

me out, but he let me know in no uncertain terms that this number of civilians in an operation like this, regardless of the intensity of fire, was unacceptable. I was not directed to further my inquiry nor did I, as the commander, feel that anything further was dictated by the information that I had at that time. On or about the middle of April was the next thing I heard about this. And this was a report, and I believe this attachment was the one (looking at Exhibit R-1 handed the witness by the IO). It was either this one or a letter. This statement is attached to my report of investigation, dated 24 April.

Q. Whose statement is that?

A. This statement came from the Quang Ngai Province headquarters. It was delivered to my S2, who was then Lieutenant Colonel BLACKLEDGE. I do not know how he got the report except I believe it was through our liaison officer from my 52d MI Detachment. I had a liaison officer stationed at Quang Ngai, and I believe the report, to me, was that this was brought to Duc Pho, my headquarters, by my MI agent I had up there as liaison officer. One of the paragraphs in this statement--

Q. (Interposing) I'd like--there are actually two inclosures if I'm not mistaken. I'd like to keep our attention directed at the first inclosure and then we can go to the second one.

A. This statement on the top is a statement by, I believe, my 52d MI Detachment; and the other statement, a VC propaganda message, which I will refer to as the second inclosure, was first brought to me. It was in Vietnamese, and my S2, Lieutenant Colonel BLACKLEDGE, turned to one paragraph in here and pointed out to me that this concerns the operations which were named wrong or were in the wrong district, but orally I had been told that this relates to American troops killing civilians in that particular operational area. So I asked Colonel BLACKLEDGE to have our MI detachment get this entire message translated for me. When the message was translated it came back with, from my MI detachment, with this statement on top of it.

Q. Who headed your MI detachment, the 52d?

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A. I believe it was a Major FLETCHER.

Q. Would you read the first paragraph?

A. "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 My Lai Village for Killing, dated 11 April 1968."

Q. Proceed with the second paragraph.

A. "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 Cung 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 Co Luy hamlet. At this location the unit gathered 90 more civilians and killed them."

Q. And that was delivered to you about when?

A. About mid-April was the best I recollect.

Q. And you had it translated at that time?

A. Yes, sir.

Q. And it came back to you from your MI detachment with that particular cover letter, unsigned?

A. It came back to my S2. It didn't come to me personally, no, sir.

Q. What did you do about it? That's my next question.

A. I immediately went to Colonel TOAN who commanded the 2d ARVN Division. I don't recall if it was that day or the next day, but it was within a very short period of time. I would say within 24 to 36 hours I went to Colonel TOAN who commanded the 2d ARVN Division in Quang Ngai with a copy of the VC propaganda message, and told Colonel TOAN that I was

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very much disturbed about this and that did he have any knowledge or information that I did not have concerning this? Had he had any such reports? Colonel TOAN told me that he had received within the last day or two a directive from General LAM of I Corps that--forwarding a letter that-- I believe at that time me--that the village chief had written a letter to General LAM but I--this doesn't jibe in relation to it, but this is the way I recollect it. He told me that General LAM had sent him a letter or a copy of this VC propaganda message and asked him to have his people look into it. This was the directive that he had gotten from General LAM to look into this incident. I told Colonel TOAN that I was

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very much interested in this thing and that when he looked into this I would make available to him a battalion or any number of troops to go into this area and help him secure it while it was looked into.

Colonel TOAN said: "No. This is VC propaganda. There is no truth to this, absolutely no truth to this."

And I said: "Well, but you are investigating?"

He said: "No, I've told Colonel KHIEN of the Quang Ngai Province to handle it."

So I don't recall--I don't remember who was with me. I believe, again, Major MCKNIGHT was with me on my visit to Colonel TOAN. But if at any time he got any more information than what I had on this thing--that I, too, had had such allegations and that I, too, was trying to ferret out the truth--that I would appreciate it if he would let me know about it and that my troops were available any time to help him go into this area or to arrive at the truth. And as I mentioned, Colonel TOAN stated no, he was not going to. He had forwarded it to Lieutenant Colonel KHIEN, the Quang Ngai province chief, to handle the matter. That is the way he put it.

Q. From your knowledge of the ARVN chain of command, what would have been the proper headquarters to investigate this?

A. I don't know.

Q. Did the province chief report to General TOAN?

A. He was not--he did not report to him, no, under the organization, however, they collaborated considerably in this particular province. And I know that Colonel KHIEN deferred to Colonel TOAN on many matters.

Q. I'll refresh your memory somewhat by saying that it was about this point in time that there was a shift. That is, at one time the province chiefs had been under the military commander. But subsequently, they were given a higher degree of independence to operate as province chiefs under the Central Ministry. Militarily, however, they reported to the local military commander.

A. I'm not positive how this relationship was between Colonel TOAN and Colonel KHIEN, although I know when I talked about other matters to them individually, both seemed to be kept well aware of what was going on.

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Q. Did you report, at that time, this new information that you had to General KOSTER or to your division headquarters?

A. I sent a copy of this to division--of whatever I had.

Q. I take it that that is around 14 April that you received that particular piece of paper.

A. Yes, sir.

Q. Did you report this new information and the new allegations at that time to General KOSTER or to the Americal Division?

A. I sent a copy of that to division.

Q. At that time?

A. Yes, sir.

Q. And, also, subsequently as an attachment to your report which we have as an inclosure?

A. Yes, sir. In my mind, my sending this paper to division--and I'll explain that a little bit later--was what prompted General KOSTER to have General YOUNG have me prepare, in writing, my so-called report of investigation which to me was a summary of the incident.

Q. That's what I want to get down to.

A. When I finished discussing this with General TOAN, I immediately went over to Colonel KHIEN's headquarters which was still in Quang Ngai City and went out and met with Mr. MAY, who was a civilian advisor; and I believe I met for the first time Lieutenant Colonel GUINN, who was the deputy advisor there, and told--and I'm not sure which one was present, but one or the other of these two gentlemen were present. I told them I had not yet had an opportunity to meet Colonel KHIEN and I wanted to pay a courtesy call on him, and at the same time I wanted to discuss this allegation against U.S. troops. They got me an appointment, and I went in and saw

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Colonel KHIEN and we had a cup of coffee, and I explained to him my regret and how disturbed I was over this thing, and that I wanted to get to the bottom of it, and if there was any truth to it I would make troops available to go with his RF/PF forces, or any other forces, into the area if he was going to conduct such an investigation. And he said--and I believe he told me this at the time that he had talked to the village chief or he had been apprised of a letter from the village chief--that the village chief was writing VC propaganda. The village chief did not live in the village, that this was completely VC propaganda, and that he was actually going to conduct a counterpropaganda move operation to answer this. He did not consider an investigation appropriate. I again told him that if anything should change his mind, that if he did get any additional information on this, that I would like to know about it, and that my services were available to him as well as my troops to go into that village again if he desired. Concurrent with my talk with General TOAN and Colonel KHIEN about this thing, I sent a copy of it to division.

Q. How was it transmitted?

A. Through S2 channels.

Q. Was it transmitted by telecommunications or was a copy of the--

A. (Interposing) A copy of the translated material with a copy of the original Vietnamese was transmitted to division.

Q. By courier?

A. By courier, yes, sir. One statement at this time. I--this is not an excuse or anything--I was wounded on 23 March in the leg and for about 3 or 4 weeks I was on crutches. My leg was in a cast with a broken bone.

Q. Who commanded the brigade during that period?

A. I continued to command the brigade. I told General KOSTER I'd fought too hard to get command of the brigade, and I would not let this interfere with my operations and my command. And he stated he'd take a chance and if it

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got worse though, I was to inform him right away. I was up in a helicopter daily after this, but I was not out of my helicopter as much as I would have been if I were walking on my legs. When I went to General TOAN--or Colonel TOAN, and Colonel KHIE--Lieutenant Colonel KHIE--

Q. (Interposing) Was it Colonel TOAN or General TOAN?

A. He's general now, but at that time he was a colonel.

Q. Commanding the 2d ARVN Division?

A. Yes.

Q. Okay.

A. I was on crutches and had my leg in a cast, and it came out of the cast--and this is the point that I'm not too certain about this 14 April translation. It seems to me it came out of the cast at the end of 3 weeks which would have made it just about on this date. But still I know I was in my cast when I was up in both of their headquarters. So I'm not too certain on this, the time. But then 2, 3 days after I had spoken to Colonel TOAN and to Colonel KHIE, General YOUNG came down and said that General KOSTER wants you to--and it was not make an investigation because I specifically asked: "Does he want this opened again and an informal investigation conducted?", and General YOUNG said: "No. This paper you sent up, this VC propaganda message, has tripped his memory here a little bit, and he just wants some backup in the files here if anything further should develop on the matter. So provide him with a written report." As a result of this I wrote from my notebook notes that I had taken down when THOMPSON had related the incident to me. I had put his name and some of the sentences in a notebook and when I talked to MEDINA I put sentences or cryptic statements in the notebook. I had a notebook. I pulled this notebook out and wrote this, which is exhibit--an unnumbered exhibit (Exhibit R-1) and forwarded it to division on or about 24 April.

Q. But did you make any additional investigation?

A. At that time I did not because when I asked General YOUNG the purpose of this, General YOUNG implied that it was merely that I had provided my oral report, that when the VC propaganda message had been delivered up to

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division, that--and I'm uncertain as to what exactly he did tell me, but I know I asked him, "Was a formal investigation to be conducted," and he said: "No, it was merely put your report or describe the incident into a paper for division." And with this I prepared what I termed a report of investigation which I acknowledge loud and clear is not a report of investigation.

Q. May I see the paper?

(Exhibit R-1 handed to IO by witness.)

I would like to specifically refresh your memory to one statement that it makes. It says, "Interviews with Lieutenant Colonel Frank BARKER, task force commander; Major Charles CALHOUN, task force S3; Captain Ernest MEDINA, CO, C/1/20; and Captain MICHLES, CO, B/4/3, reveal that at no time were any civilians gathered together and killed by U.S. soldiers." When you included this statement, were you referring to your previous discussions with them back on 16 and 17 March, or are these new interviews?

A. These are both. Because I did go back up to LZ Dottie. When that inclosure there first came to light and when I went to see Colonel TOAN and Colonel KHIEN, they showed me another letter from the village chief that had also been translated into English which I had not seen before--I do not believe I had seen before. And this letter alleged that U.S. forces had, on two occasions, and they named the date of late February on a previous operation in this area and the 16th of March, had moved in on an operation and had killed innocent civilians. In this letter, also, it stated that the U.S. forces had gathered up groups of civilians for a total kill of 470, and they had broken them out by two operations in this village chief's letter to the district.

Q. District chief had this letter then?

A. No, it was over--I saw this letter at Quang Ngai.

Q. In which headquarters?

A. In Colonel KHIEN's headquarters.

Q. In the province chief's headquarters?

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A. The province chief's headquarters.

Q. Did you obtain a copy of that?

A. I either obtained a copy or had a copy obtained because this was included in Colonel BARKER's investigation of this incident. This other inclosure I'm speaking of, which was the letter from the village chief.

IO: I would like to take about a 5 minute recess. I want to check on a couple of things.

(The hearing recessed at 1209 hours, 2 December 1969.)

(The hearing reconvened at 1217 hours, 2 December 1969.)

IO: The hearing is reconvened.

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

IO: This document you refer to from village chief to the district chief. You obtained a copy of that?

A. Yes, sir.

Q. And did you forward a copy of that along with inclosures 1 and 2 to the Americal Division headquarters?

A. I don't recall how I secured that other copy. It was shown to me or told to me. And I'm not certain now of the timing here, that such a letter existed that alleged that U.S. troops had two occasions--and then the letter went on to cite specific paragraphs that were in this letter here, and I know Colonel KHIEN when he told me about it, the letter, and I don't believe I saw it at that exact time, but I think he explained to me that he had this letter from the village chief to the district chief which had gotten to--and I believe it had gotten to General LAM--alleged these two incidents of late February and, or maybe it was early March, and this mid-March thing. I did not secure a copy of it at that time, but I do recall that this letter as explained to me when

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this was explained to my by Colonel KHIEN, that for the first time it alleged that U.S. forces had gathered civilians together. I don't recall if that one says that or not. May I look at the last page of that sir?

(IO hands Exhibit R-1 to the witness)

MR WEST: Let the record reflect that he is looking at inclosure 2 to Exhibit R-1.

A. No. This one does not show that any people were gathered together. To the best of my recollection, Colonel KHIEN stated that this letter states that some people were gathered together and shot down, which he said was absolutely ridiculous, and I agree with him. I did not secure, at that time, a copy of that letter, but I did discuss this with Colonel BARKER and, specifically, the gathering together of any people. Colonel BARKER denied it and I do not recall where I talked to Captain MICHLES or CALHOUN or MEDINA, but I am positive I asked them point blank if any such people were ever brought together. And it was denied. I do recall making Colonel BARKER aware that such a letter existed, and, again, to the best of my recollection, I had a copy or had him secure a copy for his formal investigation.

IO: Coming back to the exhibit and inclosure 1 of the exhibit, from the second paragraph, might it not be inferred that the drafter of that particular paragraph had available to him a copy of the letter?

A. You mean the other letter instead of this one here?

(IO nodded in the affirmative.)

This was my recollection also, that we had a copy of the--I do not recall having read the other letter. The other letter, the gist of it was explained to me one time. It seemed to me that it was Colonel KHIEN. This statement here appears more to go along with such a letter than it does this VC propaganda message. So I'm not certain how these got attached here, although I know I sent them to you (speaking to Colonel WILSON).

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(Col WILSON nodded in the affirmative.)

IO: May I see the exhibit again for a moment (Exhibit R-1 handed to IO)?

Q. If I may say here that what you state you have actually two independent inclosures, am I correct?

(Witness nodded in the affirmative.)

One, in your first paragraph, you stated, "Investigation has been conducted into allegations cited in inclosure 1". That being this statement? (Exhibit R-1 shown to witness by IO.)

A. Yes, sir.

Q. You go on to say in your paragraph 3 of your report, "Inclosure 3 is a translation of an actual VC propaganda message targeted at ARVN soldiers and urging him to shoot Americans." So they are quite independent one of the other, although they certainly bear upon each other. Is that a reasonable--

A. (Interposing) That is the conclusion that I would draw also. It has been sometime, but I do have a copy of this now which I received yesterday before I departed Norfolk, but I did not have a chance to look at it. I note in here also that I acknowledged one man was slightly wounded in the foot by small arms fire, but the newspapers -- that was the first time I had ever heard he had shot himself.

COL WILSON: I don't believe the evidence will show that he did shoot himself. He shot himself, but it was accidental.

A. Oh, I see. There is so damn much in the newspapers now, it confuses me, I think.

IO: This is commonly referred to as a SIW, self-inflicted wound, accidental or otherwise.

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A. Well, I state here and I'm positive, I know that I interviewed these people with this specific question in mind or I would have never put it in this statement. Down at the bottom of paragraph 2, "interviews with Colonel BARKER, Major CALHOUN, MEDINA, MICHLES, revealed that at no time were any civilians gathered together and killed by U.S. soldiers." Now, what investigation or what I did when I received this from General YOUNG to reduce to writing--or what my orders were to prepare this, I do not recall. I vaguely feel that General YOUNG was uncertain as to what the purpose of this thing was except that it was definitely not to be a formal investigation.

Q. At this point I would like to ask you if you are familiar with the regulations published by Headquarters, MACV, concerning atrocities, war crimes, reporting and investigations of same?

A. I am not familiar with them, sir.

Q. At this point I would like to enter into evidence a telegraphic message from Headquarters, MACV, providing in telegraphic form MACV Directive 20-4, dated 27 April 1967, concerning inspection and investigation of war crimes. I would ask you to -- I would like to have this marked as an exhibit and entered into the record.

RCDR: This directive is entered into the record and marked as Exhibit D-1.

(MACV Directive 20-4, dated 27 April 1967, subject: "Inspections and Investigations, War Crimes," is entered into evidence and marked as Exhibit D-1.)

IO: At a later date we will substitute or back up this particular document with a printed copy of the document as it was issued within the command.

I would ask you to review the document down to the point, I believe, on the third or fourth page which I have underlined which brings out subsequent revisions of it.

We will recess at this time until 1400 hours. I will stay here while he is completing reading the document. It is not necessary for others to stay here. We will proceed with the interview at 1400.

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1969.) (The hearing recessed at 1231 hours, 2 December

1969.) (The hearing reconvened at 1505 hours, 2 December

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

A. Sir, you asked me a question as to whether or not I had seen this document. I have not seen this document before. Of course, this does not negate my responsibilities as a commander for having knowledge of any atrocities committed. I certainly was aware of my responsibility for previous instances to conducting an investigation and so forth, but this document I have not seen before to the best of my knowledge, nor do I believe such a document was on file on the 11th Infantry Brigade. If I might back off here, when we first arrived in Vietnam our status as a separate brigade-- and I am not offering this as an excuse, but I think it would be to your advantage to recognize this--our status as a separate brigade was neither fish nor fowl. It was in a state of change. When we arrived, as I have mentioned earlier, our A Company of the 6th Support Battalion was moved with all of its bag and baggage to Chu Lai to become an organic part of the Americal Division. At that time, all of our records and all of our files, even our own brigade documents, were carried to the division. It was some time before we could start regrouping some of the documents which had been lost to us by this transition to the division.

IO: Are you referring to all documents, or--

A. (Interposing) Initially, all of our documents, or all of our AG records. For example, our Army Regulations, all of these as we arrived in Vietnam were all shipped to, moved to, Duc Pho and then on to Chu Lai. As soon as we began to determine the need for specific documents we would notify the division AG, in most cases the documents we needed would be returned to us.

Q. Did the division have an issue of these documents to you when that took place? What might be referred to as the brigade set of documents?

A. No, sir.

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Q. Directives, guides, memoranda?

A. No, sir. They were issued to us as they were reprinted or as the need for the use of these documents developed. I went over there in September 1967 with the battalion commanders, all of the battalion commanders, who later came over with the brigade, and we visited the Americal Division, and at that time, we picked up some documents we felt would be of value to us as well as at USARV headquarters we picked up certain documents that would be of value to us and we went back to Schofield Barracks and many of these documents were incorporated into our unit SOP, particularly such things as rules of engagement.

Q. Did you have a copy of the Americal Division SOP and SOI?

A. I am certain there was one in our headquarters. I do not recall having seen it, but I am positive we had one.

Q. Do you know whether or not you had, from Headquarters, the Americal Division, the implementing instructions from this regulation, MACV Directive 20-4?

A. I do not, whether we did or did not, no sir.

Q. Within your headquarters, who would normally handle the preparation and dissemination of additional implementing instructions?

A. My SI.

Q. So at this point of time again, when you had received the information concerning the report of the village chief, and I am not sure in my own mind whether you obtained a copy of that from the province chief or from the district chief or exactly what you did--

A. (Interposing) I am not certain either, sir, of how I acquired a copy of it, or how a copy was acquired by my headquarters. It is my recollection that a copy of this was included in the formal investigation, but, I do not recall how we secured a copy.

Q. But you did have, at that time, a statement which was prepared on the 14th, which is an inclosure to your report?

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A. Yes, sir.

Q. You also did have the translation of the VC propaganda?

A. Yes, sir.

Q. Which are enclosed as attachments 1 and 2?

A. Yes, sir.

Q. So, in addition to the previous information that you had available to you, you also had information from the village chief and also the allegation in the VC propaganda?

A. Yes, sir.

Q. You provided these two documents to headquarters of the Americal Division, is that correct?

A. Yes, sir.

Q. And the instructions which you received were on about what date?

A. On or about mid-April is the best I can--it may have been--my report is dated 24 April. I believe I would have written this report immediately, I do not recall at this time, but it must have been near 20 April that I received the instructions from the Americal Division, from General YOUNG, that General KOSTER desired that I prepare a report. I do not recall our discussion as to what this report was to consist of, except that I do recall that General YOUNG stated there was no evidence of anything that division had that I didn't have, and I am not certain I understood really what the purpose of my report was. I prepared what I believe General YOUNG had directed me to prepare.

Q. And you submitted that report to General KOSTER? You signed the report on the 24th?

A. Yes, sir. I hand-carried this report to division and gave it, in an envelope, to the chief of staff, Colonel PARSON. Incidentally, the S5 of the brigade is Captain KESHEL. I hand-carried this report to Colonel PARSON and left it with him.

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Q. About what date was that?

A. It would have been on the 24th or the next day which was the 25th. Before this report went up, I showed it to Colonel BARKER and asked him if there was any new information to add to it, or if the report was basically correct. I know I also had Major MCKNIGHT, my S3, read it. I took a copy of this report and, rather than just getting it in the regular files of the brigade, I asked that it be locked in the safe in the S2 or the S3 office. It was later secured in the safe of the S2 office. So I assume that's where I had it secured.

Q. Did you coordinate or show your report to then Colonel TOAN, or the province chief Colonel KHIEN?

A. This report here? No, sir.

Q. Were they aware of the fact that you were submitting a report?

A. I don't believe, no, I am positive they were not. I would have had no reason for passing this on to them, no, sir.

Q. Did you ever talk to General KOSTER about this report after you hand carried it to Colonel PARSON?

A. No, sir. I never did. A few days after this, and I do not recall how long afterwards, General YOUNG visited me again at Duc Pho, and he stated that the report that I had prepared had been passed to him by General KOSTER and that General KOSTER had written on the report, or had informed him, that, "we will hold this in our files," or something, "this seems to satisfy the requirement."

Q. What date was this?

A. This I do not recall. It was some days after this, whether it was a week or 3 or 4 days, I just don't -- I do not remember, but I do recall General YOUNG coming back down to Duc Pho and telling me that he had seen the report and he had seen it after General KOSTER had seen it and that he was satisfied and that this issue was now dropped and that the thing had been put to bed and there was no evidence supporting the allegations. I recall telling Colonel BARKER, "I hope we hear the last of this thing now." Not at any time did I, in my own

mind, ever treat this subject lightly, and I was on the alert for any new evidence that might bring it to light.

Q. I have here a combat action report, dated 28 March 1968, to the Commanding Officer, 11th Infantry Brigade. I would like this combat action report entered into evidence.

RCDR: Sir, this report is entered into the record and marked as Exhibit R-2.

(Combat Action Report, TF Barker, dated 28 March 1968 is entered into evidence and marked as Exhibit R-2.)

IO: Colonel HENDERSON, I'd like to show you this document to see if you have seen it before.

(IO hands Exhibit R-2 to COL HENDERSON.)

A. I have never seen this document before.

Q. Would this be normal for a combat after action report such as this to go through your headquarters without you seeing it?

A. No, except from these. As I understand it, we prepared our brigade--consolidated this into a brigade after action report. May I see that again (IO handing the report to COL HENDERSON)? Who was that addressed to? This would have gone to our S3 officer, Major DAVIDSON, who was assistant S3, who consolidated these after action reports. I usually saw most of the things that came in from my battalions, but I have not seen that particular one.

Q. Would this report have gone independently to the Americal Division or would it stop at the brigade headquarters and be incorporated into an overall brigade after action report?

A. It would have stopped at brigade and been incorporated--it may have been an inclosure, I don't know of the ones going on to division. And these I normally screened in the TOC every morning, but I did not unless it is some special interest in them read them in detail.

Q. You will notice that this refers to this as a combat action report; however, the report covers only one day of the operation.

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A. I do not understand the rationale of that, no, sir. The reason I say that I hadn't seen the report is that I have never seen that statement that is attached to it from one of the district--Lieutenant TAN, sir. I haven't seen that statement before. This is why I am satisfied that I have not seen that report.

Q. You indicated that during the time frame of the 16th and the 17th you had talked to Colonel BARKER, Captain MEDINA, and other pertinent individuals?

A. Yes, sir.

Q. You also indicated that subsequent to obtaining the information concerning the allegation of the village chief and the VC propaganda that you had again seen these individuals at LZ Dottie and talked to them about it, is that correct?

A. Except for the LZ Dottie, I am not positive where I spoke to them. I saw them both at Dottie, and I saw them at Duc Pho.

Q. But my reason in asking the question is two-fold. One is the fact that you did see them and, secondly, to see if you obtained any written statements from them?

A. I did not obtain any written statements during my entire inquiry taken--from any individuals.

Q. All right, now I would like to see if we can clarify just a little something, because it seems to be a little mixup, not your testimony per se, but other things that we have been associated with and that has to do with the duration of the operation. You indicated that Charlie Company was extracted on the night of the 17th, the second day of the operation after they laagered?

A. Yes, sir.

Q. There are some indications that additional activities took place to the south, participated in by elements of the task force during the 17th and possibly up into the 18th.

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A. I could be wrong on this extraction of all these elements on the 17th. I know the operation was concluded on the night of the 16th as far as the initial operation, and I thought that we had extracted both Charlie and Bravo units on the 17th. Lieutenant General DOLEMAN visited me on the 17th at Duc Pho and I briefed him. I can't recall now whether it was morning or afternoon. I recall briefing him on this particular operation, and I had it in my mind that we extracted both units on the 17th, but I could be mistaken.

Q. Well, I am not sure how really pertinent it is at the moment, we may have to come back to it later. I would like to get your impression on what effect, from a point of view of the efficiency, the splitting up your headquarters of the reduction of your brigade headquarters in the creation of TF Barker had upon the operation of your brigade and upon the task force?

A. I personally never liked the idea of the separate task force, but the decision was made and I naturally supported it, although I had three battalion commanders come to me and ask me to try to reopen the issue. I did not reopen the issue, because the orders organizing the task force were loud and clear. The three companies selected for this operation were the finest three companies we had in the brigade. They were A, B, and C companies from each of the battalions. General LIPSCOMB denied that he picked the companies on the basis of their company commanders and their records up to that time. I feel that this was a deciding influence. The handicap in the brigade headquarters of working shorthanded, of bringing in new talent into the staff certainly had a somewhat degrading effect on the brigade while we were trying to get our feet wet, so to speak. My operation without an executive officer certainly caused me to get by with a hell of a lot less sleep at night. It wasn't that I complained that I couldn't handle the thing, but I later went to General KOSTER to ask his permission to inactivate the thing so I could get an executive officer and get more depth in my staff.

Q. When did that take place?

A. This took place in April. I do not recall the period we inactivated TF Barker, but when we did activate TF Barker I left a company up there with the 4/3 at LZ Sue and they then with two companies handled the entire

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Muscatine AO. For a total of one company rather or so he had a total of five rifle companies handling that up there which to my mind was a lot more satisfactory. It gave me better flexibility. The battalion commanders felt that they had lost all of their flexibility by permanently losing a rifle company, not being able to interchange these rifle companies from fire support base out to field operations. I think it did have a detracting influence within the brigade; to what degree I'm not certain. I personally did not like the arrangement.

Q. You indicated that you did not put these men under oath and did not obtain any written statements from them, did you obtain any notes, or did you maintain any records or informal files, or diaries, or anything of this nature?

A. I maintained a notebook, my own notebook, which I would scribble in when I talked to various individuals. It was in no particular order, every time I turned over a leaf it might be a new subject, but I did maintain and had for some time two or three small issue-type memorandum notebooks that I maintained notes in which I destroyed when I departed Vietnam.

Q. That answers my questions. So obviously they are not available?

A. Yes, sir, unfortunately.

Q. Now then, you submitted your report on or about the 24th or 25th, what happened subsequent thereto?

A. I related to you a few moments ago that General YOUNG had indicated to me that this satisfied the requirement. I do not recall how much time elapsed. It seems to me that it was within a few days, but I do recall General KOSTER going on leave sometime after this, 24, 25 April, and again I'm not confident of the days. He departed on R&R. It was approximately 10 May, I would roughly estimate. I got another requirement from General YOUNG that General KOSTER desired a formal investigation of this incident. I assigned Colonel BARKER to conduct a formal investigation. I asked General YOUNG if there was new material which I had no knowledge of that incited or caused another report or a formal report of investigation. He told me that he knew of no further information. I notified Colonel BARKER to conduct the investigation and I believe at this time, he was back in my headquarters. TF Barker, I can't recall, but anyway I passed on to BARKER the requirement.

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Q. If you had been back in your headquarters, what position would he have been filling?

A. He would have been filling the executive officer's position.

Q. Had you considered getting some outside help to conduct this investigation, such as requesting some assistance from the division?

A. No, sir. There was nothing that I had heard either by my direct inquiries or through any of my staff, my command sergeant majors, or anybody that would lead me to believe that any incident other than that which had been reported upon had occurred in the My Lai (4) area.

Q. What incident are you referring to?

A. Other than the incident, the one for example of MEDINA shooting the woman, or 20 civilians killed by artillery or air, gunships. I had absolutely not one inkling.

Q. Well, to put together again what you did have, you did have additional allegations which had been made by THOMPSON?

A. Well, I had one made by THOMPSON, right.

Q. One statement, and from what you've indicated it perhaps had two allegations which referred directly to MEDINA, another which was a rather general one concerning--

A. (Interposing) Wild firing by troops and by gunships, yes, sir.

Q. And there was also the information from the village chief.

A. In the letter that went to--yes, sir.

Q. There was also the statement which had been put together evidently by your 52d MI group which is part of your report. There was also the VC propaganda, all that was available at that time?

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A. Yes, sir, but I did not consider this as new evidence. When I talked to Colonel TOAN and Colonel KHIEN, these two gentlemen were both adamant that this was a normal VC propaganda move and there was nothing further that I could see developing. That this was not a new development to the case.

Q. What additional instruction did General YOUNG give you concerning the making of this formal report, investigation?

A. He instructed me that I was to have, General KOSTER desired, that we conduct a formal investigation of this incident. He had no knowledge of any additional matter which the division commander had which I didn't have. I discussed with him who the logical individual was to perform the investigation and told him that if he had no objections, I would assign Colonel BARKER to it. And General YOUNG felt, he indicated to me that this was certainly satisfactory.

Q. Doesn't it seem unusual however, to have somebody investigating himself?

A. At no point at this time had I been led to believe or had any information, nor do I know at this date, that Colonel BARKER was personally involved in this.

Q. No, his unit. When I say himself I am referring to something which took place in units under his command.

A. No, frankly it did not enter my mind.

Q. General YOUNG approved it?

A. Yes, sir.

Q. Did he tell you that this was a formal investigation? Did he give you any other instructions?

A. No, sir, he told me it was a formal investigation. It was to be a formal investigation.

Q. How did you interpret the term formal investigation?

A. This meant to me was that statements were to be taken from individuals, that they were to be sworn to and a formal report of investigation made to the division.

Q. You received no directive in writing from the division?

A. No, sir.

Q. To conduct an investigation of the facts and the circumstances surrounding that particular incident?

A. No, sir. I did not.

Q. When you gave your instructions to Colonel BARKER, did you give the instructions to him in writing or did you give them to him verbally?

A. I gave them to him verbally, sir.

Q. What was your admonition to him?

A. I told him that General KOSTER, the division commander, wanted a formal investigation and that he was to take statements from anybody and everybody who was directly or indirectly related to this incident and that I wanted these statements taken in adequate detail to prove or disprove that anything had taken place.

IO: I would like to enter Army Regulation 15-6, titled "Boards, Commissions, and Committees" into evidence.

RCDR: This directive is entered into evidence and marked as Exhibit D-2.

IO: Are you familiar with this document (handing the document to COL HENDERSON)?

A. Yes, sir.

Q. Were copies of the AR available in your headquarters?

A. They were, sir.

Q. Did you instruct Colonel BARKER to utilize this document in conducting his investigation and report?

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A. I do not recall if I instructed him in using 15-6 or not. It was certainly my intention that he do so, and I presumed that when we requested orders to be cut from division that the division orders would cite this. Whether they did or not I don't know.

Q. Were orders cut from division that Colonel BARKER was to conduct an investigation of the facts and circumstances and so on?

A. I cannot honestly say that I ever saw them, but I certainly took it for granted that division would cut orders on the investigation. I do not recall that I ever -- it is a normal procedure that when we had an investigation that we would supply the JAG or the AG of the division the name of the officer conducting the investigation and that division then would cut orders naming this officer. I do not recall whether such orders were cut or not.

Q. What date did you issue your instructions to Colonel BARKER?

A. I issued them to him the same day that General YOUNG gave them to me and that was in May, but I estimate it was early May, around 10 May, approximately, when this investigation was initiated. I am also of the opinion that Colonel BARKER visited the JAG office of the Americal Division. I believe this point could be verified by Major COMEAU who is in the JAG office here at the Pentagon. I believe if he would have gone there he would have conferred with Major COMEAU. I believe he did.

Q. You indicated, Colonel HENDERSON, that division normally published orders on investigating officers. You indicated that you are not sure that you saw such an order from the Americal Division. Did you provide the Americal Division the name of the investigating officer and all the essential data?

A. I am confident that I did, sir.

Q. Did you give a time frame for the completion of the investigation?

A. I do not believe that I did give a time frame, but I did imply that it was to have top priority.

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Q. When was a completed report submitted?

A. To the best of my recollection, the completed report was submitted approximately 1 week after the requirement had been placed on Colonel BARKER.

Q. To whom was it submitted?

A. It was submitted to the Americal Division through my headquarters.

Q. You then had an opportunity to see, review, and to comment upon the report as appropriate?

A. I did, sir.

Q. Did you retain a copy of the report at the brigade headquarters?

A. I did not, sir.

Q. Can you give us, to the best of your recollection, the sum and substance of the findings and conclusions of the report?

A. To the best of my knowledge the report included statements from certainly all of the company commanders, from various pilots, which pilots they were, I do not know.

Q. Did it include a statement from Warrant Officer THOMPSON?

A. I cannot recall, I thought so, but I do not recall having seen the statement, so I do not know. It included statements from enlisted personnel, both Charlie and Bravo Company, it included statements from personnel working in the battalion TOC. To answer your specific question, the conclusions of that report were that 20 civilians had been killed by artillery and gunships. **There were no--the term atrocity was never used, or massacre or anything of this nature. There was no evidence to support that any soldiers had willfully or negligently wounded or killed civilians during this operation.**

Q. Were there any written statements and signed statements from then Lieutenant CALLEY?

A. I do not know. There were platoon leaders' statements in there, but as to what platoon leaders made statements, I'm not certain.

Q. Were there any within the statements other than separating them from the findings and the recommendations? Were there any derogatory statements in the testimony which was taken under oath?

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A. There were none whatsoever.

Q. How many people were interrogated?

A. I would estimate that there were 15 to 20 statements attached to this report of investigation. There was one Vietnamese report also attached to that, and it seems to me that it was the interpreter who was with Company C. I could not at this time swear to that, but to the best of my recollection it is. He had written in Vietnamese and it had been translated into English.

Q. What was the approximate size of this report? How many pages did it include?

A. Most of the statements were single pages. Most of them were cryptic. They were something to the effect that, "having been advised to my rights and so forth, I was with Company C--or Company B," whichever the case may be--"on 16 March; that I participated in the operation, that during this period I did not purposely or intentionally kill any civilians, nor did I observe any killed." They were not--I don't mean to give the impression that they were carbon papers of one after the other, but it was the general gist of the majority of the statements--Captain MEDINA's statement I recall was in greater detail and he reiterated generally the information that I reported upon here earlier, my questioning of him. His would have been couple of pages or perhaps three pages. Colonel BARKER's covering report was again approximately three pages in length.

Q. When you cited to Colonel BARKER that you wanted an investigation made, did you tell him the purpose of the investigation? Was this included? Would this have been included in the directive coming from the Americal Division?

A. I do not recall, sir.

Q. How many copies of this report were submitted to you?

A. I believe it was submitted in three copies.

Q. Did you have any particular reason for not retaining a copy of it in brigade headquarters?

A. I had none, sir.

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Q. All copies were then forwarded to the Americal Division headquarters?

A. Yes, sir.

Q. Can you give us the substance of your comments in your endorsement?

A. My endorsement related that I had reviewed the investigation of Lieutenant Colonel BARKER, that the facts and circumstances cited throughout the investigation agreed generally with my own personal inquiry into the matter, that there was no new evidence to substantiate the allegations, that anybody had been killed, any civilian had been killed except those that had been previously reported upon, and I recommended that the report be accepted.

Q. Did you in issuing your instructions to Colonel BARKER advise him also to interrogate Warrant Officer THOMPSON?

A. I did not. I don't specifically recall directing him to do that. Of course, he knew the report I had received from THOMPSON, and I believe he had received the same report before I got up to that position that morning on the 17th. I do not recall having given him that guidance.

Q. Aside from contacting the division staff judge advocate, do you know whether Colonel BARKER relied upon any other individual to assist him in his investigation?

A. I am under the impression that Major CALHOUN assisted him in this investigation.

Q. Major CALHOUN, what was his position?

A. He was the combination executive/S3 of Task Force Barker.

Q. But also a member of Task Force Barker?

A. Yes, sir.

Q. I would like for you to think for just a minute and give as many of the names of the individuals who were interrogated in this investigation as you possibly can.

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A. The only names that I can recall, sir, are Captain MICHLES and Captain MEDINA. I cannot recall any of the enlisted or any of the platoon leaders that made statements in this investigation.

Q. Did General KOSTER ever contact you after this report was submitted concerning the contents of the report or findings and recommendations?

A. I do not recall that General KOSTER personally talked to me about the report nor did I talk to him about it. We may have. I recall advising General YOUNG that it was in and the investigation had been completed and had been submitted, and I believe that he acknowledged that he had seen it at division, that he was aware that it had been submitted, but no, I do not recall talking to General KOSTER about it.

IO: With respect to this report of investigation, do you Mr. WEST, or Colonel WILSON, or Colonel MILLER have any questions that you would like to direct?

What was the classification of the report?

A. There was no classification of the report. It wasn't even marked "For Official Use Only," as I recall.

Q. Subsequent to that time, to your recollection, General KOSTER never mentioned this report to you again?

A. No, sir.

Q. Do you recall a Sergeant HAEBERLE?

A. Yes, sir.

Q. What was his position?

A. He was a photographer in the 31st PIO section of the 11th Infantry Brigade.

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- Q. Do you know his full name by chance?
- A. No, sir. I do not.
- Q. Would you state again what section he belonged to?
- A. He belonged to the 31st PIO Detachment of the 11th Infantry Brigade.
- Q. He was under your operational control then?
- A. Yes, sir.
- Q. Working basically for your PIO, is that correct?
- A. Yes, sir. Lieutenant MOODY was the commander of the PIO Detachment.
- Q. And also a dual capacity as PIO?
- A. Yes, sir.
- Q. Did Lieutenant MOODY ever indicate to you that he might have heard some complaints concerning the operation on 16 March?
- A. Never.
- Q. Did Sergeant HAEBERLE?
- A. Never.
- Q. Did anybody else from the PIO Section of the 31st Public Information Detachment?
- A. No, sir
- IO: I would like to have these photographs please.
(The hearing recessed at 1545 hours, 2 December 1969.)
(The hearing reconvened at 1548 hours, 2 December 1969.)

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IO: This hearing will come to order.

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

IO: Colonel HENDERSON, I have here a group of photographs, numbers 2 through 25, which I would like to enter into evidence.

RCDR: These photographs are entered into the record and marked as Exhibit P-2 through P-25 (B&W photographs taken by Ronald L. HAEBERLE on 16 March 1968).

IO: Colonel HENDERSON, I have here a set of photographs, have you ever seen these photographs (handing the photographs to Colonel HENDERSON)?

A. Sir, I have never seen any of these photographs (handing photographs back to the IO).

Q. You did not see any of these photographs while in the particular time period we are speaking of during the course of your investigation or while you were the commander of the brigade?

A. From then until now.

Q. You have any further questions to clarify these?

MR WEST: I think that we might let the record show that these photographs which have been marked as Exhibits P-2 through P-25 have been supplied to General PEERS as being prints of photographs taken by Ronald HAEBERLE when he was a member of the PIO detachment of the 11th Infantry Brigade. They were reportedly taken 16 March 1968, in and in the vicinity of My Lai (4) during the morning of 16 March 1968. I might add, they reportedly are the photographs taken by HAEBERLE in his official capacity.

IO: Within your public information section would such photos normally be called to your attention?

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A. Photos such as these, not necessarily. If I identified those correctly those were pictures of soldiers in Company C or B whichever the unit was. I did recognize Captain MEDINA in one of the photographs, so I assume that they were taken of Company C. If there were any indication of any atrocities I saw one person burning there--or appeared to be burning. I would have felt that my PIO would have brought this to my attention. I certainly hope so, although I gave him no specific direction to bring anything of this nature to my attention. I would hope that from my staff briefings and how much concern I always expressed over anytime civilians that were hurt or killed, that he knew of my vital interest in this subject.

Q. To your knowledge these pictures were never called to your attention?

A. Never.

IO: I have here another set of photos taken by Sergeant HAEBERLE on the morning of 16 March during the conduct of the air assault and the operation into the village or hamlet of My Lai (4). These are black and white prints of photos which were taken in color. I would like these photos also entered as evidence into the report. They are numbers 26 through 42.

RCDR: These photographs are entered into evidence and marked as Exhibits P-26 through P-42 (B&W prints of color photographs taken by Ronald L. HAEBERLE on 16 March 1968).

IO: Colonel HENDERSON I will show you these photos and ask you if during the time you were in command of the 11th Brigade you saw these photos either in black and white or in color (handing the photographs to COL HENDERSON)?

A. To photographs 31 through 42, no I have never seen those photographs. Photographs 26 through 30, I may have seen. I am not certain of that. When I departed the 11th Brigade I asked the PIO office to provide me some 35mm slide pictures of various combat-type operations that they might have available in case I was called upon to speak to any groups or give any debriefings back in USARPAC. They provided me some which I have in my safe down at my office at the Armed Forces Staff College. A couple of the helicopter scenes look familiar, but I would not swear that those are the same ones.

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IO: May I see those pictures?

A. Yes, sir (handing the pictures back to the IO). But these here, positively not. I've never seen these before. I may have seen one in a magazine.

(IO hands Colonel HENDERSON more photographs.)

I may have seen one of these photographs, it looks familiar from a newspaper article I have seen here recently, but other than that I have seen none of this group here during my tour as brigade commander up to the present time.

Q. The photos you are referring to are 26 through 30?

A. 26, 27, 28, 29, and 30. Yes, sir.

Q. They are simply air assault-type, helicopter-type photos and would have really no bearing upon what took place in the village per se?

A. That is correct, sir.

Q. Those photos could have been taken anywhere, so they are really not pertinent to the item under discussion. Could you accept that?

A. Yes, sir.

Q. Having looked at those photos and recalling your aerial tour around My Lai (4) early in the morning of the 16th, can you identify any of those as being the dead which you observed?

A. No, sir. I cannot.

Q. I have here a copy of a 5 December 1969 issue of Life magazine which includes several photographs from pages 36--an article from pages 36 to 45 which includes several of the photos in color which were taken by Sergeant HAEBERLE. I would like these pages of this issue of the magazine entered into the record as evidence.

RCDR: Pages 36 through 45 of Life magazine, dated 5 December 1969, are entered into the record as miscellaneous documents and marked as Exhibit M-1.

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IO: Colonel HENDERSON, I show you this magazine to relate these pictures to some of the black and white pictures which you just reviewed (handing the magazine to COL HENDERSON). Do you recognize these photos?

A. I recognize them from having seen--these photos, the colored photos, yes, sir.

IO: If they were taken by a member of your PIO section, would you expect such photos would be turned in to your public information officer?

A. Absolutely.

Q. Did either Sergeant HAEBERLE or Lieutenant MOODY indicate to you that they had pictures which might indicate the killing of civilians?

A. Neither Lieutenant MOODY, Sergeant HAEBERLE, nor anyone else in my brigade, or outside my brigade, indicated to me that there were any photographs available of action such as these, or any other actions. I was not aware that I had a photographer with Company C.

Q. To clarify one point, in your report of investigation of 24 April, you do cite that 20 noncombatants were inadvertently killed, but I find no reference in here concerning the one girl or woman killed by Captain MEDINA. Is there any particular reason for having omitted this?

A. There was, sir. It was explained to me and I perhaps should not have accepted it in this light. Captain MEDINA maintained and Colonel BARKER bought it, that when he went back to this body after having killed this woman and searched her basket that he classified her as a VC nurse, that she had in a basket that she had been carrying, lying beside her, were many--some medicine and medical aid items, and as a consequence she was classified as a VC nurse. That was the reason given to me that this individual was not included in the body count as having been killed by small arms fire.

Q. Aside from the three inquiries and investigations which we have cited here today: namely your initial investigation, your subsequent investigation, and the formal investigation conducted by Colonel BARKER, do you know of any other investigation concerning the circumstances of the incident at My Lai (4) on 16 March?

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A. I did not at the time, nor do I now consider it as an investigation. Colonel KHIEN inferred to me that he had talked to the hamlet or village chief and that this village chief related that the report that he had made was based on the information that had been provided to him by the VC and, consequently, Colonel KHIEN was disregarding it. Now whether this was in the form of an investigation, I don't know enough about their inner workings to so classify it, but to the best of my knowledge there was no other investigation of this matter.

Q. Was the village of My Lai (4) burned?

A. No, sir.

Q. Were any structures in the village of My Lai (4) burned?

A. Yes, sir. I could not estimate the number, I don't mean from the large number that I could not estimate, but at one point I observed three or four houses or hootches burning in the My Lai area. I asked Colonel BARKER why are those houses being burned. Colonel BARKER then contacted Captain MEDINA and the report came back to me, and this is one that I have never been able to pin down since recently when this thing came to light, but I was under the impression that I had been told that the National Police were burning some houses in which they had found weapons, or hand grenades, or ammunition, or items of military equipment. I informed Colonel BARKER that regardless of who was burning them, that the National Police, I believe that he had a squad of National Police, but I have never been able to verify this. The National Police or the Vietnamese interpreter, or Kit Carson, whoever he had with him, they were still under his control, and we had no authority to burn houses and to see that it was gotten under control immediately.

Q. Did you ever within the next few days fly over My Lai (4)?

A. Periodically. Yes, sir.

Q. Did you observe any additional houses, other than the three or four that you alluded to, that were burned?

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A. I did not observe any additional houses being burned, and I did observe that some months later, I do not recall the date, an air strike was going in on this village.

Q. Were any other hamlets in the Muscatine AO during the course of this operation burned?

A. I did not see any burning of any other houses except a small handful in My Lai (4).

Q. Do you know of any instructions that were issued concerning the burning of villages.

A. Approximately a month before 16 March, sometime in February, the division orders were that, no burning of villages except by personal permission of the division commander. This was passed out to all battalion commanders at a staff meeting at brigade headquarters. Whether this came down in written form, or whether General KOSTER or some member of the division staff had passed it to General LIPSCOMB in a staff meeting, I do not know. I do recall General LIPSCOMB announcing this at a staff meeting in which battalion and separate unit commanders were in attendance.

Q. During the course of this operation were you tuned in on the command net between battalion and the companies?

A. Frequently, or occasionally I would monitor the company nets, but as a habit I was on my own command net and on the battalion command net.

Q. Well, in this case it would have been on the command net, would it not, between the battalion and down to the companies? Your command net is from yourself down to the battalion?

A. Yes, sir.

Q. The battalion net is from the battalion?

A. I thought you were talking about the internal company net.

Q. No, I am talking about from, in this instance, Colonel BARKER to Captain MEDINA and to the company commander of B/4/3 and the other company.

A. Yes, sir.

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Q. At any time in monitoring those nets did you hear instructions issued to stop the killing of civilians, noncombatants?

A. I did not hear that nor was it ever reported to me that anyone had heard such an order.

Q. When you issued the instructions to Colonel BARKER concerning the burning of hamlets was this order passed down to the company?

A. I am certain that it was, sir. I did not hear it passed down, but I know when I questioned him on why these houses were burning, he did go to the company net, or at least I assume that he did, because it was, "Wait out," and when he came back, he gave me this report that either the National Police or the Vietnamese with the unit were burning the houses. And I ordered that it would be ceased.

MR WEST: We have received statements from several different witnesses to the effect that Captain MEDINA got his men together for the operation against My Lai (4) 16 March 1968, talked to them about the mission, and among other things, told them that the hamlet was to be burned. Along with this, there were also some allegations that orders to burn My Lai (4) came from higher headquarters. Do you have any knowledge of any such a thing? I want to indicate that this is just information we have received. Of course we have reached no conclusion.

A. I have no knowledge of this. I met with the company commanders of TF Barker, with Colonel BARKER, and with his staff on the afternoon of 15 March, at which time I reviewed the concept of this operation. I made certain points that General LIPSCOMB was critical of in previous operations of TF Barker. Primarily, in an area immediately to the north in late February, a company commander had been wounded and several men had been wounded and the company fell into immediately a defense posture. The dustoff ships could not get in. They got fired upon when they tried to go into the area. Later the battalion commander, Colonel BARKER, the task force commander, Colonel BARKER, went in and evacuated the casualties and on two different occasions was absent from his command for an extended period of time. General LIPSCOMB, when he came back to the headquarters that night, was quite disturbed over Colonel BARKER's actions. I made it a point of

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telling the company commanders that once they made contact with the enemy, that they were to maintain contact. The best way to protect their wounded buddies, if there were any, was to move forward and give the dustoff ships time, or any opportunity to get in. I did not imply, infer, or state that that village was to be burned, nor to the best of my knowledge, did Colonel BARKER. The meeting continued after I had departed. I do not know what was passed out at that time. The information that I had informally, that Major CALHOUN and the others who were present, they heard no such instructions issued.

Q. Then based upon your previous statement about any burning of villages being prohibited unless authorized by the division commander, I take it there was no such authority from General KOSTER?

A. That is correct.

Q. We have received other information that there were several villages burned in this operation, two or three by C Company and about an equal number by Bravo Company. Did any such information ever come to your attention?

A. No, sir. This is difficult for me to believe, because I was over this area periodically and I saw no burning except these few houses in My Lai (4).

IO: Would you consider these houses, or would you consider these hootches, or what would you consider these?

A. I would consider these hootches. Certainly the ones that I observed were no more than grass shacks. There were no concrete buildings that I saw being dismantled or destroyed by fire or any other means.

MR WEST: I have no further questions.

IO: Would it have been possible for anybody to misinterpret your aggressive instructions to take even stronger action, let us say, against a village?

A. No, sir, I am confident that I said exactly what I meant. There could have been no misinterpretation of my instructions.

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Q. Earlier you mentioned Major FLETCHER?

A. Yes, sir.

Q. The head of your MI detachment?

A. Yes, sir.

Q. Did he report to you any activity within My Lai (4)?

A. No, sir.

Q. You know of any of his people, either U.S. or ARVN or National Police and so forth, that may have been in there from Major FLETCHER's unit?

A. We had a liaison from the 52d MI Detachment of Major FLETCHER's who was working at Task Force Barker with some enlisted assistance, and we had a liaison officer from the MI detachment at Quang Ngai. I do not know if any of these MI agents went into the My Lai (4) area or not. I received no reports back from any of these agents that they had observed anything in the village. So I would assume that they were not in the village.

Q. Do you know a Lieutenant JOHNSON?

A. I know the name Lieutenant JOHNSON. We did have an MI officer, Lieutenant JOHNSON, yes, sir.

Q. Did he work for Major FLETCHER?

A. Yes, sir.

Q. You don't know whether he was in the village that day or not?

A. I do not, sir.

Q. At one time in your testimony, you indicated that you had told Colonel KHIEN, I believe that is the way you pronounced it, K-H-I-E-N, the province chief, if he ever,

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in the conduct of his investigation, went into the area of the Tuscatine Operation, that you would be very happy to support him.

A. Yes, sir.

Q. Did this ever come about?

A. No, sir. It did not.

Q. Not even within the next 3 or 4 months?

A. I believe it was August, Quang Ngai was attacked from both the west and the northeast. I deployed two battalions into that area plus my E Troop, primarily to the western sector here (indicating on Exhibit MAP-1). ARVN attempted to push back the enemy that had penetrated from this direction (indicating on the wall map). They moved back up to the citadel area here, but that is as far as they got, and that is the time I recall that I observed ARVN bringing in friendly air on the My Lai (4) and other villages, hamlets up in that particular area. I did have a company following this attack under the operational control of Colonel KHIEN, but I had strings on it to say how it should be employed. It was initially deployed south of Quang Ngai City guarding an ammunition dump, but the feeling was we wanted to make the American presence known in Quang Ngai because of the current scare that was going on--that they were going to be hit at any moment. So I got Colonel KHIEN--I worked with General TOAN on this thing to get him to move it around so it would go periodically through the city. **At one time it was located** up in this hill mass here (indicating) and operated with an ARVN Company out into this general area, but it did not get as far as the My Lai (4) area.

Q. We may come back to this later.

A. Yes, sir.

Q. I would like you to explain what training the members of the brigade had received in reporting atrocities and breaches of, you might say, the rules of war?

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A. Sir, when I brought the team back, the battalion commanders and myself from Vietnam on 27 September or in mid-September 1967, we brought with us what we then considered the rules of engagement. From brigade we put out instructions that these rules of engagement would be covered, that the Geneva Convention aspects would be covered, but I do not personally recall having witnessed any of the presentations to the troops.

Q. You have in your rules of engagement for the greater part pertain to what?

A. The rules of engagement pertaining to the taking of targets under fire.

Q. Yes, generally speaking about artillery?

A. By artillery and by individual infantrymen: "When fired upon, fire can be returned," primarily is what I'm speaking of.

Q. Now what about instruction concerning the treatment of civilians, women, noncombatants, destruction of property, responsibility for reporting, and things of this category, where is this included and how is the training given?

A. I do not know, sir.

Q. I have here a facsimile of a two-sided card, wallet size, prepared by Headquarters, MACV, entitled, "Nine Rules." I would like this entered into the record as evidence.

RCDR: This exhibit is entered into the record as miscellaneous Exhibit M-2.

IO: Colonel HENDERSON, I will show you this (handing the document to Colonel HENDERSON). Were you familiar with this document?

A. Yes, sir.

Q. Did each one of your troops have one of them?

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A. Yes, sir.

IO: We will recess for a couple of minutes while the recorder changes his tape.

(The hearing recessed at 1512 hours, 2 December 1969.)

(The hearing reconvened at 1515 hours, 2 December 1969.)

IO: This hearing will come to order.

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

IO: When we recessed, Colonel HENDERSON, we were discussing the "Nine Rules," and I believe you stated that each member of your command had a personal copy of this document?

A. Yes, sir.

Q. Do you know whether this was a particular matter of command emphasis in the brigade?

A. I believe that it was, sir. There were several cards that individuals should carry, such as the preventative maintenance of the M-16 weapon, and the Geneva Conventions Card, and things of this nature. I believe it was emphasized. Yes, sir.

Q. Did you have any special period for giving such instructions to members of the command?

A. I am certain that we scheduled such a period before going to Vietnam, and I do not know, after we arrived, the initial period there, what their orientation consisted of. I was kept down at Qui Nhon to bring the tail of the brigade and supplies and so forth and did not get involved in the period of training that the brigade experienced after its arrival in Vietnam.

Q. I have here another facsimile of a MACV card dated

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21 August 1965, entitled, "The Enemy in Your Hands." I would like to delete the 21 August 1965 as I believe this refers to a statement on the card which was made by President JOHNSON on that particular date. I would like to have this facsimile of the card entered into the record as a matter of evidence.

RCDR: MACV Card, titled "The Enemy in Your Hands," is entered into the record as a miscellaneous document and marked as Exhibit M-3.

IO: Colonel HENDERSON, I will show you this document. Have you ever seen this (handing the document to COL HENDERSON)?

A. I have seen the front of this card, "You can and will, you cannot and must not." I do not recall seeing this explanation on the rear of the card.

Q. This is the card that folded so that it actually has four pages to it?

A. I did not personally have one, but I have seen the front of this card, whether I had one or whether there was one under my glass in the office, I am not sure, but I have seen these items.

Q. Was this used in the instruction within the brigade?

A. I cannot say, sir.

IO: I have here another facsimile of the card entitled, "Guidance For Commanders In Vietnam," by General W. C. WEST-MORELAND, COMUSMACV. I would like this facsimile of the card entered into the record as evidence.

RCDR: MACV Card, titled "Guidance For Commanders," is entered into the record as a miscellaneous document and marked as Exhibit M-4.

IO: I ask you, Colonel HENDERSON, have you previously

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seen this document (handing the document to Colonel HENDERSON).

A. I have never seen this card, sir.

Q. Do you have any knowledge of any other documents aside from the ones we have just brought into the records as exhibits which might have been used as instruction in the training and indoctrination of troops and the reporting of incidents, atrocities, and the like?

A. Not relating directly to atrocities, but to wounded civilians or civilians who had been inadvertently killed. We had a brigade commander's policy which was signed and published by General LIPSCOMB and continued by me, which concerned the payment of, I forget the term we used over there, solatium payments, perhaps, that was the term, in the event that civilians were inadvertently killed or wounded in a manner that this payment, how this payment would be paid. I have no personal knowledge of any other brigade directive or higher level directives on something of this nature.

Q. When you are on this payment, was this a brigade policy, or was this a division policy, or was this a MACV policy?

A. This was a brigade policy as to how payment would be made. For example, it required the unit commander of the unit responsible to personally visit the relatives of the deceased and make this payment and to prepare a letter to the individuals, offer a letter of apology and so forth. The actual payment, of course, was a MACV directive, Americal Division directive, as to how much the payments would be for wounds and death. As I recall the Americal Division or MACV directive, whichever one it was, covered this matter of payment, did not specify as to who would make the payment in our command policy. It did involve that the unit commander would personally make the payment.

Q. Who administered that fund in your headquarters?

A. The fund was maintained by the S5, Captain KESHEL.

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Q. Was the solatium paid in the interest of civilians who were killed in the area of My Lai?

A. To the best of my knowledge there was no payment, primarily because of the inability to get into this area to determine the deaths, or verify the deaths, and find out who the next of kin was.

Q. I would like to go back in your testimony just a minute. In your previous testimony with Colonel WILSON, you indicated that an operation was conducted in this area in July of 1968, after you had talked to Colonel KHIEN, the province chief, in support of his operations to investigate the information which he had. To refresh your memory I will read this for you.

"About a week later I had a call from, or I as up to see General TOAN, and he informed me that General LAM, the I Corps Commander," then the question is, "Do you know how to spell his name?" And your answer was, "L-A-M, had received a copy of the Viet Cong leaflet and had asked to conduct an investigation and lead U.S. action in this area and he in turn asked Lieutenant Colonel KHIEN, the province chief, to conduct, and he asked if I would send U.S. forces into this area with his ARVN and local forces to get some truth out of this. I assured him that I would, and I told him that I would conduct the operation any time that he was ready. We conducted this operation in July 1968, and as a result the National Police, National Field Force Police, local forces and one ARVN battalion, the Vietnamese would go only as far as My Lai (4) village. They would go no further inland and we scrubbed the operation."

Does that help to refresh your memory?

A. We went into--we conducted numerous operations up there with 2d ARVN Division. This is wrong, and I misled Colonel WILSON on that investigation. At no time did we ever go into that area with the purpose of conducting an investigation and if I made that statement I am completely wrong. I do not recall it. There was never a coordinated effort on Colonel TOAN, or Colonel KHIEN, or myself to go into that area for this purpose. I talked to Colonel TOAN and Colonel KHIEN on other occasions, asking them if they had received any further information concerning this incident. I do not recall these times when I spoke to them, but at no time did they ever give me any information, nor did they even suggest that they had any further information that would shed any light on this--on what

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may, or did happened in this particular area. There was no joint operation conducted for this specific purpose of going into My Lai (4).

Q. Did you ever consider conducting such an operation to clear the good name of the task force and U.S. forces?

A. I offered to conduct such operations with both Colonel KHIEN and Colonel TOAN. Of course, I had intended to sweep the area on 17 March immediately following the operation. Of course, that did not materialize.

Q. Yes, I understand that, but you continued to receive reports of something unusual taking place in there, through the village chief, through the VC propaganda.

A. I did not continue to receive, sir. I received the-- I had knowledge--I know I received the VC propaganda message, and I am confident that I saw it one time or another. I don't know how I got the message that the village chief had written to the district chief or to General LAM, which related to the same incident. I can understand, now looking back over how it might appear that I had a considerable amount of ammunition or a considerable amount of information at my hands which might have caused me to react differently. At the time, I did not consider that I had anything really except the warrant officer's accusation, which was to some degree substantiated and considered plausible by my discussions with Captain MEDINA and with other people in the TF BARKER and the 175th Aviation Battalion. I did not consider that the brigade had a bad name or that this was any more than just an accusation made in support of Colonel TOAN and Colonel KHIEN that this was strictly a VC propaganda move which is a normal move on their part.

Q. I would like to clarify one other point, also in your testimony. I believe you had previously indicated that when you--in your previous testimony which you had given to Colonel WILSON of the Office of The Inspector General, you had indicated that you had personally hand-carried your report of investigation to General KOSTER and delivered it to him personally, in discussing in this particular session, that you indicated that you turned it in to Colonel PARSON. Now, would you think about that?

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A. I have thought about that, sir. I became confused on the--actually when I talked to Colonel WILSON I was under the impression in my own mind that I had prepared this written statement immediately following the operation and had delivered that to General KOSTER. What I delivered to General KOSTER on approximately 20 March was my oral report; and 24 and 25 April when I carried the written report up there, I now recall having handed that to Colonel Nels PARSON.

Q. And also to make the record correct in your recent recollection when you talked to General KOSTER on or about the 20th, and you also provided him a copy of the 3-by-5 card, is that correct?

A. Yes, sir.

Q. During all of this time, Colonel HENDERSON, did you ever get the feeling that some of those people weren't leveling with you, that there was some form of cover up going on that you couldn't put your finger on?

A. No, sir. I, at one time I had been given, the night of 16 March, a figure of 24, of possible civilians killed, and when I arrived at Colonel BARKER's headquarters the morning of the 17th the card showed 20. When I talked to Captain MEDINA in the field and asked him regarding the 20 or 24, he gave me a figure of 17 that he had reported, and I couldn't relate this discrepancy between 17, 20 and 24. I may be a little off in my figures, but these are basically--a discrepancies in the figures. This is one thing in wanting this company to sweep back through this area to positively identify if we had killed that many civilians. I didn't believe that we had killed that many civilians by artillery and by gunships, particularly artillery. Our artillery or prep fire was in an LZ which there should have been no civilians. There was no artillery fire in support of the operation from then on. There was not a single round fired in direct support of the company's sweep operation.

Q. How large an artillery prep did they fire?

A. We scheduled a 3 minute artillery prep which

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would have been somewhere between 20 and 30 rounds on each LZ. We did not fire heavy preps. All we wanted to do, up in our AO it is our policy to cover as much of the LZ as possible to destroy any booby traps that may have been placed in the LZ area.

Q. What battery fired the prep and from where?

A. It was prepping from LZ Uptight, and it was Provisional Battery D. This was a provisional battery made up by Batteries A, B, and C, which was organic to the brigade. We needed a fourth battery, so we took tubes from A, B, and C Batteries and formed a composite provisional battery of four tubes.

Q. 105's?

A. Yes, sir.

Q. Who adjusted the prep?

A. This was adjusted by the FO who was in Colonel BARKER's command and control ship. I do not know his name.

Q. But to get back to the point we were discussing. When you did receive these discrepancies in the number of civilians killed and what you saw, there was a degree of suspicion that entered your mind which caused you to say, "I want to check this."

A. The suspicion was more from the system of reporting body count than anything else. When I talked to MEDINA and discovered how the body count was made, it was made by platoons at the conclusion of the operation, although individual reports had filtered in during the day or had been made as they occurred, at the conclusion of the operation, he had asked his platoon leaders, "How many VC did you kill? Were there any civilians in the area that you killed, or that you observed possibly killed by artillery fire and by gunship or small arms fire?", which led me to believe that there was possibly some overlap between platoons and competition within platoons, to report anything and everything that they saw whether it was in their area or not. This was my suspicion, not that anything unnatural had occurred and certainly not anything of a nature of an atrocity or a massacre.

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Q. Killing 20 civilians in an operation, was this unusual for your brigade?

A. This was extremely unusual, sir. I know of no previous operation in which this number of civilians had been killed. By the same token, this was the largest number of VC killed, reportedly killed, at any one time.

Q. Do you know whether Colonel BARKER with such a large body count had personally gone into the area to verify the count, or sent anybody else into the area to verify the body count?

A. Again I believe that Colonel BARKER landed in the My Lai (4) area and I cannot recall if this is how I got this information, whether it was in his statement or in his report of investigation, or whether he told me, or whether I asked him, but I'm under the impression that on at least one occasion he did land in the My Lai (4) area.

Q. How many men did TF Barker have wounded in the operation or killed?

A. I believe one of the earlier reports that you showed to me, if I recall correctly, was 2 killed and 11 wounded, sir, or 2 and 10.

Q. That is reported in Exhibit R-2, dated 28 March. There were 2 U.S. KIA and 11 U.S. WIA. For this kind of village fighting that you were doing in this area wasn't this quite an inordinately large ratio of enemy KIA to friendly KIA?

A. It was. Yes, sir.

Q. I would like to change the subject a moment to your staff briefings and so on. What were your procedures? When were they held? What was discussed and who conducted it?

A. Every evening I conducted a staff meeting at brigade headquarters. If I was not present for some reason beyond 5 or 6 o'clock in the evening, then they would conduct it. The normal procedure was the S2 gave a briefing of the day's operation. The S3 briefed on future plans, and

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operations. The artillery commander briefed on the artillery fires for the day and the amount of ammunition that had been expended and discussed any shortcomings of artillery, particularly any weapons down, anything of this nature. My 6th Support Battalion commander kept me informed on the tracked vehicles and several items that I had listed that I wanted to be informed on, if any of these went down or if we were having any problems of securing replacements. At these staff meetings I had--and these were the people that always spoke--then other staff if they had anything to contribute. I would conclude the meeting with any comments that I may have. In attendance at these meetings were my S1, 2, 3, 4, and 5, my signal officer, my PIO was always there, my surgeon, chaplain, liaison officers from each of the battalions, and company commanders of the separate units. This was approximately it. Each Saturday afternoon I would have a battalion commanders' meeting along with the staff meeting, and after the normal staff meeting all the staff then would leave except my S3 and my S2. And I would then talk to the battalion commanders and separate unit commanders to carry on the other matters that we had to discuss. This was on a normal staff meeting arrangement.

Q. Let's then go back to the night of the 16th and the evening of the 16th and the evening of the 17th or possibly the evening of the 18th. Were there any particular matters brought out at these staff meetings which caused you concern or which you discussed further with members of the staff?

A. I do not recall that there were any matters brought out, but I am positive that I cited this example--which I would have done too on the next Saturday if I had my battalion commanders present--of my concern about the number of civilians that had been killed in this particular operation--the 20 that had been reported. But there was no report to me by any member of the brigade staff concerning anything in the My Lai operational area that would have, that I recall, that, would have certainly nothing to do with atrocities of this nature that would lead me to believe that anything had occurred other than what I already knew, which I reported upon here.

Q. Was your staff aware, that one, that you were conducting, which you referred to as the commander's investigation?

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A. I do not know if I made this a public announcement or an announcement to my staff. Certain selected individuals of my staff knew.

Q. Who would they be?

A. They would have been my S2 and my S3, and certainly Colonel LUPER, my artillery commander, definitely those three individuals would have known, but I did have a reason for not publicizing it, and this was the morale of the troops. Until I had something, or something was uncovered that would lead me to believe that something did occur, I did not want a wild rumor getting spread through the brigade. I believe I cautioned Colonel BARKER and Major CALHOUN and others there from Task Force Barker that I did not want C Company, at that time was the only one that I was aware of that Warrant Officer THOMPSON had alleged this wild shooting, plus the helicopter pilots. I am certain that as I questioned him and told them I wanted this close to the belt until this had been proved or disproved from my command inquiry.

Q. When you conducted your informal investigation was your staff aware of what you were doing, or did you solicit any assistance from your staff?

A. I do not recall any soliciting of any assistance from my staff. I know that my S3, Major MCKNIGHT, I showed him my report of investigation 24 April to verify the dates of the previous operations. I believe I have to look at here--I did have him read this. I had Colonel BARKER read it. I do not believe that Major CALHOUN read it, there would be no reason to show it to Major CALHOUN. I do not believe I gave a copy of it to TF Barker. I'm pretty confident that I did not.

Q. You did retain a file of it in the S2 section?

A. Yes, sir.

Q. Was your staff aware of the fact that a formal investigation had been directed by General KOSTER?

A. I believe this was common knowledge because I informed the staff that if Colonel BARKER called upon any of their clerical assistance, they were to provide it. So I'm pretty confident that the staff did know of his formal investigation.