred against Captain Hartmann and Lieutenant Lee. It was determined that there were some Vietnamese that were killed when they had fired indiscriminately into this populated area.

Now, I have further details on this matter if you would like for me to read them.

Mr. REDDAN. No; that is all right, sir.

General WESTMORELAND. Now this took place—well, we first heard of this—Captain Sugarman wrote a letter to Congressman Lionel Van Deerlin stating that on or about June 16, 1969, a Sp4C. Garry O. Nordstrom, a medic assigned to Company C, 2d Battalion, 39th Infantry, 9th Infantry Division, commanded by Captain Hartmann, had conveyed to him the following information: That on June 15, 1969, Captain Hartmann had ordered the troops in his patrol to fire without provocation into houses of a Vietnamese village located near Cai Lai in the Mekong Delta. According to Sugarman, the houses were occupied by noncombatants, many of whom were killed. Sugarman also told Congressman Van Deerlin that Nordstrom had not been permitted by Captain Hartmann to provide medical assistance to the villagers.

Mr. REDDAN. Did you want to submit the balance of that for the record?

General WESTMORELAND. I can, yes.

Mr. REDDAN. All right, fine.

[The following information was received for the record:]

HARTMANN INCIDENT (SUGARMAN ALLEGATION)

ALLEGATION

Murder of an unknown number of unidentified Vietnamese nationals.

SUBJECT/SUSPECTS

1. CPT Vincent Hartmann, 200-26-7265, USAIS, Ft Benning, GA.
2. 1LT Robert G. Lee, 497-50-1179, Ft Benning, GA.

COMPLAINANT

CPT Jay L. Sugarman, 547-54-4912, USAH, Ft Ord, CA.

BACKGROUND

CPT Sugarman wrote a letter to Congressman Lionel Van Deerlin stating that on or about 16 Jun 69. SP4 Gary O. Nordstrom, a medic assigned to Co C, 2d Bn, 39 In, 9th Inf Div, commanded by CPT Hartmann, had conveyed to him the following information: On 15 Jun 69, CPT Hartmann had ordered the troops in his patrol to fire without provocation into the houses of a Vietnamese village located near Cai Lai in the Mekong Delta. According to Sugarman, the houses were occupied by non-combatants, many of whom were killed. Sugarman also told Congressman Van Deerlin that Nordstrom had not been permitted by CPT Hartmann to provide medical assistance to the villagers.

STATUS/PROGNOSIS

CID investigation completed: Hartmann and Lee charged 28 May with attempted murder.

Investigation has established that at approximately 0730 hours, 6 Jun 69, a combat patrol of Co C, 2/39, 9th Inf Div, commanded by CPT Hartmann, fired into a group of huts located across the Cau Van Canal from the patrol. 1LT Lee, 1st Plt Ldr, acting on orders from CPT Hartmann, gave the order to his platoon to open fire. Mrs. Nguyen Thi Meo and her nephew, Luu Van Dung, who lived in the hut nearest the canal, were wounded. Mrs. Meo and Dung were transported by other villagers to T Khoa Huan Hospital, My Tho, RVN, where Mrs. Meo died as a result of her wounds. Dung was transferred to Saigon City Hospital on 7 Jun 69 and was released after a month. Hartmann and Lee were charged with attempted murder on 28 May 70. Art 32 investigation has been ordered by School Bde CO, USAIS, Ft Benning GA.

WITNESSES

1. SP4 Gary O. Nordstrom, 550-74-1049; 137th Inf, Ft Carson, CO.
2. PFC David J. Startzer, 506-68-3959; SGT Jarett W. Pewitt, 455-80-1961; SP4 Charles S. Smith, 551-70-3413, SP4 Sustache J. Deleon, 584-14-6912; Co C, 1/29th Inf, APO 96557.
3. SP4 Donald M. Manookin, 529-62-0653; SP4 Juan A. Salomon, 568-56-0026; and SP4 Anthony W. Yancey, 279-46-3410, Co B, 6/31st Inf, 9th Inf Div, APO SF 96371.
4. SP4 Gary W. Rogahn, 393-44-4278, HHC, 1st Bde, 101st Abn. APO SF 96383.
5. LTC Robert A. Sullivan, 504-22-9848, HQ, USARHAW, APO SF 96557.
6. Chaplain (CPT) Donald M. Butler, 529-62-0653, HHC 5/60th Inf, 9th Inf Div.
7. Mr. Abraham A. Ah Hee, 575-48-0337, civilian address unknown.
8. PSG James T. Fentress, 225-48-7218, 1st US Army Escort Div, Dover AB, Dover, DEL, 19901.
9. SGT Edwardo J. Cuellar, 027-28-4987, 24th Inf Div, Ft Riley Kansas.

INITIATED BY WHOM

Honorable Lionel Van Deerlin, US Congressman.

RESPONSE TO INITIATOR

Interim replies were made to Congressman Van Deerlin by OCLL on 26 Nov 69 and 20 Jan 70.

Mr. REDDAN. General, do you know whether or not there have been any changes in the directives which would make it abundantly clear, if such clarity was needed, that there is to be no discretion in the reporting of these things; this is a mandatory reporting process?

General WESTMORELAND. I don't know whether periodic and routine republication of directives in this area by MACV emphasize this thing

or not. We can get copies of its latest directive and submit them for the record.

Mr. REDDAN. All right, just one final question, General. I would like to get your comments on this: We have been told that the Judge Advocate General appointed a group to review the Peers Committee testimony and that after review they found that the evidence would not support, in their opinion, charges against certain officers. We are further advised that following this review charges were made by the Peers group of these same officers. Do you have any comment on that, sir?

General WESTMORELAND. A senior colonel of the Judge Advocate General Corps named Miller was the accuser in most of the cases involving officers, following the submission of the Peers report. He based his charges on a reading of the testimony given by the witnesses. Now, after he had gone through the testimony, another officer—in fact, two officers independently, line officers—well, one was a Judge Advocate, one was a line officer, as I recall it—also went through the testimony to see if there were other officers who had committed offenses based on the testimony given to General Peers.

They were subject to the Uniform Code of Military Justice; they were, under the code, entitled to prefer charges. They did so as individuals—not on behalf of General Peers.

Mr. REDDAN. They were members of the Peers group, however?

General WESTMORELAND. They were assistants to General—well, let's see. I believe the one was an assistant—I will have to check this for the record, but I believe that the line officer had been an assistant to General Peers. Now exactly what he did, I don't know.

Mr. REDDAN. We have been advised specifically that four Judge Advocate officers were selected by the Judge Advocate General, and he selected Col. Hugh Miller, Lt. Col. George Riker, Lt. Col. George Taylor, and Lt. Col. Peter Cook to review this testimony. Now do you know whether or not the Judge Advocate General did appoint a board of that composition?

General WESTMORELAND. I was not aware of other than Miller. The other names I am not aware of.

Mr. REDDAN. Do you know the purpose of appointing such a group, if such a group were appointed, or the purpose of turning over to Colonel Miller the task of reviewing this testimony?

General WESTMORELAND. It is my understanding that this was done by Miller as an individual.

Mr. REDDAN. At the direction of the Judge Advocate General?

General WESTMORELAND. Frankly, I just can't answer that. I just don't know. I don't know who directed Miller.

Mr. HÉBERT. Well, did you know, though, or are you aware of any recommendation, as has been alleged, against filing charges of these four people mentioned in the information that has come to us?

General WESTMORELAND. Against filing charges?

Mr. HÉBERT. Yes; that is what I am saying. They recommended against filing charges.

General WESTMORELAND. I am not aware of this. I am not aware of this. Now, let me explain why I am not aware of it. The Secretary and I have to be very scrupulous in staying out of the details of this. Otherwise, command influence could be alleged.

Mr. HÉBERT. I am merely asking if you knew.

General WESTMORELAND. Yes. And so frankly I just don't have official knowledge of this detail.

Mr. HÉBERT. That is the reason we wanted to first ask you, because we recognize the fact that the competent witness would be the individual named.

General WESTMORELAND. Right, sir. And so that they could be—now of course the Secretary has the authority. I am not in the judicial chain of command of review as Chief of Staff. The Secretary has that authority. But because of my close relationship as Chief of Staff with the Secretary of the Army, I have tried to avoid anything that could—

Mr. HÉBERT. We can understand that.

General Westmoreland [continuing]. That could in any way be construed as bringing command pressure to bear.

Mr. HÉBERT. But the Secretary himself could override a recommendation of the Judge Advocate General?

General WESTMORELAND. Well, I suppose technically he could. But as the ultimate reviewing authority, I think he would be very careful not to get involved in that type of detail.

Mr. HÉBERT. Any other questions?

Mr. LALLY. A couple of questions.

General, with respect to the reporting chain of command and the reporting channels to MACV, the Americal Division reported through USARV; is that correct, sir? III MAF and USARV?

General WESTMORELAND. I explained that in my prepared statement. Operationally, the Americal Division was under Lieutenant General Cushman, U.S. Marine Corps, who commanded the III Marine Amphibious Force. General Cushman had command of all ground forces in the I Corps, the 1st Corps tactical zone. He was also the senior adviser to the Vietnamese corps commander. So the Americal Division was under his operational control.

Now, these were Army troops under a Marine commander. General Cushman was in no position to take care of personnel administration and logistics. He had his own Marine logistics, but the logistics was under the Army component. The Army component commander was Lieutenant General Palmer, who was the Deputy Commander of the U.S. Army, Vietnam.

Mr. LALLY. But with respect to the war crimes reporting, that would go to USARV and MACV; is that correct, sir?

General WESTMORELAND. No; it should have—frankly it should have gone through both channels. But I would say primarily through the tactical channels. It should have been reported to General Cushman, because Cushman was on the scene. General Palmer was very remote in Saigon. But Cushman was only, what, less than 50 miles away, just north of there, up in Da Nang.

Mr. LALLY. Now, the advisory teams at district and province had a separate reporting channel to MACV; is that correct, sir?

General WESTMORELAND. Yes. And the channel was as follows: From district to province to corps. Now, in this case, to district, to Quang Ngai province, to the corps headquarters at Da Nang. And that adviser—the senior adviser to the corps commander at Da Nang was General Cushman, who was also commander of the tactical troops.

Mr. HÉBERT. Do I understand your replies then that as well as going

to MACV, the original allegation going to MACV should have also gone to General Cushman?

General WESTMORELAND. Should have primarily gone to Cushman.

Mr. HÉBERT. Before MACV?

General WESTMORELAND. Absolutely. As an intermediate commander.

Mr. LALLY. Was there a third channel, then, General, for the advisory team attached to the 2d ARVN Division?

Mr. DICKINSON. Before you get into that question, General Cushman should have gotten two reports, from what I understand you to say.

General WESTMORELAND. That is correct.

Mr. DICKINSON. It should have come to him from two different sources.

General WESTMORELAND. The advisory channel and the tactical channel.

Mr. DICKINSON. All right. Thank you.

Mr. LALLY. Was there a third channel, then, General, for the advisory team attached to the 2d ARVN Division?

General WESTMORELAND. The advisory team attached to the 2d ARVN Division reported to General Cushman at Da Nang. Now, General Cushman had a deputy who was actually in residence and sat at the side of General Lam, the corps commander. And General Cushman looked to this Army colonel to supervise the advisers in the tactical units.

Mr. LALLY. Well, did this team also report to MACV, or was it just to General Cushman's headquarters?

General WESTMORELAND. No; that team reported through General Cushman.

Mr. LALLY. So that there were three independent reporting channels here for the three organizations?

General WESTMORELAND. Well, they converged, of course. Well, two channels converged, of course, at Da Nang with General Cushman being the responsible officer, and in charge of the advisers—the ground advisers in the 1st Corps tactical zone. And then you had the administrative channel dealing with personnel administration and court-martial jurisdiction and logistics, in other words, administrative Army matters, that went from the commanding general of the Americal Division to General Palmer, who was the Army component commander.

Now, I was technically the Army commander, but I had to do that because I had to have operational control. But I looked to General Palmer as my deputy who actually ran the Army business, just as the 7th Air Force commander ran the Air Force business, and the senior adviser to the Navy Forces ran the naval forces.

Mr. LALLY. Was directive 20-4 equally binding on each of these organizations?

General WESTMORELAND. It was. It was binding on all elements of my command. And as I pointed out in my prepared statement, I wore three hats. The first hat is senior adviser to the Vietnamese Armed Forces. So the advisers were under the chain of command. And then I was responsible for the Army, Navy, Air Force, Marines; in other words, the Joint Command, U.S.; and then since I was an Army officer, and based on the necessity of my controlling the tactical oper-

ations, I was also the Army commander but delegated the administrative aspects of that job to General Palmer.

Mr. LALLY. General, the subcommittee has heard testimony that there was knowledge of the allegation in each of these various units, and I was just wondering if there has come to light any possible explanation how three reporting channels could have broken down in this instance.

General WESTMORELAND. I can't explain it.

Mr. HÉBERT. Thank you very much, General. We appreciate your appearance and your cooperation this morning. Thank you, sir.

General WESTMORELAND. Thank you, Mr. Chairman.

[Whereupon, at 12:13 p.m., the subcommittee adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
ARMED SERVICES INVESTIGATING SUBCOMMITTEE,
Washington, D.C., Monday, June 22, 1970.

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 2339, Rayburn House Office Building, Hon. F. Edward Hébert (chairman of the subcommittee), presiding.

Present: Mr. Hébert, Mr. Gubser, and Mr. Dickinson, members of the subcommittee.

Also present: Mr. John T. M. Reddan, counsel, Mr. John F. Lally, assistant counsel.

Mr. HÉBERT. The subcommittee will be in order.

Colonel Cook, you are here at the suggestion of General Westmoreland. We were informed the other day that you were in the country here, and that you had been the IG to MACV during the incident of March 16, 1968, at the time he was also the Commander of American forces in Vietnam. He suggested maybe we would like to talk with you and probably try to learn some things we have not learned before.

We do not know exactly what contribution can be made during our conversation. We hope we can develop something to add to the testimony we already have.

I will explain to you the procedure of the subcommittee, for the record. The subcommittee has protected all witnesses asked to come before this subcommittee and you are under that full protection while you are under the jurisdiction of the subcommittee. We will not allow you to be harassed by newspaper or television reporters or particular representatives of the news media. You are not compelled to talk, nor have your picture taken if you do not want to. Usually there are newspaper reporters and television cameras in the hall. Today I notice there is no one there. They may well be there by the time you have finished. We release the name of the witnesses, but not the testimony. After you leave the subcommittee you may leave through the door at the back of the room. A uniformed policeman will be there with you. If a member of the news media is there, he may ask you one question, one alone, and that is, if you care to make a statement. If you do not care to make a statement you are immediately escorted, under the protection of the subcommittee, from the area. If you care to speak you may say anything you want to say.

The subcommittee rules of procedure set down for this particular procedure are that your testimony, as given today, is available to you or your counsel in the committee room alone. The testimony may be reviewed at any time during the regular office hours, in this room, but not outside of the room.

You are allowed to have counsel if you so desire. Obviously you do not care for counsel, since you are not accompanied by counsel.

Every witness is under oath. Therefore, I will ask you to rise and take the oath.

Do you swear to tell the truth, the whole truth, and nothing but the truth, in the matter before this subcommittee, so help you God?

Colonel COOK. I do.

Mr. HÉBERT. You may proceed as you desire, identifying yourself for the reporter.

TESTIMONY OF COL. ROBERT M. COOK

Colonel COOK. I am Colonel Robert M. Cook, currently assigned to Headquarters, USMACV, as Inspector General.

Mr. Chairman, I happened to be in Washington, on leave from Vietnam, when it was suggested that it might be helpful to you if I appeared before your subcommittee.

I have been in Vietnam continuously since August 20, 1967, and have served throughout that period as the Inspector General of MACV. Upon my reassignment to CONUS on November 1970 I will have served a total of 3½ years in Vietnam as the Inspector General. Thus I have some familiarity with the military environment in Vietnam before, during and after the Son My operation.

The facts with respect to the alleged incident at Son My have been developed as a result of the investigations that the Army and your subcommittee have conducted. I know of nothing new with respect to the alleged incident. However, I do have some information that may be of interest to the committee with respect to prevention, detection, investigation and correction of similar cases. Also, I can describe the means available in Vietnam for the reporting of incidents and grievances by the U.S. military and civilians, and by the Vietnamese military and civilians.

A primary aid to the commander in helping him prevent, detect, investigate, and correct illegal or improper incidents is his Inspector General. As you may know, the function of the General—normally referred to as the IG—is to inquire into those things which the commander himself would address if he had the time. The IG's interest is in mission performance, discipline, and adherence to orders, directives and announced policy. He accomplishes this function through inspections and analysis which are preventive in nature. In addition, he conducts inquiries and investigations which are fact finding and corrective in nature. The preventive measures and initial inquiries to identify problems are conducted within his own authority; however, he conducts investigations only at the direction of the commander and confines these to specific matters as directed by the commander. Investigations can be broadened or narrowed only with approval of the commander. This is a self-evident safeguard to prevent investigations from going off on tangents or becoming witch hunts.

Normally, matters of a criminal nature are investigated by the CID operating under the Provost Marshal, and security matters are investigated by the CIC, operating under the Assistant Chief of Staff, Intelligence. However, the IG can be directed to investigate any situation, condition, or element of the command.

In those cases where he is directed to investigate matters under the normal cognizance of another investigative agency, the investigation is usually aimed at determining wherein the overall system has failed.

The key to the entire investigation process is that some individual or some event must either trigger a suspicion or generate specific alle-

gations. Many investigations are triggered by a letter to a commander or Government official—or directly to the IG. It is obviously preferable that these be submitted to the commander or IG in a timely manner; however, regardless of the source or time, once it gets to the IG it becomes a case and is inquired into to the degree that the facts warrant—and where indicated, action is either taken or recommended.

As U.S. forces started the buildup in 1965, there developed a requirement for expanding the IG system within the theater—and also the need to establish an equivalent IG system within the Armed Forces of the Republic of Vietnam—or RVNAF. Based on General Westmoreland's recommendation to General Vien, the RVNAF reorganized its inspection/investigation system to one based on the U.S. Army system. This system was slow in getting underway, but began to become effective in the summer of 1967.

When I arrived in Vietnam on 20 August 1967, General Westmoreland gave me specific guidance with respect to the MACV IG system and his objective in establishing an effective IG system within RVNAF. He was very positive about the need for maintaining throughout Vietnam a complete U.S. IG structure—particularly a responsive complaint system. When I arrived I found that the component commands—and U.S. Army, Vietnam in particular—already had such a system in full operation. There were qualified IG's in the authorized positions throughout the command. In addition, acting IG's for purposes of processing complaints had been established for those units down to battalion level where full-time IG's were not readily available.

U.S. Army, Vietnam had established in 1966 an extensive IG inspection capability and was engaged in making routine annual inspections of its units.

A primary function of the IG at MACV—the joint command level—was to fill the gap in inspectional coverage and to insure that the complaint systems covered all elements in Vietnam. Accordingly, the MACV IG covered the advisory elements scattered all over Vietnam—for example, the advisory teams of the 44 provinces, 245 districts, 11 ARVN divisions, 4 ARVN corps, Vietnamese Air Force and Vietnamese Navy.

In accomplishing the mission given me, the MACV IG system was expanded in consonance with the buildup of the command. This included installing IG advisers in the U.S. advisory teams with the ARVN corps and divisions, as well as with the Vietnamese Navy, Marines, and Air Force. They act as advisers to their Vietnamese counterparts, and also handle IG matters for the U.S. advisory personnel—particularly in complaints and assistance.

Thus by the end of 1967, although there were some shortages of personnel in certain places, the IG structure throughout Vietnam was such that any individual who had a personal problem, or who felt he himself had been wronged, or who had knowledge of some dereliction, failure of command, corruption, or illegal act—did have readily available to him a means of bringing these matters to the attention of the agency whose traditional role is that of receiving and acting on such matters.

To insure that military personnel in Vietnam knew of the IG system and its availability to them it was MACV policy that this be included in their orientation upon arrival in country.

My office alone has handled approximately 800 complaints and requests for assistance per year from U.S. military and civilian personnel and from Vietnamese civilians. USARV and its subordinate elements handle on an annual basis something on the magnitude of 18,000 cases. These complaints have run the gamut from relatively petty to quite serious. They have come not only from the soldiers themselves but from other sources such as parents and friends. Only a small portion prove to have real substance.

As our involvement with Vietnamese forces and Vietnamese civilians increased, and both joint and combined operations became commonplace, MACV went a step further. We established a unique system of combined MACV/JGS inspections and investigations to handle situations that involved combinations of U.S. and Vietnamese personnel. This led to two innovations:

First was the use of combined MACV/JGS investigations of cases involving both United States and Vietnamese personnel. These culminated in combined bilingual Vietnamese-English reports submitted to the two commanders concerned.

Second was the use of an IG annex to the annual MACV/JGS campaign plan. This plan was developed jointly by the senior United States and Vietnamese headquarters, and was published over the signatures of both the United States and Vietnamese commanders. It laid out the operations to be undertaken during the coming year. During the development of this plan in 1967, for use in 1968, General Westmoreland insisted that an IG annex be included, and obtained the concurrence of his Vietnamese counterpart.

These unusual measures are indicative of the concern that the command had for the IG function in the peculiar circumstances in Vietnam.

Well before the Tet offensive in 1968 and the subsequent alleged Son My incident, we were engaged in inquiries and investigations that covered the complete range of activities within a combat theater. Many of these were generated by complaints made by individual U.S. military personnel, U.S. civilians and Vietnamese civilians. Some of these came directly to the IG; others were sent to General Westmoreland, Ambassador Bunker and Members of Congress.

One case in particular which has a bearing on the type of criticism which the Army has recently received occurred on the third day of the Tet offensive. By the third day of the offensive, the reported figures on enemy casualties were so high and in some cases conflicting that the question was raised as to the validity and effectiveness of the reporting system. On February 3, 1968, the MACV chief of staff directed that I make an inquiry to:

A. Identify any weaknesses in the system of reporting enemy casualties.

B. Determine the validity and effectiveness of that system.

By the second day of the investigation we had established that, due to lack of coordination within MACV Headquarters, there were unnecessary discrepancies between the figures being released to the press in Vietnam and those being forwarded back to Washington. This was reported and corrected that same evening.

Our continuing investigation of that matter involved going down through the chain of command to battalion level and established that

in the period from January 29, to February 5, 1968—contrary to allegations which we had been hearing—the whole matter of “body count” and “enemy casualty reporting” was being handled in an accurate, commonsense, practical manner by the lower commands in the field. Their figures were conservative as far as could be determined, and commanders were not endangering their troops by making body counts under conditions which would jeopardize the safety of their troops.

We did find that some discrepancies in figures developed as they were processed up the chain of command, through the two basic reporting channels—intelligence and operations—and that certain units had deviated from the prescribed reporting cycles—that is, cutoff times.

In summary, our investigation uncovered no evidence of false or exaggerated body count, nor the inclusion of civilian noncombatants in body counts. Significantly, of the larger number of units visited and personnel interviewed, no one came forward with any complaints, allegations, or information of a derogatory nature related to body count or indiscriminate killing.

During the period from February to June 1968, during which time the Son My incident allegedly occurred, we were engaged in numerous investigations that grew out of the increased activities of Tet—for example, alleged looting of marines in Hue, looting by Vietnamese troops in Saigon, combat destruction in Saigon and an unfortunate incident in which one of our Army helicopters during a fire fight shot into a building, killing some ARVN officers.

To the present date, we have continued to be engaged in investigations covering a broad range of situations.

During March 1968 and thereafter until receipt of the Ridenhour letter, there was no report or complaint made through the IG system to MACV with reference to irregularities at Son My. However, anyone, regardless of rank or position—U.S. military or civilian, Vietnamese military or civilian—could have triggered an investigation of the affair by coming forward and reporting it in person, or by submitting a letter to General Westmoreland or any inspector general serving the chain of command. In numerous other cases this occurred.

It is unfortunate with respect to the alleged Son My incident that the accusers delayed making their allegations known until they returned to the United States long after the event. However, once the allegations were made the investigation quite properly was originated in the States and our investigative role in Vietnam thereafter was one of supporting the various investigations. Our contributions to these investigations have been incorporated in the various reports.

In summary—a comprehensive command IG system was created in 1965 and greatly expanded in scope and capability as our troop strength was increased. This system included an IG structure extending throughout the chain of command, manned by specially designated IG personnel. It encompassed the full range of IG activities—inspections, complaints, investigations, and orientations. Thus the total system permitted any one to register his complaints, report illegal acts, or seek redress of grievances.

I hope this explanation has been helpful to you, Mr. Chairman. I will now be happy to answer any questions you may have.

Mr. HÉBERT. Thank you very much, Colonel. It has been most helpful in compounding the puzzlement, in view of the testimony we have and also the testimony of General Westmoreland.

In your statement, which is the blueprint of the plan you hoped would be executed, you tell the committee you anticipated some errors, some leaks, some weaknesses in your mechanism. You proceeded to close those weaknesses up, those gaps, and as early as a month before the incident occurred you found that everything was in good order.

Colonel COOK. That is correct. For that timeframe.

Mr. HÉBERT. Then this is the timetable: Around February you heard allegations of body counts, wrong systems, and you checked out and found not only the system was working, but you find to your satisfaction that there had been no discrepancies or violations, except in rare instances, unit counts. Yet within a month's time, if these allegations are true—and we are not making that judgment in this committee—how can you as Inspector General, with your experience, your background, your knowledge, explain how this could have been kept so quiet for so long, known to many people? That is the committee's puzzle.

You had three avenues of reporting, as General Westmoreland told us, three avenues. Yet, the information was chopped off, and all of a sudden after the Ridenhour letter, which, even if it were hearsay matter, the hearsay had to come from somebody who saw so many things they never talked about, the floodgates open. And how can you explain that?

Colonel COOK. We have given considerable thought to that, over there. Your committee probably knows much more in this case than I do, since our role, once the investigation started, was one of helping support the investigating activities. We have not seen all the evidence which all the investigative activities have viewed, neither the Inspector General, CID, nor the Peers committee. We have only seen certain volumes, not the whole evidence, whole testimony. So I am not in a position to judge any of those investigations.

However, with respect to the reporting of the incident, I can only say that insofar as the MACV IG System is concerned, it was not reported up through the IG System to my office.

Mr. HÉBERT. But the IG System was part of MACV, and that had three prongs leading to the one. It has three avenues of approach leading to MACV, and MACV says it never heard of it.

Colonel COOK. Yes, sir. I consider this a failure of ourselves, and what compounds the failure is that in May 1968 I had an inspection team in the 12th DTA, the 12th Division Tactical Area, the area of the 2d ARVN Division. I had an inspection team there inspecting the advisory team of the 2d ARVN. It also inspected Quang Ngai Province and the district of Quang Ngai Province. That was in the period of May 1 through 7, 1968.

Any individual on the U.S. side in the 2d ARVN Division advisory team, or any individual in the province or district, could have come forward and voiced his suspicions, or beliefs, or repeated rumors, or could have made a complaint, and it would have been received and acted upon. We received eight complaints when our personnel were there. They were basically trivial, personnel-type of affairs. No one came forward with atrocity-type of information.

Mr. REDDAN. Were they asked about that particular problem?

Colonel COOK. They were not asked about it because we were not aware of the Son My—

Mr. REDDAN. No. Were they asked about, for instance, the mistreatment of POW's, mistreatment of civilians, civilian casualties, or war crimes? Were they asked about anything like that?

Colonel COOK. Yes. It is routine to ask about these things in the course of inspections.

Mr. REDDAN. Do you know whether they were in this case?

Colonel COOK. I cannot categorically state they were. But I am fairly certain they were. I oriented the inspection teams, and this was a routine thing.

Mr. REDDAN. Did the team submit a written report to you?

Colonel COOK. Yes, sir. We had a complete written report. The subject of Son My did not come up.

Mr. REDDAN. Did you review the reporting submitted by the inspection team that went up there?

Colonel COOK. Yes, sir.

Mr. REDDAN. Do you recall if there was anything in there to establish whether the inspection team made inquiry as to the possibility of civilian casualties, war crimes, mistreatment of prisoners, anything of that sort?

Colonel COOK. There is an indication that they reviewed reports. I have the inspection report here right now, if you would like to see it.

Mr. REDDAN. Yes. May we see it, please?

Colonel COOK. Yes, sir. I have negative information.

For example, they address the subject of the command relationship. They address the subject of the reports. They have listed some 12 types of reports which the Quang Ngai Province had to submit in May, and those types of reports are routine, repetitive reports addressing the Viet Cong terror campaign, hamlet administration report, provincial economic restrictions, regressed hamlet reports, refugee casualties, district reports, manpower reports, special report on casualties, public health, that type of thing.

Mr. REDDAN. Did you say there was a special report on casualties? What is that?

Colonel COOK. The point is, the inspection team inquired into these reports and examined them, to the best of my knowledge.

The significant point is—this is, of course, 2 years after the fact—they did inquire into this, and nothing reached the inspection team with respect to Son My by their review of the reports of Quang Ngai. Not only did not the reports reflect it, but no individual reflected any concern.

Mr. REDDAN. Does it say who was interviewed, in that report?

Colonel COOK. This type of report does not do that. Would you like to see this report?

Mr. REDDAN. Yes, please.

Do you have a report that shows who was interviewed?

Colonel COOK. It is normal IG procedure that the team spends time with each office. The chief of each staff section, plus representative personnel within the staff sections, are interviewed, their records checked, and they are questioned, in terms of the performance of duty.

Mr. REDDAN. No. As part of the permanent in-force IG personnel.

Colonel COOK. My team? No, sir. My team starts with the commander and goes to every element of the commander.

Mr. REDDAN. They don't just talk to your IG representatives in the area?

Colonel COOK. No, sir. No, sir.

Mr. REDDAN. How many IG personnel did you have in Quang Ngai Province as of March and April 1968?

Colonel COOK. As part of the inspection team?

Mr. REDDAN. No. As part of the permanent in-force IG personnel.

Colonel COOK. The only individual we had there, was—it might be better if I explained it further. Would it?

Mr. REDDAN. I just want to know the person who was up there.

Colonel COOK. In the area of the 12th DTA we had one adviser with the 2d ARVN Division. I don't recall his name. I can ascertain it.

Mr. REDDAN. Would you, please, and supply it to us?

Colonel COOK. Yes.

Mr. HÉBERT. Mr. Gubser?

Mr. Dickinson?

Mr. DICKINSON. Getting back to what Chairman Hébert asked you before: How could this possibly have occurred, how could every check in the safeguard system have failed? Do you have any opinion on that?

We know it did. We know that an incident did occur that should have been reported. We know that you had the facilities for having it reported, if it had come to you; and there were other backups, or parallel systems to this.

It occurred, it was not reported. And you don't feel this is an indictment of the system? You feel the system as set up still works, do you not?

Colonel COOK. Sir, what is not understandable about this is that if you analyze any situation that happens in a combat environment in Vietnam, there are anywhere from 8 to 10 channels through which information about irregularity can be reported up the chain of command. You have the command channel, and you have the various staff channels—personnel, intelligence, operation, even logistics.

You have the special staff channels, you have the chaplains, the surgeons.

In addition you have artillery support, aviation support.

It is one we do not really acknowledge, but you even have the press; generally you have the press in every active area.

Here you have a situation where none of this got up the chain of command.

I hesitate to address, really, Son My, because so much has been written about investigations, and there have been—the investigations have gone into greater detail than I have been authorized to go, because I have only been in a supporting role.

But the one thing that cannot be ignored is that each individual on a battlefield sees only a piece of the puzzle. It is very easy for an individual to see one piece of a puzzle and think something may be wrong, but not know what has happened at the other segments of the battlefield, and can very well discount the bad thing he sees, and he can go for some period of time without having these various facets pulled together.

The other aspect of the thing which I think could be somewhat disturbing is that the memory of people 2 years after an event all of a

sudden becomes very clear and very precise on things which from my own experience based on similar types of situations had they been interrogated shortly thereafter they would probably have been much more confused about things. Perhaps their positiveness would be less in, say, late March, April, and May 1968 than it is today.

As to accounting for this, I can only account for it by the fact that A thought B was doing something about it, B thought C was doing something about it and C thought A was doing it. Possibly it fell through the cracks because certain people thought other people were doing something about it. However, that is only speculation on my part. I do not feel really qualified to prove that, and I do not believe I could prove that.

But my experience in handling some 148 other investigations in Vietnam makes us very suspect—correct that, not suspect, but very cautious, in the use of very, very precise descriptions of times, dates, and events that occur in such an environment.

Mr. DICKINSON. Well, I don't see how this thing could have not been reported and not been learned of at MACV without some deliberate effort on the part of someone, or some group of people, to suppress it. I just cannot rationalize it any other way.

I don't know how intimately you were acquainted with this particular investigation, as to whether you feel you could give a valid opinion or not. That is the only thing that could come to my mind as to a reasonable explanation of how it could occur.

Colonel Cook. Sir, may I offer one other point?

That is that I was there during that period of time, and the environment of the period of February through about June in Vietnam has got to be taken into consideration.

Mr. DICKINSON. Yes.

Colonel Cook. This was the period of the highest activity, from one end of the country to the other. In that particular area, in the I Corps area, there was heavy involvement in the DMZ. In my own case I was personally involved with matters pertaining to Hue. Nothing that I have knowledge of, those things that I was involved in, in any way attracted our attention to the 12th Division tactical area, to this particular area in particular.

We have very extensive records in my office, of those things, in our files. And we made searches to find some indication of something that could have tipped us off and that we had overlooked.

I referred to the fact that in May 1968 I had a team up in the 2d ARVN Division in Quang Ngai, provinces and districts.

In July of the same year the U.S. Army-Vietnam had a 33-man inspection team at the Americal Division. That was about 2½ months after the events. I don't have a copy of that inspection report. But the information that I received is that they received no indication of this type of thing, nor did they receive any complaints. Incidentally, some of the people who are talking about this today were still with the Americal Division at that time; so they had an opportunity to come forward and present information at that time.

Mr. DICKINSON. Would the natives be more likely to report this to ARVN troops, than would Americans?

Colonel Cook. Yes, sir. I can cite an example. I was caught on rather short notice about coming here, so I asked for some information to be

sent to me from Vietnam, and one thing I brought is summaries of investigations. One of the things that is significant is that many people are not aware of the degree to which we receive an action, letters of allegations, signed and unsigned. I have had records checked. Out of 148 investigations, which really covers late 1967 up to the present date, out of 148 investigations, 73 were triggered by letters. I have not had a chance to go back and check, but I think we could establish that. The vast majority of these letters were from Vietnamese civilians. They were from, say, the fisherman's union, which goes through governmental channels and gets from the Minister of the Interior to my counterpart, over to us, and the matter is investigated.

With respect to looting and destruction, 17 of 18 investigations were triggered by letters.

With respect to illegal, criminal or undisciplined acts 23 out of 35 investigations were triggered by letters.

Matters pertaining to corruption, theft, fraud, contracts, this sort of thing, 21 out of 40 were triggered by letters.

Administrative matters, procedural, bureaucracy, 21 out of 35 were triggered by letters.

Those relating to combat operations all came from the command source; 11 of those investigations were triggered by directives from the commanding general for me to find out what happened. Those relating to morale and discipline, 10 out of 19 were triggered by letters from someone who thought something was wrong with the morale of a certain organization.

So the system is there. Roughly 50 percent of our investigations are triggered by someone coming forward and saying they think something is wrong.

Unfortunately, that did not happen in this case.

Mr. DICKINSON. Yes. It is one of those incomprehensible things, and probably unsolvable.

Thank you, Colonel Cook.

That is all I have. Mr. Chairman.

Mr. HÉBERT. Mr. Reddan.

Mr. REDDAN. Colonel, this report you gave us here is for the period May 10 through May 13, 1968. When was the next prior report to this one?

How often did you make these investigations?

Colonel COOK. That inspection was the first formal inspection of that area. We initiated this inspection system in the fall of 1967. Prior to that—correction. It was done as an IG visit, which—they use a different technique. However, this particular area was visited and a comprehensive visit was made, similar to an inspection, in 1967. The exact date I don't know. I would have to get that.

Mr. REDDAN. Was there any inspection or any visit between March 16, 1968, and this one of May 10 through 13?

Colonel COOK. No, no.

Mr. REDDAN. Where was your man stationed? Was he in Quang Ngai?

Colonel COOK. No, sir. The major would be with the 2d ARVN Division.

Mr. REDDAN. Where would that have been?

Colonel COOK. Correction, he would be at Quang Ngai, where the 2d ARVN Division Headquarters was. But he would be working for

the colonel who was commanding officer of that advisory team to the 2d ARVN Division.

Mr. REDDAN. Did he have anything to do with the refugee program, or the Psy Ops?

Colonel COOK. No.

Mr. REDDAN. But your inquiry covered Psy Ops operations?

Colonel COOK. Yes.

Mr. REDDAN. Why didn't your representative there have any responsibility?

Colonel COOK. Because the major is assigned to the 2d ARVN Division Advisory Team and Quang Ngai Province had no involvement with the 2d ARVN Division. Quang Ngai Province Advisory Team was part of the CORDS structure.

Mr. REDDAN. Is it CID which has the primary responsibility to investigate such incidents as My Lai, or IG, or CID, or who?

Colonel COOK. That is covered by MACV Directive 20-4. Such situations are supported to be reported to MACV, as suspected war crimes, and the responsible level of command starts an immediate investigation. War crimes, atrocities, are defined, of course, as criminal acts, and there would be an initial commander's investigation to find out what happened. In the case of a single isolated incident it could go directly to an Article 32(b) investigation, or if a very complicated case, as was alleged to have happened at My Lai, which would require a greater criminal investigative capability, the CID would be brought in to do that type of investigation.

Mr. REDDAN. Here you say that nobody reported this to the IG. Was there any requirement that they do so?

Colonel COOK. No, sir, no direct requirement.

Mr. REDDAN. Would they normally bring anything to the IG's attention?

Colonel COOK. The normal reporting would be up through command channels and if someone felt there was a war crime committed they were obligated under the provision of MACV Directive 20-4 to report it to MACV, to the Staff Judge Advocate.

Mr. REDDAN. Did that extend beyond the commanders?

Colonel COOK. I do not understand.

Mr. REDDAN. For instance, was a private in the ranks required to report to MACV or does he report up the chain of command?

Does not 20-4 put the burden on the commander, to report?

Colonel COOK. The commanders, yes. However in the case of a private, take any individual who had knowledge, if he felt that his commander had not done anything about it, if he was concerned about whether or not his commander acted properly, then the most effective means for him would be to refer it to a higher level commander or IG.

In other words, he should have jumped channels to the next higher echelon, IG, or sent it to General Abrams, or in this case General Westmoreland, or to any IG in the chain of command.

Mr. HEBERT. When you refer to the "chain of command," is not the IG the one individual who is available, regardless of chain of command, to any individual in uniform?

Colonel COOK. That is correct, sir.

Mr. REDDAN. Is this made abundantly clear to the troops?

Colonel COOK. That is correct, through MACV 20-1, for which I have staff responsibility, paragraph 5(a) requires that all compo-

ment commands keep their personnel oriented on the availability of the IG system, type of services, and availability. It prescribes that at every headquarters certain bulletins be placed on the wall there at any time they call for it. In this regard also, I might add, although technically by virtue of the level of activity there is no real requirement for it, I require a full-time duty officer to be present in Saigon 24 hours a day to receive any calls coming from individuals in the field.

Mr. REDDAN. Did you make any inquiries to determine whether or not this information, this directive, is getting to the enlisted men?

Colonel COOK. Yes, sir. This is a standard requirement, that in IG visits and IG inspections—this is one of the things the IG teams check. This is in our field. We would be obviously very conscious of whether or not they comply with our instructions.

Mr. REDDAN. Was that covered in your May 1968 inspection?

Colonel COOK. Yes, sir.

Mr. REDDAN. Where would I find that in there?

Colonel COOK. Well, unless it is a negative sort of thing—if they failed to do so we would comment. If they did it we would not comment on the fact they do it.

Mr. REDDAN. Is there any way you can tell that your inspectors actually inquired into that?

Colonel COOK. I doubt it, from looking at the report. This is just one of the things that is required that they do.

Mr. HÉBERT. But you don't know whether they do or do not?

Colonel COOK. I don't have them come in and sign a certificate.

Mr. HÉBERT. If they don't do it, you don't know. You assume they do it.

Colonel COOK. Yes, sir.

Mr. HÉBERT. Colonel, let me say this, stretching beyond what we are concerned with now. Those of us who have been on these committees for years, and have been participants in other types of investigations find this: The Army, or the military, let me just say the military, comes in, in various areas of controversy, or misunderstanding, and we always have the regulations thrown in our face. But it doesn't mean the regulations are followed.

Colonel COOK. On every team one individual is designated to receive complaints. We notify the units in advance when we are coming, of these things. They set a time and place where they are to have a complaint session. This man, by SOP, is supposed to check, in addition to his other duties he is to check on whether his availability has been publicized; second, have they routinely exposed this information where people see it. By SOP they are required to check this. They would not comment on it in a report unless they noted a failure.

Mr. HÉBERT. It is assumed they ask, but you don't know it as a fact.

Colonel COOK. That is correct.

Mr. HÉBERT. So that is a weakness of the system.

Mr. REDDAN. Colonel, on February 21, 1968, General Kerwin sent a message to all U.S. Forces in Vietnam on the subject, "Mistreatment of detainees and prisoners of war."

Are you familiar with that?

Colonel COOK. Yes, sir.

Mr. REDDAN. The first paragraph of that message reads :

Extensive press coverage of recent combat operations in Vietnam has afforded a fertile field for sensational photographs and war stories. Reports and photographs show flagrant disregard for human life, inhuman treatment, and brutality in handling of detainees and PW's. These press stories have served to focus unfavorable world attention on the treatment of detainees and prisoners of war by both ARVN and 3 MAF. These actions will not be condoned * * *

Et cetera.

In view of MACV's concern with mistreatment of detainees and prisoners of war, did the IG office make a specific effort to inquire into incidents of this sort ?

Colonel COOK. First you must understand that for us to investigate I must be called in by the Chief of Staff, or the commanding general, and directed to investigate. I have no authority to investigate on my own.

I do have authority in that where something appears to be wrong, in case of a specific area, I have authority to make an initial inquiry to the degree necessary to find out if there is any substance there, or find out the degree to which this must be investigated, and then if it must be investigated I have to go to the commanding general and call it to his attention.

We did not make an investigation related to that type of message at that particular time. We were not directed to do so.

Mr. REDDAN. Would you have to be directed to do so ?

Colonel COOK. I would have to be directed, or something would have to call this to our attention.

Mr. REDDAN. My question is, Colonel : Did you try to find out whether or not the reports required by the regulation of MACV's directive, and this message of General Kerwin—were these reports being made ?

When your teams went out in the field, did you say something to the effect :

You know MACV is greatly concerned about these conditions referred to in General Kerwin's message. Now, has anything occurred or have you heard anything that you feel should be reported ?

I am not saying you should investigate the incident. But did you have a requirement to investigate whether incidents were funneled through to MACV ?

Colonel COOK. I think I understand. This message went out in February. In February there was a big battle going on. So inspection was stopped for a brief period of time, and did not resume until March. In order for the inspection team to carry out its function, it has to find out the current mission of the outfit, what they have been doing, what they are supposed to be doing, what they plan to do, what their problems are. They check reporting, this sort of thing.

Mr. REDDAN. What was the big battle ?

Colonel COOK. Tet.

Mr. REDDAN. Wasn't Tet over by that time ?

Colonel COOK. No, sir. This is a big misconception.

Mr. REDDAN. Hadn't they been driven out of Quang Ngai by then ?

Colonel COOK. Maybe out of the city. But Saigon—there was considerable military activity in the Saigon area from the beginning of February 1, from the 31st of January, maybe, until as late as June.

There was intensive combat activity going on. This is another factor which tends, I believe, 2 years after the fact—perhaps it has been forgotten by now. The level of activity in that area was small compared with what was going on in the rest of the country. The focus of attention was not in that area.

Mr. DICKINSON. What is the Chinese area in Saigon?

Colonel COOK. Cholon.

Mr. DICKINSON. It was almost June before they were able to open that up again. Did not the VC control that area from the initial assault of Tet, for a long time?

Colonel COOK. There was activity on the outskirts of Saigon, the Cholon area, up through, as I recall, late May and June.

In fact, we ran two investigations related to that type of thing. There was one investigation where, in the fighting in Cholon there was a situation—the Ranger Battalion was doing the fighting, but used helicopter gun support. And a couple of Vice President's Ky's friends were in the command post and were killed.

Mr. DICKINSON. Some friendship.

Colonel COOK. Yes, sir. And the press put this in terms of a conspiracy. We ran a combined investigation with our Vietnamese counterparts, and in the course of that we conclusively established that there could not possibly have been a conspiracy, as alleged in the press. It was a malfunctioning rocket, and we were able to prove it.

It was in the same period of time that there was heavy destruction in Saigon, after about 3 months of activity, and we were directed to make an investigation to determine what had actually occurred in terms of destruction, to what degree was destruction rampant, what was the operational cause for such destruction.

But the basic point I was trying to get across is that from February through June—there was considerable activity around there.

Mr. HÉBERT. In May you say you sent the team into this area, 2 months afterward?

Colonel COOK. Yes, sir.

Mr. HÉBERT. If I may follow through what Mr. Reddan asked you, did that team, going into the area where allegedly this occurred specifically address itself to the very first paragraph in Kerwin's communication? Now, this is 2 months afterward, in the area where it is alleged to have occurred.

Colonel COOK. I am confident it did, sir. It would be difficult to prove. The only way I could prove it would be to locate those investigators.

Mr. HÉBERT. The reason you are confident it occurred is because the regulations say it should have been done, and you assume it was done?

Colonel COOK. Yes, sir. I trained these men, I had confidence in their ability. I am confident that these people inquired into all aspects pertaining to the mission performance of those activities and determined whether or not they adhered to regulations. Whether or not these—

Mr. HÉBERT. What seems fantastic to me is the fact that they did specifically quote from this, and inquire specifically into instructions in the Kerwin communication, and at that time, if those specific questions were asked in the area where it is alleged they occurred, nobody knew anything about it, and 2 years later everybody knew all about it.

Colonel COOK. I might add, in addition to my inspection teams being in there, the Joint General Staff IG had inspection teams up there after this event, and they did not pick up anything. No one reported to them, either.

Mr. HÉBERT. This is probably one of the most fantastic stories of any war at any time, that in something like this, if it did occur, or even if it did not occur, even the allegations were not touched on by these expert, well-trained investigative teams. It is fantastic.

Colonel COOK. That is correct.

Mr. REDDAN. Colonel, do you know where any of these inspection team members are now? Colonel Brooks, Colonel Brandon, Major Reed?

Colonel COOK. All these personnel are somewhere here in CONUS, I am fairly confident.

Mr. REDDAN. Not with you?

Colonel COOK. No. They have been gone 2 years.

Mr. REDDAN. Do you know whether any of them looked into these matters and raised questions that should have brought out this information?

Colonel COOK. No, sir.

Mr. DICKINSON. You are in Vietnam now?

Colonel COOK. Yes, sir.

Mr. DICKINSON. You have been there how long?

Colonel COOK. Three years in August.

Mr. DICKINSON. You get over here a month every 3 years?

Colonel COOK. No, sir. I was able to move my family to Clark Air Base, Philippines, and get back once a month, as part of that arrangement.

Mr. REDDAN. You say from February to June 1968 you were engaged in numerous investigations—this is on page 8 of your statement—and one of the incidents there is one in which an Army helicopter, during a fire fight, shot into this building, killing some ARVN officers.

Did you conduct any investigations with respect to the killing of Vietnamese civilians, in battle?

Colonel COOK. No, sir.

Mr. REDDAN. Did you have any such allegations?

Colonel COOK. No, sir.

Let me clarify a point. If Vietnamese civilians had become involved in a battle and, say they had been killed, it either falls in a clearly accidental type of thing, or would have an aspect of deliberate or indiscriminate action, and in that case it would be a war crime, or atrocity. This would be a command matter, to be reported to MACV under MACV Regulation 20-4, and the subsequent investigation would relate to the isolated criminal act.

Now, we would have gotten involved in such an investigation only if there was some suspicion in terms of either if it was a matter of command, or a matter of failing to adhere to the operational orders or dereliction, if it was an aspect of command, as opposed to a single isolated criminal or stupid act—criminal act, something of that kind.

So in essence, to answer the question, we were not given a directive to make such an investigation.

Mr. REDDAN. Did you have a continuing interest in the accuracy of body counts? You were looking into that in February, as I understand it.

Colonel COOK. Yes, sir. I think the IG interest in body count was at its peak during the period January through June, and after that there was less interest continued in that. The press began to lay off it, nothing attracted attention with respect to body counts. And I would say from after June I would think in all honesty the IG interest in body counts became less.

Mr. REDDAN. Do you know whether or not your inspection team to Quang Ngai in May made any inquiries with respect to body count reports, their accuracies or inaccuracies?

Colonel COOK. I cannot positively state that. You will notice on the first page they did look into this reporting of refugee casualties, civilian casualties, things of that nature.

Mr. REDDAN. Do you know which reports were reviewed?

Colonel COOK. All I have here is what you see there, the title of the reports. I think those were the reports that go up to MACV through the CORDS structure.

Mr. REDDAN. Do you have copies of those reports?

Colonel COOK. No, sir. These go through the civilian administration and the advisory structure from District, Province, to the CORDS.

Mr. REDDAN. Are copies of these sent to your office in Saigon?

Colonel COOK. No, sir, no, sir.

Mr. HÉBERT. Mr. Lally.

Mr. LALLY. Colonel, did you have a man stationed at Americal Division Headquarters in March 1968?

Colonel COOK. There was an IG assigned to the Americal Division.

The position of an IG in the Army units are called the T/O & E positions. These IG's are assigned through the Army replacement system, selected by the Inspector General of the Army, trained by the Inspector General, and their records screened by the Inspector General, and he is assigned through the replacement system to these positions.

In the case of the Americal Division I don't know of the name of the incumbent, because that falls under the component command, U.S. Army, Vietnam.

The position of this man—as you know, he is a confidential agent to the commanding general. He works for the commanding general, not for me.

Mr. LALLY. Commanding general of the division?

Colonel COOK. That is correct. That is an important aspect of the system. The IG system is a decentralized system, the IG exercises no jurisdiction over the man below him. That man owes his loyalty to and responsibility to his immediate commander.

I know there was an IG there. I don't know his name.

Mr. LALLY. When the matter was referred in 1969 for investigation it went to your office for investigation?

Colonel COOK. No, sir. Let me clarify that.

The basic sequence of events relating to the alleged Son My incident is that the Ridenhour letter, I believe, reached the Congress first, and eventually then got over to DA.

About May 16 I received a message from the Department of the Army Inspector General requesting me to get information for them with respect to the psychological operations that occurred in a certain area of the Americal Division, which turned out to be this grid square [indicating].

On June 3 we received a second request, where they wanted us to locate certain interpreters, and other details, you might say leg work.

At that time we went back and posed the question: If there is something brewing in terms of a comprehensive investigation, what are the allegations, what is this about? Give us the full requirement, so we can do it all at one time.

They came back, quite properly, with the fact that the nature of the case was such that the witnesses are in the United States, and a decision had been made that investigation would be done by the Inspector General's Office in Washington, and our only requirement was to respond to their requests for task-type work.

In providing them the information they required we were in contact with the U.S. Army Vietnam IG and found that they, too, had been given some requirements. So thereafter we worked in coordination to provide responses to the DA IG.

Mr. LALLY. These were all specific tasks?

Colonel COOK. Yes, sir.

Mr. LALLY. At the time of your May 1968 inspection team's trip to Quang Ngai, would that team examine the files and correspondence of the advisory teams?

Colonel COOK. Yes, sir.

Mr. LALLY. Would they be looking for atrocity allegations?

Colonel COOK. They would look for anything out of the ordinary. They are not so naive as to go there and believe everything people tell them. Because people don't tell IG's a lot of things. They have a problem, in the course of inspection, to compare what people tell them about how good things are, against making routine checks of the records to see if that substantiates that things are as good as they are described. So they do check records and check consistency of what people report versus what they seem to be.

Mr. LALLY. Did the inspection team in 1968, in May, learn of any atrocity allegations in the area?

Colonel COOK. No, sir. They did not.

Mr. LALLY. Nothing in the files of correspondence of these units would indicate that there had been atrocity allegations?

Colonel COOK. No, sir, nothing.

Mr. REDDAN. At least nothing was reported to you?

Colonel COOK. It is quite possible an inspector looking through the file could see a piece of paper and not understand the full impact of what he has read. Anybody can do that. This can occur.

But I am confident had they seen any indication they would have reported it to me, because in other cases they have reported these things to me.

Mr. LALLY. When you were receiving these specific task requests in 1969, was there among those tasks any request that you examine the files of the Americal Division and/or 3 MAF, to see whether there was any report of atrocity allegations?

Colonel COOK. The initial investigation task went to USARV. And they were looking for this, and so were we.

Mr. REDDAN. What investigation?

Colonel COOK. I think he is referring to an investigation within the Americal Division.

Mr. LALLY. That is correct, sir.

Colonel COOK. And I would have to check my papers. I think USARV, to the best of my knowledge, did find the so-called Herderson paper.

Mr. LALLY. Were you requested, Colonel, to check at 3 MAF headquarters to see whether there was any indication of a report to that headquarters?

Colonel COOK. May I check my report here?

Mr. LALLY. Certainly.

Mr. REDDAN. Perhaps you could just read into the record the specific tasks that were assigned to you in connection with this.

Colonel COOK. Right. That is what I am trying to find.

What we were told to do, we were requested to determine the facts—wait a minute.

This is a restatement, not exactly as we have received it from Washington.

Mr. REDDAN. When did you receive it, and from whom?

What is that document?

Colonel COOK. It is based on a message of May 16, 1969, from the Inspector General, Department of the Army.

Mr. REDDAN. What is that document?

Colonel COOK. It is a copy of the report of inquiry we sent back to the Department of the Army. This went from my office to the Inspector General's office.

Mr. REDDAN. What is that date?

Colonel COOK. June 27, 1969. This is just detail work. They wanted information on the psychological operations conducted by or in support of the Americal Division from March 1 to 20, 1968, in the vicinity of BS7-187 to include Psy Ops targets, types of Psy Ops dissemination, and the campaigns.

Mr. REDDAN. They didn't tell you why they wanted it?

Colonel COOK. No.

Identify the targets for psychological operations conducted by or in support of the Americal Division vicinity of BS7-187 during the period March 1 to 20, 1968.

Third, determine what campaigns were conducted by or in support of the Americal Division, vicinity of BS6-187 during the period March 1 through 20, 1968.

Item four was: Obtain copies of three psychological warfare leaflets No. 7-202-68, subject: "Don't Run from U.S. Forces," P-235-68, subject: "Bombs Not Leaflets," and 7-238-68, subject: "Don't Wait to Die."

The last item was they wanted us to determine whether or not there were any operations which advise indigenous personnel to evacuate the area during the period March 1 through 20, 1968.

That was just leg work we were doing, you see.

Mr. REDDAN. You say you were looking for the Henderson report?

Colonel COOK. That is what I am trying to find.

Mr. REDDAN. I see.

Colonel COOK. We completed the second item on July 8, 1969, based on a message from the Inspector General dated June 3, 1969, and also one dated June 17, 1969.

Mr. REDDAN. What did he ask you to do, there?

Colonel COOK. Twelve things:

1. Obtain copies of all ground photography taken during the period March 16 to 19, 1968, in support of Task Force Barker, Americal Division.

2. Identify the photographer that accompanied Task Force Barker during March 1968.

3. Obtain a copy of Lieutenant Colonel Barker's formal investigation of the My Lai 4 incident.

4. Obtain a copy of Colonel Khien's investigation of a similar My Lai 4 incident.

5. Obtain a copy of the MACV and USARV Rules of Engagement that pertain to ground operations and the Army-Air Force close air support.

6. Determine the whereabouts of Sergeant Phu, an interpreter assigned to Company C of the 1-20 Infantry, Americal Division, in March 1968.

7. Obtain a copy of the map of Quang Ngai Province that includes grid coordinates BS718788.

8. Obtain vertical photography scale 1:1000 to 1:3000 of grid coordinates BS718788 prior to and immediately after the period March 16 to 19, 1968.

9. Furnish a description of My Lai 4 hamlet, as of March 1968.

10. Determine the number of huts destroyed at My Lai 4 hamlet during the period March 16 to 19, 1968.

11. Determine the habitation of My Lai 4 hamlet immediately after March 18, 1968.

12. Obtain a description of the combat assault operation conducted by Task Force Barker, 11th Infantry Brigade, Americal Division, in vicinity of grid coordinates BS718788 during the period March 16 to 19, 1968.

So that is what we were given to do.

Mr. REDDAN. Did you ever find the Henderson report or the Barker report?

Colonel COOK. Gentlemen, now I have to talk from memory.

As I recall, there was no Barker report. The report that was found was a two-page letter type of report, signed by Colonel Henderson, and right now I don't remember whether we found it or USARV found it. I think USARV found it.

Mr. REDDAN. But you found no evidence of a Barker report?

Colonel COOK. As well as I recall, we did not find any.

Mr. LALLY. Do you know whether anyone was ever requested to check at 3 MAF Headquarters to determine whether any report of this atrocity allegation had been made to that headquarters?

Colonel COOK. I will have to refer to this [indicating file]. But as well as I recall the investigator I sent up there—I know he went to 3 MAF.

Mr. LALLY. Colonel Whitaker?

Colonel COOK. No; I sent a Colonel Sheehan. Colonel Whitaker was from USARV.

Mr. REDDAN. Do you recall Colonel Sheehan's first name?

Colonel COOK. No; I can find out. William D. Sheehan.

Mr. LALLY. You say Colonel Sheehan went to 3 MAF Headquarters?

Colonel COOK. I would have to check the file. I am positive he did, because I recall his returning and briefing me on the results of it.

Mr. LALLY. Did you, or anybody, check the MACV files to determine whether any type of report had ever been made to that headquarters?

Colonel COOK. Yes; in the course of digging this up we went through the COC—the MACV files, in fact the files of the entire chain of command have been checked many times. They have been screened many times, to find any evidence. It was done in support of the initial IG investigation, it was done, I presume—I cannot vouch for it—during the CID investigation. And I know it was done during the course of the Peers investigation. So the files have been sifted to a great degree.

Mr. LALLY. And there was no indication that any of these reporting channels sent any type of report to MACV Headquarters?

Colonel COOK. In those tasks we were given to do, as well as I recall, we found nothing of that nature.

Mr. REDDAN. What was Colonel Sheehan's report to you on his findings at 3 MAF?

Colonel COOK. That is the point. I would have to go through this file here to find out. I am not really competent to state what he found at 3 MAF. I am dealing from memory with something that was very obscure at the time. When I return to Vietnam I could probably check the files and find out.

Mr. REDDAN. Do you have a report there from Colonel Sheehan?

Colonel COOK. Yes, sir, I have the report we submitted to the Department of the Army.

Mr. REDDAN. Does that cover his visit to 3 MAF?

Colonel COOK. It doesn't mention 3 MAF. I was just scanning through it.

The reason I would be willing to say that he did go to 3 MAF is because protocol would require that he go to 3 MAF.

In other words, to go down within the chain of command he would have to check through 3 MAF.

Mr. REDDAN. You mean he may have stopped by to say hello?

Colonel COOK. He would have to tell them what he was after. And you could presume that he would have asked them if they had anything on this subject.

I don't have the records here to prove that this materialized, however.

Mr. REDDAN. Colonel, if you want to just step outside and go through your reports and see if you have something there for Colonel Sheehan which will indicate what, if anything, he was looking for at 3 MAF and what, if anything, he found, you can go down to one of the offices, and we can take another witness, and then you can come back in.

Colonel COOK. All right.

[Witness temporarily excused, 11:25 a.m.]

[At 11:46 a.m., Witness Cook returned to the hearing room and testified further as follows:]

Mr. HÉBERT. Did you find it, Colonel?

Colonel COOK. No, sir, I find no indication that he did or did not.

Mr. REDDAN. Colonel, do you think that in your office in Saigon you have a more detailed report from Colonel Sheehan as to what he did up at 3 MAF?

Colonel COOK. I don't know. I could check.

Mr. HÉBERT. When are you going back, Colonel?

Colonel COOK. As soon as I get through here. I was headed back last week, when I got sidetracked.

Mr. HEBERT. Could you look through your records?

Colonel COOK. Yes.

Mr. REDDAN. To see if there is anything by Colonel Sheehan or any of your investigators, to indicate what efforts they made to determine what happens to these transmission lines, how far up the line these things got?

Colonel COOK. Yes; I did stumble across something else in the file, in going through, that I have a little problem with. You know an IG file, they are very sensitive about, privileged, so forth. But I did come across something here I think is germane. When Colonel Sheehan went up to get this information he interrogated three people.

It was a low key thing, we were only seeking certain information, and we had no indication of the full scope of this at the time. So it was sort of—but he interrogated the deputy G-3 of the Americal Division; Colonel Khien, province chief of Quang Ngai; and Captain Tan, district chief of the Son Tinh District. While I was outside there looking, one of the things that stood out is that—Colonel Khien, you will recall, was widely quoted 2 years, or 1½ years, after the fact. He was sounding off in the press. And incidentally, to interrogate a Vietnamese we have to have a Vietnamese IG with us, to do this.

Colonel Khien completely minimized the whole affair, minimized anything about any civilian casualties, this type of thing.

Mr. REDDAN. We have read that report.

Colonel COOK. Also, Colonel Tan, in 1969, minimized this, as most people did at that period of time.

This tends, of course, also to throw off an investigation, when a responsible individual misleads you.

Mr. REDDAN. I am sure you are aware General Koster says he either talked to General Cushman or one of his aides about this matter. Did you make any effort to determine whether he did talk to General Cushman personally, or if not, to what aide?

Colonel COOK. The answer to that is "No." Because you will recall our role initially was to get information, information on Psy Ops, and we were not given the task of investigating an alleged atrocity. At that point in the game we were given tasks to do.

Let me clarify a little further, that that is one thing about IG investigations, that is, when some other agency controls the investigation you do in essence what you are told to do, and you do not go out and try to supersede them or duplicate what they are doing.

And remember, as of that time we didn't really have the full impact, or full information, as to what it was we were investigating. We were just given a task.

Mr. REDDAN. You are suggesting it was the CID's responsibility to do this, is that correct?

Colonel COOK. Well, no, sir. At that stage the investigation was being run by the Inspector General of the Army. As to what they did other than what they told us to do, we had no knowledge.

Mr. REDDAN. Do you think anything fell through the cracks on this one? In the other you had three reporting channels, and you suggested that with so many channels everybody thought somebody else was doing it.

Colonel Cook. No, sir. Because as to whether or not an atrocity occurred, the rule is—the IG was trying to find out what happened. After the IG of the Army establishes that apparently some atrocity has occurred, when it becomes a criminal thing, he is required to terminate his investigation and refer it to the CID for criminal investigation.

The aspect with respect to the visit to General Koster, to 3 MAF, would fall back really on the Peers investigation; and I think the Peers Committee did establish all this type of thing.

Mr. REDDAN. So, as far as you know this was not a subject which was handled by either the Inspector General, your office, or the Inspector General ARV, U.S. Army, or CID, or anyone else?

Colonel Cook. I am not in a position to say what the CID did.

Mr. REDDAN. As far as you know.

I think you said this would normally be handled by the Peers group?

Colonel Cook. I am saying, sir, that I am not in a position to say what the Inspector General of the Army did. When he is running his investigation, he is not required to tell me what he is doing. He could put a requirement on me to do the legwork, detail work, and I would have to do the detail work and not meddle in the other aspect of the investigation.

Now, with respect to any visits to 3 MAF, the CID itself would not have any interest in that, or I don't think they would, because their investigations had to do with the criminal aspect of an atrocity.

In the case of the Peers Committee, which was making an all-inclusive investigation to find out what really happened, all aspects of it, it would have been appropriate for them to inquire into this, and I don't doubt but that they did it. I imagine in their files somewhere this is completely covered.

I know in supporting the Peers group we had extensive file checks made all over Vietnam, and I provided them with people to support them in this. Also they had an extensive number of people themselves doing this thing that you are describing.

Mr. REDDAN. Colonel, out of your expertise could you express an opinion as to whether or not a conspiracy to conceal a war crime is in itself a criminal act?

Colonel Cook. Would a conspiracy to conceal a war crime be in fact a criminal act?

Mr. REDDAN. Yes, sir.

Colonel Cook. I don't think I am competent to answer that. I am not a lawyer. As to whether or not it is a criminal act, I think the lawyers have to decide that. I think it is self-evident that a conspiracy falls under some appropriate article in the Court Martial Manual.

Mr. REDDAN. Thank you.

Mr. HÉBERT. Thank you very much, Colonel. We appreciate it. We are sorry we had to hold you over.

Mr. REDDAN. Will you check your records, Colonel and let us know whether or not you do have anything?

Colonel Cook. Yes. You have a report of mine. I would have to get some authority to let you have it. I think I could do so.

Mr. REDDAN. Would you work that out so we can get it back this afternoon?

Colonel Cook. I will certainly try. Yes, sir.

[Witness excused.]

Mr. REDDAN. Good morning, Colonel Taylor.

Mr. HÉBERT. Colonel, we have asked you to come here. We wanted first Colonel Miller. We understand he is on leave and unavailable, and that you are replacing him and can testify in the area on which we want to ask you questions.

The Chair will have to give you the same instructions it gives all witnesses who appear before this subcommittee, to inform you that you are under the full protection of the subcommittee when you are in our jurisdiction. The subcommittee will give you full protection against any harassment by the news media, that is by television cameras, microphones, onslaught by a lot of reporters. We will not allow that.

At the end of your testimony you should leave by this door at the rear, where a uniformed policeman will escort you. The news media may have one representative, who is allowed to ask you one question, that is, if you care to comment. If you do not care to comment you will be escorted from the area. If you care to say anything, that is your responsibility, and you may, of course, say anything you want to say.

The subcommittee informs you of your right to have counsel. Obviously, you do not care to have counsel.

Colonel TAYLOR. No, sir.

Mr. HÉBERT. Since you are counsel, yourself.

The testimony you give today will be available to you, and to you alone, to be examined in the committee room during regular hours, and cannot be removed from the committee, and it is only open to you for inspection, not for correction, addition or deletion, or anything of that nature.

Your testimony is not available to anybody except you, that is all.

Under the rules of the committee, I will swear you.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth in the matter before this committee, so help you God?

Colonel TAYLOR. I do, sir.

Mr. REDDAN. Would you give the reporter your full name and present address and present assignment?

TESTIMONY OF LT. COL. GEORGE OTTAWAY TAYLOR, JR.

Colonel TAYLOR. I am Lt. Col. George Ottaway Taylor, Jr., assigned to the U.S. Army Court of Military Review, U.S. Army Judiciary, located in the NASA building at Bailey's Crossroads, Va. My home address is 8525 Kentford Drive, Springfield, Va.

Mr. REDDAN. Colonel, we have been told that you were a member of a panel or group that reviewed the Peers Committee investigative reports. Is that correct, sir?

Colonel TAYLOR. Yes, sir. That is correct.

Mr. REDDAN. How were you appointed to this group? What was your specific job? Who were the other members?

Colonel TAYLOR. On February 27, 1970, I was advised by my immediate superior that I was detailed to assist Col. Hubert Miller, who was reviewing the evidence that had been taken before the Peers inquiry.

Mr. REDDAN. Who was your immediate superior at that time?

Colonel TAYLOR. Col. George H. Westerman, who is chief judge of the U.S. Army Court of Military Review.

Thereafter I called Colonel Miller and he asked me to report for duty the following morning, which would have been the 28th of February. That was a Saturday.

I went in on Saturday morning and reported to Colonel Miller. He explained to me that he was reviewing the evidence that had been taken by the Peers Committee, with a view toward preferring charges, if warranted, against various suspects.

Of course, how he happens to be in this position I don't know. But he assigned certain individuals to me for the purpose of reviewing the evidence and writing for him a synopsis of the evidence that pertained to each of these individuals. In all, I worked on six individuals, drafted for him such memos.

Mr. REDDAN. Which individuals did you work on?

Colonel TAYLOR. Lieutenant Colonel Lewis, division chaplain; Colonel Hutter, senior adviser of the 2d ARVN Division; Lieutenant Colonel Holladay, who was the Aviation Battalion Commander; Major Watke, the company commander of one of the aviation companies in the Aviation Battalion; Lieutenant Colonel Guinn, deputy senior province adviser, and Lieutenant Colonel Gavin, the district adviser.

After I worked up these memos on each of these individuals Colonel Miller, of course, studied them—he generally read the majority of the testimony. Along with his own conclusions and mine, he determined which individuals he would prefer charges against.

Mr. HÉBERT. Did you make recommendations as to whether to charge or not to charge?

Colonel TAYLOR. I did.

Mr. HÉBERT. Were your recommendations followed in all instances?

Colonel TAYLOR. Yes, sir. I can tell you specifically on these six what I recommended.

Mr. HÉBERT. Yes, please.

Colonel TAYLOR. I recommended that charges not be preferred against Lieutenant Colonel Lewis, Colonel Hutter, and Lieutenant Colonel Holladay, and they were not preferred by Colonel Miller.

I recommended that Major Watke, Lieutenant Colonel Guinn, and Lieutenant Colonel Gavin be charged.

Colonel Miller went along with that recommendation, and did draft the charges.

Mr. HÉBERT. So they were so charged?

Colonel TAYLOR. Yes, sir. I did not sign the charge.

Mr. HÉBERT. Colonel Miller did?

Colonel TAYLOR. Yes.

Mr. REDDAN. Who were the other members of the team?

Colonel TAYLOR. The other members of the team were Lieutenant Colonel Richter, currently assigned to the Military Justice Division in the Pentagon, and Lt. Peter Cook, assigned to the Military Affairs Division in the Pentagon. The same procedure was followed. I cannot say what individuals they worked on.

Mr. REDDAN. Is this normal procedure? Is what you were doing here normal military justice procedure? Does the Judge Advocate General appoint people to review the testimony taken by an investigating group, to determine who shall be charged and who shall not be charged?

Colonel TAYLOR. I would say no, it is not normal.

Normally, in the majority of our cases, if you have a criminal investigation or something of that nature it is referred to the man's immediate commanding officer and he is normally the one who prefers charges. Normally he is looking to the Staff Judge Advocate's office for assistance from a legal officer in actually working the charges, but that is the way it is normally done.

As my recollection serves me, when General Grow was tried, not too long after World War II, the charge sheet there was signed by the Chief of the Military Justice Division. But this was unusual.

I might say that—of course this is hearsay, if you would like to have it—

Mr. HÉBERT. Most of what we have is hearsay.

Colonel TAYLOR. I gathered from Colonel Miller that people on the Peers Committee were prepared to charge these individuals, but that it was felt that somebody new with no fixed opinions should come in and review the material.

I might say, although I said that it is not normal procedure, under the code any person subject to the code can charge another.

Mr. HÉBERT. But that is unusual, too?

Colonel TAYLOR. Normally it is the immediate commanding officer.

Mr. REDDAN. You recommended three not be charged. Did you have a roundtable discussion of your recommendations after you made them? How was this handled?

Colonel TAYLOR. Yes, sir, I would say I would give this memo to Colonel Miller. We were all sitting together working at the same table, and we knew what individuals the others were working on. So there was a great deal of discussion, and when we found something significant in one person's testimony that might pertain to another we discussed that.

Mr. REDDAN. Do you recall which individuals it was decided you would not recommend charges against?

Colonel TAYLOR. Besides the three?

Mr. REDDAN. Yes; besides the three you named.

Colonel TAYLOR. I am quite sure of this, since I recently reviewed the memo: Colonel Miller did not charge Brigadier General Young. He recommended administrative action in his case.

He did not charge Colonel Parson, chief of staff of the division.

Mr. REDDAN. Did he make a recommendation?

Colonel TAYLOR. He recommended possible administrative action. He did not specify what type. Those would include administrative reprimand, reduction in permanent grade, elimination from the service. He did not charge Major Calhoun.

There were two individuals already charged who were suspected of additional offenses, who were not charged. They were Lieutenant Calley and Captain Kotouc. I later heard that some of these individuals whom Colonel Miller did not charge were charged. Of course that has been in the newspapers.

Mr. REDDAN. Yes. Do you know who charged them, sir?

Colonel TAYLOR. No; I do not.

Mr. REDDAN. Do you know whether General Peers or any of the Peers group made the charges?

Colonel TAYLOR. I don't know from firsthand information. I heard it was some members that at least worked with General Peers.

Mr. REDDAN. To save us time could you give us any idea who they are, so we could get them in the least possible time if we want to talk with them? That is, the persons who made the charges against those as to whom Colonel Miller recommended no charge.

Colonel TAYLOR. I really do not know. That information could be easily obtained.

Mr. REDDAN. Yes. I thought you might have it.

Colonel, do you recall any other instance where a reviewing authority recommended no charge and then a charge was subsequently made by someone else?

Colonel TAYLOR. I don't know of any situation that I have been in where I can recall that occurring.

Mr. REDDAN. Is there any limitation on the number of bites you can have at this thing? In other words, could 20 people turn it down and still have somebody in the military make a charge, under the present regulations?

Colonel TAYLOR. Yes, sir, I would say so.

Mr. REDDAN. In making these charges against those against whom Colonel Miller recommended that no charge be made, this wipes out his recommendation for administrative action, doesn't it? For instance, as I understand it, he recommended administrative action against General Young and Colonel Parson.

Colonel TAYLOR. I would say—of course, it becomes a matter now for the authorities at Fort Meade to determine. But I would think that certainly in deciding whether there is going to be a trial or not it would be appropriate to consider that recommendation, and they might still—they might still dismiss the charges and take administrative action.

Mr. HÉBERT. But the recommendation is one of accusation, not one for administrative actions against the three individuals, that is, Parson, Young and Calhoun?

Colonel TAYLOR. They are currently charged.

Mr. HÉBERT. That is what I say. Their present status is that they have been accused.

Colonel TAYLOR. Right.

Mr. HÉBERT. Which has vacated the recommendation of Colonel Miller that they be dealt with administratively.

Colonel TAYLOR. Well, sir—

Mr. HÉBERT. In other words, you have some others in that group. You have Koster. It has never been suggested, as we understand, that administrative action be taken against Koster. Young is recommended for administrative action. Calhoun and Parson were recommended for administrative action. And that is the way you left it there, at that level.

However, when it became a matter of public announcement administrative action against these three officers was not referred to, and they were accused, the same as Koster and the rest.

Colonel TAYLOR. That is correct. But I would not say that recommendation is entirely down the drain. If I were representing one of those parties, I think—and if they agreed—I might well go to the convening authority and bring up Colonel Miller's recommendation for him to drop the charges.

Mr. HÉBERT. Oh, yes. We are not trying to find the guilt or innocence of any individual charged or not charged. Obviously, if you are representing them, you would rely on a recommendation previously made, of mitigating circumstances to the higher charge. But between the time of the consultation and your recommendation, recommendation against these individuals, this is the situation as it now stands, and the officers at Fort Meade now stand under accusation. Final action on the accusation is determined by the Commanding General of Fort Meade, and the Commanding General at Fort Meade has been informed of the charges by Colonel Miller, of course, or whoever made the charges, against the three against whom you recommended administrative action. And this is a matter that now comes to the Commanding General?

Colonel TAYLOR. That is correct.

Mr. REDDAN. When did you make your recommendation against the inclusion of Lewis, Hutter, and Holladay?

Colonel TAYLOR. It would be pretty hard for me to pinpoint the exact day, because we worked on them progressively. I went down there on the 28th of February, and Colonel Miller released me on the 12th of March. So it was made during that period.

Mr. REDDAN. I see.

Mr. LALLY. Colonel, you recommended against filing charges against three individuals. Did you recommend administrative action against any of those three?

Colonel TAYLOR. No.

Mr. LALLY. Do you know whether any consideration was given by the Peers group to filing charges against these people, against your recommendation?

Colonel TAYLOR. I don't know that, sir.

Mr. HÉBERT. Do you know that Colonel Lewis was on the list which this committee has?

Colonel TAYLOR. I heard that by hearsay.

Mr. HÉBERT. We will tell you officially.

Colonel TAYLOR. I understand that he was charged and the Judge Advocate General had the Secretary of the Army dismiss the charges.

Mr. HÉBERT. He was on the list we got.

Mr. REDDAN. Are you representing any of these people?

Colonel TAYLOR. No, sir. I was asked to represent Major Watke, but I am not representing him.

Mr. HÉBERT. Thank you very much, Colonel. We appreciate your appearance this morning.

[Witness excused.]

[Whereupon, at 12 noon, the subcommittee adjourned.]

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