

SUMMARY OF TESTIMONY

WITNESS: KOTOUC, Eugene M., CPT

DATE OF TESTIMONY: 6 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: Robert T. Allen, 1LT, QMC, requested military counsel, stationed at Fort Carson, Colorado

DUTY ASSIGNMENT ON 16 MARCH 1968: S2 Task Force Barker

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

Captain KOTOUC testified that when he arrived at the Americal Division he received an orientation that included the materials within Exhibits M-2, M-3, and M-4. He had seen the first two, but could not recall the latter; although, he was familiar with the material it covered (pgs. 54, 55). He considered the training given the troops on the handling of prisoners to be sufficient (pg. 55) and further noted that the treatment given PW's by U.S. forces was generally good (pg. 56). He was not familiar with MACV Directive 20-4 and did not believe that he had ever seen it at Task Force Barker or at the brigade (pg. 56).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. Intelligence briefing.

The witness in his position as the S2 of the task force, gave the preoperational intelligence briefing (pg. 3). The briefing was given to the commanders and other personnel from the task force (pg. 4). Lieutenant JOHNSON from the MI Detachment was also present (pg. 4). The information that was given out was that the area of operation had been extended to include the My Lai area; that the 48th Local Force Battalion was operating there; that their headquarters was probably in My Lai (4); that it consisted of the headquarters, plus two companies, over 200 men; that

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the persons living in the area were VC sympathizers, if not VC; that the members of that battalion were local personnel; and that heavy resistance could be expected, especially in the area where C Company was going to operate (pgs.4-7).

b. Civilian situation.

The intelligence gathered indicated that the civilians would leave the area to go to market at around 0700 and that few, if any, should be in the area (pg. 8). The witness did not recall from where the intelligence that the civilians would be out of the village came, specifically. It came primarily from his interrogations and other information which he and Lieutenant Colonel BARKER had received (pg. 62). According to the witness, consideration was given to the fact that some civilians would be remaining in the village (pg. 9). Defensive positions had been observed in the area (pg. 9).

c. BARKER's briefing.

(1) In his briefing on the evening of the 15th of March, BARKER told the commanders that he wanted the buildings knocked down, the hootches burned, and the defensive positions destroyed (pgs. 11, 49). Further, he stated that he wanted the livestock killed or run off (pg. 12). The witness stated that he did not consider this an illegal order (pg. 12). BARKER did not say to pollute wells (pg. 12).

(2) BARKER's orders did not apply to My Lai (4) in particular, but to the area of the operation in general (pg. 12). The purpose of the operation was to trap the 48th Local Force Battalion and there was no specific mention of civilians (pg. 15). The people in the area had in the past been told to leave the area and go to Quang Ngai City, and the plan during the operation was to move the civilians in the area down the road toward that city (pg. 19). BARKER had in the past told his men to be cautious of civilians (pg. 26).

(3) Present at the briefing were Major CALHOUN, the S3 sergeant, Captain VAZQUEZ, the company commanders, and the witness (pg. 13). Further, the witness noted that the briefings at the task force were far from formal, the task force being primarily "a one man show" (pgs. 10, 62,65). There was no written operation order or intelligence analysis (pg. 10).

d. MEDINA's briefing.

The witness was present when MEDINA instructed the men of C Company of the operation on the prior evening (pg. 49). Primarily he relayed the matters stated by BARKER (pg. 50). He told his men that the civilians would probably be out of the area. He then reminded them of what they had been through in the recent past, the booby traps and mine fields, and told them that they would be in some straight combat with the enemy (pg. 51). The witness opined that it was possible that MEDINA's men were so worked up that they might kill anything in sight, thinking that no civilians were in the area (pg. 51). The implication in the briefing was that the village in which they would operate would be vacant. Although MEDINA did mention that the Rules of Land Warfare existed, he did not mention civilians. The witness suggested that it probably never occurred to him (pg. 52).

e. The artillery preparation.

The artillery preparatory fire was to be on My Lai (4) and was to continue for four minutes. There would be approximately 100 rounds of 105 mm fire within that time frame (pg. 8). In answer to questions on the propriety of this action, the witness stated that although there was a chance that some civilians would be in the area, it was better to fire the preparatory fire and hope to kill elements of the 48th Battalion than take the risk of losing a large number of American lives (pg. 52). There was no intent to fire on noncombatants with this artillery barrage (pg. 52). Consideration was given to the fact that some may have remained (pg. 9).

3. ASSAULT ON MY LAI.a. The landing.

The landing zone was some 500 to 1000 meters southwest of My Lai (4) (pg. 21). The witness was not sure, but thinks, that the landing was being screened by helicopter gunships (pg. 21). The witness was in the task force operations' center monitoring the radios during this time. At first he heard that the landing zone was "cold" but later, fire was apparently received by the troops (pg. 21). There was a report that some civilians were seen running out of the hamlet to the north (pg. 22). A report was heard to

the effect that a person with no weapon was running across a road and was seen being machinegunned. The report was thought to have come from a helicopter pilot flying overhead (pg. 25). Major CALHOUN, also monitoring the radio nets, got on the radio and stated that no civilians were to be killed and this order was acknowledged (pg. 26).

b. Reports of the day's action garnered on that day.

There was a preliminary body count received of 69 bodies. The witness stated that although this was quite large, he was not overly surprised, since they expected to catch a large number of VC unaware (pg. 24). The witness went out that afternoon and saw MEDINA around 1600. MEDINA reported that the hamlet had been pretty badly torn up by artillery fire (pg. 27). Further, he had seen 25 to 30 bodies blown up (pg. 29). The witness spoke to some of the troops there in conversation and heard nothing out of the ordinary from them (pg. 29).

c. Order to return through the hamlet and its countermand.

Captain MEDINA spoke to the witness about the order he had received to return through My Lai (4) and conduct another body count. This order had come from Colonel HENDERSON (pg. 27). The order was countermanded by General KOSTER because of the unnecessary danger involved, and the countermand was heeded unquestioningly (pg. 28). The witness was sure that he had the personalities involved correctly stated (pg. 64). No one returned through the hamlet (pg. 64).

d. Interrogation of prisoners.

The witness' primary purpose in going out to see MEDINA was to interrogate prisoners on the immediate tactical situation (pgs. 29, 34). He noted that he had heard no report from MEDINA of his questioning of an elderly Vietnamese man (pg. 26). The prisoners were being controlled by one of MEDINA's men and some National Police (pg. 30). He also recalled the National Police shooting one or two prisoners, although he could not state for certain that they were killed (pgs. 31, 32, 64). He related that MEDINA was quite upset by this and stated he wanted no more of that kind of act (pg. 31). The witness believed that that incident was reported (pg. 31), and recalled telling his commander about it (pg. 32). He noted that the

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National Police usually did as they pleased (pg. 32), and that they were not under U.S. control (pg. 30). He noted that BARKER had stated that they should bring in prisoners (pg. 60).

4. INQUIRIES CONCERNING THE ASSAULT.

a. Indications that an investigation was necessary.

The witness did not recall any report of the number of civilians killed during the operation (pg. 39). There was some discussion about the ratio of the number killed to the number of weapons seized. The correlation, or lack of it, was mentioned (pg. 41). Also, where the usual kill ratio within the task force was thirty to one, this was sixty-four to one (pgs. 42, 43). However, the witness noted that many deaths were thought due to the artillery (pg. 43). The witness added that he was sometimes chided by his buddies about the large body count of the task force, being accused of using civilian deaths to drive up their totals. However, he considered this good-natured kidding and was sure that none of this ever reached HENDERSON (pg. 63).

b. Inquiries conducted.

The witness stated that he never heard of any investigation ever being conducted (pg. 38). He was never asked anything about the events of the day in question (pg. 43). He never heard that BARKER was told to investigate anything (pg. 45). Further, he stated that he was never aware, through any source, of any investigation in ARVN channels, and he never got any information of any atrocious behavior through his intelligence sources (pgs. 45-47). He did state that he had heard no word about keeping the My Lai operation under wraps (pg. 66). The witness was not familiar with the requirements of MACV Directive 20-4 (pg. 56).

c. Reports of Investigations.

The witness testified that he had never seen BARKER's combat action report (Exhibit R-2), nor HENDERSON's report or either of its inclosures (pgs. 40, 43-45).

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## 6. OTHER INFORMATION.

a. Marijuana.

The witness stated that he had never heard any reports of the use of marijuana in the companies of Task Force Barker (pgs. 53, 65).

b. Recognition of photographs.

The witness did not recognize any of the photographs, Exhibits P-2 through P-42, except P-32 and P-33 which he had seen in the United States. He did recognize JOHNSON and MEDINA's interpreter, PHU, as well as his own interpreter in other of the photographs (pgs. 36-38).

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(The hearing reconvened at 1028 hours, 6 December 1969.)

IO: The hearing will come to order.

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

The next witness is Captain Eugene M. KOTOUC.

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

Captain KOTOUC, are you represented by counsel?

A. Yes, sir.

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

IC: Lieutenant Ronald T. ALLEN, Headquarters, Troop Command, Fort Carson, Colorado.

RCDR: Will you please state your name, grade, Social Security number, and organization?

WIT: Captain Eugene M. KOTOUC, Headquarters, Troop Command, Fort Carson, Colorado.

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

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

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

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

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

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

Your testimony will be taken under oath and a

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verbatim transcript will be prepared. A tape recording is being made in addition to the verbatim notes being taken by the reporter.

Although the general classification of the report will be confidential, it is possible that the testimony, or parts of it, will at a later date become a matter of public knowledge.

You will notice that there are several people in this room who will or may ask you questions. These individuals, aside from Mr. MACCRATE and Mr. WALSH, are my assistants and they are authorized to ask questions in my behalf. Mr. WALSH and Mr. MACCRATE are serving as civilian legal counselors to assist and help me in this matter. However, I have the responsibility of weighing the evidence and making the findings and recommendations to the Secretary of the Army and the Chief of Staff.

You are ordered not to discuss your testimony in this investigation with others, including other witnesses for this investigation, except in the performance of official duties or as you may be required so to do before a competent judicial, legislative, or administrative body.

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

Do you have any questions concerning what I have just covered?

A. No, sir, I do not.

Q. Colonel MILLER, do you have any legal guidance that you would like to give?

COL MILLER: Captain, at this time you are not suspected or accused of any offense with respect to the subject of the investigation. I notice that you do have counsel with you. If, during the investigation, you should become a suspect in any way, you will, of course, be given appropriate warnings pursuant to Article 31 of the Uniform Code of Military Justice. In the meantime, during the investigation or our

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interrogations, you will be permitted to consult with your counsel.

IO: Captain KOTOUC, would you give me your duty assignment on 16 March 1968?

A. Yes, sir. I was S2, combat intelligence officer, Task Force Barker, and we were stationed at LZ Dottie, South Vietnam.

Q. How long had you been the S2 of the task force?

A. I arrived in Vietnam the first part of February-- the later part of February, sir. The exact date I do not recall; between 20 and 28 February, sir.

Q. Did you accompany the task force, not the task force, the brigade to South Vietnam?

A. No, sir. I was stationed with the 11th Brigade in Hawaii, and subsequently transferred. The brigade went overseas. I received DA orders, and I ended up back in my old unit.

Q. What had you been in the brigade prior to this time?

A. I was the company commander for B/1/20, and I was S2 for 1/20 prior to being transferred to a new location on Hawaii.

Q. With respect to the operation which took place in the Son Tinh area on 16 March, was there an intelligence briefing given to the commanders of this operation prior to the operation itself?

A. Yes, sir, there was.

Q. Who gave this briefing?

A. I gave the briefing.

Q. Where was it given?

A. At the TOC at Dottie, and also in an informal discussion between myself and Captain MEDINA and Captain

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Q. Was the company commander of A/3/1 present as well?

A. I do not recall, sir. I can not remember who he was. We had just lost one company commander.

Q. Were the other units that were to participate in the operation with the task force--were they also present--the unit commanders?

A. No, sir. Charlie Company and B/4/3 was there, but there was no representative from any helicopter units nor was there anyone there from artillery units on LZ Uptight.

Q. Were there any representatives from the 52d MI Detachment?

A. There was a Lieutenant JOHNSON, sir, who came up from an MI detachment. I do not recall the number, and I do not recall if he was there that day or not. I do not think so, but I can not recall.

Q. What information did you give to the commanders concerning the 48th Local Force Battalion and what they might expect from the battalion in this operational area?

A. Well, first thing was that the AO--

Q. (Interposing) May I? We have this being taken, and we would like you to keep your voice up and speak into the microphone so she can hear you. If you need the map as well, please do so.

A. The My Lai (4) is out of the AO of Task Force Barker, and it was necessary to request an AO extension. I think we got it from Quang Ngai, as I recall, from the advisory group down there, and also from Son Tinh where Colonel GAVIN, Major GAVIN then--I explained to the commanders at that time, after discussing with Colonel BARKER prior to talking to the company commanders, that the intelligence reports that I had received from brigade, Colonel BLACKLEDGE at the brigade, from prisoners that I had personally interrogated and there were other areas that we had gotten intelligence--Son Tinh for one; the indications were, I told Colonel BARKER, that the 48th

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were in the area down there--and the movement, personnel, so forth, that we had talked to, they were down there. And I told--

Q. (Interposing) May I interrupt. When you say down there--down where?

A. My Lai, sir. I'm sorry, in that general area.

Q. Do you see what I am getting at--whether you are referring to the whole area as My Lai or are you talking about My Lai (4)?

A. Well, sir, we talked about the area more than we talked about the specific village. We felt that the village of My Lai (4) was where the command group and at least two companies were. That was the indication we had from intelligence reports.

Q. What strength would you--did you indicate what this strength would be?

A. We had had an operation there sometime prior to this and we had killed quite a few Viet Cong. We considered those to be out of the 48th, and there also was one of the companies that was running about there all by itself.

Q. What do you call the company?

A. We had a designation for it. We had information that it was the 90th or 91st, something of that nature. It was a local company and sometimes they're hooked up with the 48th. The structure was never really cut and clear, I did not feel. We felt that because of where the command group was, the 48th Battalion, VC Battalion, had two companies there. We felt--we decided to have the operation begin at My Lai (4), sir. I informed the companies that they could expect heavy resistance from my experience in the area. That was about it, sir.

Q. Explain what you mean by "my experience in the area"?

A. I have been in the area. When I speak of area, I am not speaking of My Lai. I am speaking of the whole Pinkville area. And I have been out there--

Q. (Interposing) When were you out?

A. The 1st of March. It was the day I arrived in Task Force Barker. I went out there on a major operation. It was quite a fight.

Q. Was this operation in the area of My Lai (4)?

A. It was within 2 or 3 kilometers of it, sir.

Q. Was this also the operation that involved the use of APC's?

A. Yes, sir, it is.

Q. This was out of the operational area of Task Force Barker and in the AO of the 2d ARVN Division. Why was this AO requested and granted from the ARVN's?

A. This is an opinion, (conferring with counsel), sir, this is my own opinion, sir. The 2d ARVN Division would never do anything. Sir, they wouldn't fight, and they would not even protect themselves very well, sir. Colonel BARKER was a good commander, and Colonel BARKER wanted to relieve the pressure on the Quang Ngai area and also on our area. The VC were in that area. They were not in our AO, and we knew where they were, down in that area. Colonel BARKER wanted to go in there and fight them, sir. That is why.

Q. Did the intelligence build up on the location of the 48th Local Force Battalion lead to the requesting of the AO?

A. That is correct, sir. That is my understanding.

Q. Well, you should know fairly well. You are the intelligence officer.

A. Yes, sir, I was. I told Colonel BARKER what the intelligence reports were, of course, and we kept him posted, and he looked at them constantly. He got some information, I do not know anything about that, from, I think it was, Son Tinh if I am not mistaken. And he asked me what my intelligence reports showed. We went over those, and we decided that is where the 48th was. This was not the first time we had asked for an AO extension, nor was it the

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Q. What do you normally consider the strength of a battalion, of a VC battalion?

A. Well, we run about 350, maybe 380.

Q. What did you expect the strength to be that they would encounter in My Lai (4), when you say the battalion headquarters and two companies?

A. The best I recall, it was over 200, sir.

Q. And you indicated to them that they could expect strong resistance?

A. I did, sir. I was very definite about that. Captain MEDINA had not had his company, Charlie Company, in that area that we call the Pinkville area. The other companies had been in there, the other two companies. And Captain MEDINA discussed it with me because I had personally been there. He was interested and concerned about the welfare of his men, and he expressed that to me. I told him that I had been there, and the resistance was very heavy there. There were heavy weapons used, rockets, and .51 caliber machineguns. I said that there was no reason for us to believe that they were not going to use it again, including mortars, sir.

Q. You gave him quite a strong picture as far as the enemy resistance that they would encounter.

A. Yes, sir, I did.

Q. Did you give him, in the briefing which you presented, did you indicate anything concerning the civilian population?

A. Yes, sir. The civilian population was always a concern of Colonel BARKER, as well as the staff and the commanders. The civilian population was known to be rather active sympathizers with the VC. The VC was a local unit. The VC came from the families. There were mothers, fathers and sons of the VC. The father was a VC, and the uncle was a VC. They were not people who came down from the north. In the civilian population area there were several markets,

large markets, where all the people would gather each day, where the people would go to get the provisions for that day. They had to go each day because they had no refrigeration or anything like that, and normally in the morning from the VC reports that I have heard, numerous reports from people that I have personally interrogated and talked to. The people would leave to go to the market in the morning, and they would leave about 7 o'clock in the morning or so and then they would return, depending how far it was. They would return after they bought the food that they had when they returned. Colonel BARKER had queried his staff about a preparation being fired in the area prior to the combat assault of the troop ships. It was a consensus of opinion that the best thing to do was to fire a prep prior to the assault, and Colonel BARKER said he did not want that fired. He wanted it fired with a very minimum of civilian personnel in the area. He was concerned about that. I recall very definitely that on that particular time we did, and the prep was fired from Uptight.

Q. Where was the prep to be fired?

A. To be fired?

Q. Yes.

A. It was to be fired at My Lai (4), at the village. Now, I cannot say for sure here, but it was cleared. All our fires were cleared. We had an artillery officer there who cleared all our fires, our H&I fires, each evening and called in coordinates for the next day.

Q. What was the size of the prep?

A. I think that it was about a 4-minute prep with a 105, and I think they fired over 100 rounds.

Q. 105?

A. Yes, sir.

Q. Artillery piece?

A. Yes, sir. And they reported to me that they had fired the prep. We asked them how many they fired, and they said 100-105, sir.

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Q. Were you present at Uptight? Did you have a personal knowledge of the number of rounds fired?

A. No, sir. That is what was reported and what I recall.

Q. Is it a logical assumption that, because people go to market early in this area, all the civilians would be out of My Lai (4) by the time that the artillery prep would be fired?

A. Not all, sir. It couldn't have been all of them. I don't believe--

Q. (Interposing) Was any consideration being given to children, babies? Was any consideration given to pregnant women? Was any consideration given to old men who might be in the village, who would not be going to market?

A. I think that there was consideration given, sir. Yes, sir.

Q. Who gave it?

A. Colonel BARKER, I am sure, gave it some. And I know it passed my mind, and I think it passed everyone's mind.

Q. Were there defensive positions in this My Lai (4) area, bunkers?

A. I do not know, sir, because I never walked in My Lai (4) as I remember.

Q. I am speaking to you as the intelligence officer.

A. Yes, sir. There were bunker networks reported there, sir. They were observed from the air. There were tunnels. There were extensive defenses. It was a well prepared area, very well prepared.

Q. Where was the clearance obtained to put artillery fire on the village?

A. I do not know, sir.

Q. Where would it normally be obtained?

A. Brigade, sir.

Q. Was there any requirement to check with province or district?

A. We had an artillery officer, a captain, who did all this, and we never got into his work too much. I understand that occasionally we would call. I have heard him call Son Tinh and talk about fires in the area. What they talked about, I am not sure.

Q. You are not familiar, then, with the procedures for the clearance of artillery fire?

A. No, sir, I am not.

Q. Do you recall any other part of the intelligence briefing which you gave the commanders or which might have been given the commanders by Colonel BARKER?

A. No, but may I make a statement or try and clarify something? Our briefings were not conducted in--I do not know what kind of atmosphere you would call it. We did not just sit down and take our notebooks out, and Colonel BARKER would just start talking. Colonel BARKER would talk to us for 5 minutes. Then he would jump on the radio or something, and we would sit around, and pretty soon he would come back and talk again. And he would say: "KOTOUC, what do you think about this? What is up here?" And I'd say: "Here is the report." The company commanders would listen, then he would go outside, or go to his own hootch and get something, and come back in. So we never sat down and got anything formally. I never wrote a thing on paper, I never used a typewriter the whole time I was there. We had absolutely no administrative personnel. I do not know if he ever made a written order or after action report. I saw him writing what appeared to be one, one time, when he was working in his quarters. There was no such thing as just sitting down and giving anybody a briefing. This was not how the colonel wanted it, and it was not the way it was done.

Q. What you have just stated is that there was no operation order, there was no intelligence analysis, that were provided in any written form?

A. That is correct, sir, not that I know of. I made no intelligence in written form, sir.

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Q. Were any instructions given concerning the destruction of the village?

A. Yes, sir, there were. Colonel BARKER said he wanted the area cleaned out, he wanted it neutralized, and he wanted the buildings knocked down. He wanted the hootches burned, and he wanted the tunnels filled in, and then he wanted the livestock and chickens run off, killed, or destroyed. Colonel BARKER did not say anything about killing any civilians, sir, nor did I. He wanted to neutralize the area.

Q. When did he give these instructions?

A. He told me this was what we wanted to do here. When it was, it was prior to the operation. As I recall, it was the night before, or early afternoon before, on 15 March.

Q. Had he obtained authority to do this?

A. I do not know, sir. I did not question his authority.

Q. You were his staff officer?

A. Yes, sir. I personally did not feel there was anything wrong with what he said, sir.

Q. How many civilians did you estimate at the time lived in that village, hamlet?

A. I do not recall that I did, sir.

Q. Were you familiar with the brigade orders and the division orders concerning the burning and/or destruction of a village or hamlet?

A. I am familiar with Colonel HENDERSON saying that when we get through down there, there would not be any 48th left, or any place for them to live.

Q. Specifically what did Colonel HENDERSON say?

A. To the best of my recall, he said that when we get through with that 48th Battalion, they won't be giving us any more trouble. We're going to do them in once and for all. I thought, personally, that was a real fine thing to say.

Q. Did he give any instructions to burn the village?

A. Not to my knowledge, sir.

Q. To destroy the area?

A. Not to my knowledge.

Q. Who had authority at the time to give an order or to approve a directive to burn a village or to destroy it?

A. (Witness consults with counsel.) In all honesty, I do not know, sir. I can not remember. I took orders from Colonel BARKER; the ones he gave I accepted as a legal order, and that is the way it was.

Q. You did not accept this as an illegal order?

A. No, sir, I didn't.

Q. I would like you to again state, to the best of your ability, what Colonel BARKER said that you would do with respect to that village, My Lai (4)?

A. Colonel BARKER said he wanted the defensive positions destroyed, the bunkers, and the trench work, and the tunnels, if we could find them. He wanted the hootches knocked down, and in a case where they could burn them to burn them up. He wanted the livestock and chickens to be run off, or else destroy them. Run them off and get them out of the area.

Q. Did he say anything about the wells, the water?

A. No, sir, he definitely did not. Colonel BARKER never did say anything about polluting wells, or to do anything with the wells, not to my knowledge. I never heard him say anything about that.

Q. Did he say anything about destruction of other villages in later parts of the operation?

A. He spoke in general terms, and frankly, the village My Lai (4) was not given a whole lot--we did not talk constantly about My Lai (4). The operation was not for My Lai (4) per se. It was for the area there. The reason we went to My Lai (4) was because that is where we thought the headquarters and the two battalions were.

They were to sweep through and move, and as my memory serves me, they moved through the north-northeast. There would be a blocking company up there. The idea was that anything that could be used in the defensive position or blocking position to give aid and cover was to be destroyed.

Q. What time of day on the 15th were those instructions issued?

A. The planning phase went all day, sir. There were different changes. Changes came up, small changes, discussions during that day, all day long. When he gave the final sit down, I do not have any idea. I do not recall--

Q. (Interposing) I am thinking about the specific point. When did he tell them to destroy the village, to put the artillery prep on it and to destroy the village?

IC: I am going to object. Captain KOTOUC has stated to the best of his memory what happened--

IO: (Interposing) You can counsel him, but I would prefer that you not enter into the discussion. You may counsel him at any time.

A. Frankly, sir, I can not remember.

Q. Who else was present; or do you recall anybody else being present when these orders or instructions were issued?

A. Major CALHOUN worked it up on the board, on the ops board. Where the LZ's were going to be, the placement of troops, normal S3 type. I don't know if the captain, I can not think of his name, an artillery captain, was normally there or close by, because we were in a TOC that was about 20 feet, normally 22 feet long, and the depth of it was 10 to 11 feet, I suppose, with a slanting ceiling. It was a very small TOC. Except for Colonel BARKER's radio--when Colonel BARKER talked to us, most of the time it would be inside that TOC. A Sergeant JOHNSON was normally in the TOC, he was the S3 sergeant there, and an artillery captain.

Q. The artillery captain, he was what you normally refer to as a liaison officer? He was not the battery commander from Uptight, then?

A. No, sir, he was our liaison with our artillery.

(KOTOUC)

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Q. Do you recall his name?

A. I am trying to think of it, but I do not. A Spanish name--I should know, but it just escapes me.

Q. Does the name VAZQUEZ mean anything to you?

A. Yes, sir, that is it.

Q. There is a possibility, then, that Captain VAZQUEZ was present when this was discussed?

A. Yes, sir. I'd say yes because his workshop sat right there. You could reach out and put your hand on him. That is where his shop was at. He had a little radio and shop in there. It is very difficult to recall. It is not the only operation we pulled.

Q. We understand this has been sometime ago, and it is very difficult when one operation runs into another. This is why we are trying to give you as much background and so forth and give you sufficient time, so that you can recall some of these details.

COL MILLER: When this briefing was given by Colonel BARKER, were the infantry company commanders there also?

A. Colonel BARKER would talk to Major CALHOUN or talk to myself. Then he would call the companies and talk to them and then they'd leave. And then we'd talk some more, we'd come back and talk some more. I do not want to give the impression that it was a haphazard thing. It is just the way it was done, and it worked out real fine for everybody.

Q. The point of my inquiry was--

A. (Interposing) I am sorry, sir, I can't say exactly who was there and what was said and when. I just do not know.

Q. Were, to the best of your knowledge, Captain MEDINA and Captain MICHLES, or any of the other commanders there when Colonel BARKER was giving these particular instructions?

A. Colonel BARKER always made a point to talk to the commanders concerning the operations and give them an abbreviated order or field order.

MR MACCRATE: Were the company commanders given to understand that they had a chance to encounter the 48th VC Battalion in and around My Lai? Were they given to understand that they had a chance to trap the 48th VC Battalion in My Lai and around there?

A. That was the hope of the whole thing, that we could get them into there, pinch them in, and do battle with them right there, and that MICHLES' company would be in a position where they could not get away if they ran. They would just take off, they would scatter to the winds. It was the whole picture that we could suck them in, pinch them in, and destroy them.

MR WEST: In the discussion of the plans, you planned to destroy the base of operations in and around My Lai (4). Could that have been given in such terms that the company commanders got the idea that this should include that part of the civilian population which supported the VC?

A. To do away with them, sir?

Q. Yes.

A. No, I do not believe so, sir. It certainly wasn't--

Q. (Interposing) I understand you testified this certainly was not said specifically.

A. Sir, I do not think it was inferred, sir.

Q. Included in the field order, were there instructions, specific instructions, to watch out for them the best you could, and to see that no harm came to noncombatant civilians. Was that discussed on the 15th?

A. Sir, I do not think it was referred to, sir.

COL WILSON: Did you go aboard a helicopter on the 15th with Colonel BARKER, Captain MEDINA, and Captain MICHLES, for a reconnaissance of this area?

A. I have to think, sir. We did it all the time.

Q. This would have been on the day before the operation, flying over the Pinkville complex?

A. I say that there was a real good chance that I did, because I went out practically every morning before an operation, and I am sure I must have gone with them. I do not know if it was with those people specifically. Sometimes Colonel BARKER would take up myself and the artillery liaison. Sometimes he would take up the commanders with him in his command ship. I am sure I went over that area that day. As I recall, when I talked to him, we were discussing the LZ and what cover it might afford the enemy. I am sure that I was on the chopper with him that day. Whether I was there with all those fellows, I cannot recall. Normally, we did not have that many at one time on one chopper.

Q. Was there any discussion at that time about artillery and ground concentration?

A. There was quite a bit of discussion and Colonel BARKER took quite a while, not quite a while, but he gave a lot of thought to the prep. He was trying to figure out the best places to fire his prep. I cannot tell what was going through his mind, but I am sure he was trying to figure out the best places to fire his prep. Because I know the conversation was made with Captain VAZQUEZ--was made with someone.

Q. You were with the task force, as I understand it, 2 weeks. Is that correct?

A. Sir, I'd say, frankly, the dates escape me.

IO: When did you come in country?

A. Third of February, sir, and I spent 10 days trying to get up north. I had to go to a school for another 6 days. It was probably 18 days. I am sure, in my own mind, that it was between 20 and 26-27 February 1968 when I arrived there.

COL WILSON: Did you have any previous background of intelligence in this particular area?

(KOTOUK)

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A. I was there in 1962 as an advisor to an ARVN unit. I was at Quang Ngai City, south of Quang Ngai and toward the mountains to the west, a place call Binh Trai, and also a place called Duc Pho, where the brigade was at this time. The advisor group was kind of loose and we traveled all over the area and went driving through the province. I had driven up there because, if I am not mistaken, I went swimming up there one day.

Q. Did you feel that you had adequate time from your arrival and your movement to this area to make an adequate intelligence assessment?

A. Well, I never made an intelligence assessment just on information of my own. I would also coordinate with the brigade, with Colonel BLACKLEDGE. I talked to him on numerous occasions. I also talked to the MI people on numerous occasions. I feel probably that I did.

Q. Once again, was the operation here at this time conceived by Task Force Barker or the 11th Brigade?

A. I think it was conceived by Colonel BARKER. I am not sure, but I think so.

MR WALSH: What were the circumstances under which Colonel HENDERSON said: "When we get through with the 48th, they won't give us any more trouble."

A. That was said on, as I recall, on 16 March when he came up there. I recall him saying it. I can only say that I hope that was the time, because I saw Colonel HENDERSON on numerous occasions. To the best of my knowledge, I remember him saying that they were going to do the 48th in. That was our job that day. We all thought that was our job that day, to do the 48th in. I think that Colonel HENDERSON, I am almost sure--

Q. (Interposing) Was it before the operation had commenced?

A. No, sir.

Q. Was it while the operation--

A. (Interposing) The operation had already been going on.

IO: Did Colonel HENDERSON come up to LZ Dottie to talk to the commanders in the task force prior to the operation beginning?

A. I do not recall him doing that, sir. I would not say he didn't, but I do not recall seeing him. I think General LIPSCOMB was about to leave. He was up there with General LIPSCOMB when he said good-bye. If they discussed it at that time, I do not know.

Q. I would like to qualify one matter on your counsel, although I do not expect your counsel to answer questions. At any time you so desire, you may seek guidance and assistance from the counsel, and he is free to provide it for you. I want that clarified because it was not my intention, lieutenant, to rule you out of this.

WIT: I would like to tell the people why I brought the counsel with me. The counsel works for me in an indirect capacity. I discussed the thing with him, and it was discussed with my commanding officer down there. I have never been to one of these before, and he said to take the counsel with me. So I brought my counsel with me.

IO: You are free to have him. This is your right.

Was any consideration give to the civilians who resided in My Lai (4) after the operation?

A. Yes, sir, I went out there--

Q. (Interposing) You went out there--where?

A. Out to the operation area, and talked to Captain MEDINA. There were civilians there. There were a bunch of civilians standing around, and he reported. It was a normal procedure for Colonel BARKER to send me out, sometimes during the operation, and sometimes after the operation, to talk to the civilians and try to gather what intelligence I could.

(KOTOUC)

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Q. We will come back to the civilians. But going back to the planning stages, the directive stages of the operation. Were there not any considerations given to the care and handling of the civilians? If the order of Colonel BARKER had just been issued to destroy the place, it would have been obvious that you were going to have--that there was going to be a refugee problem of considerable magnitude. Was any consideration given to that?

A. Yes, sir, there was. It was an SOP for the unit when civilians were present in the area, if a fight was going on, the civilians would be taken and moved down the road, in this case to Quang Ngai City. We told them to please get out of the area, and go down to Quang Ngai City. We had been telling those people for a long time to get out of there and live in Quang Ngai City where they had refugees places. It was a policy, and I personally saw it happen when they take the people and just move them through the lines and go down the road. Normally, with all the shooting, they were scared, and they would go on down the road. We did not appoint, and say: "You take civilians down the road." We did not do that.

Q. Were there any instructions issued by Colonel BARKER or Colonel CALHOUN, by your S5 or anybody, to take adequate provisions for marching these civilians out of the area, moving them down in an orderly fashion to Quang Ngai City, and assuring that they were adequately cared for?

A. There was not, because I brought it up myself. I wanted to know what kind of release point they wanted for the civilian population. And they said to do it like normally, and move them down the road.

Q. Were the civilians authorities at Quang Ngai City notified of this?

A. I do not know, sir. I did not notify them. I do not know if they were or not.

Q. How many people did you have on the intelligence staff?

A. One, a sergeant.

(KOTOUC)

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Q. Sergeant who?

A. His name escapes me, too. They had just the one sergeant on the intelligence staff, off and on. The brigade would send an MI lieutenant, and he'd be there for a few days, then he'd be gone a month.

Q. Did you also have some radio operator there, other people to handle your telephones, communications?

A. Well, we had one young man. I can not recall his name. He was a specialist four. He did our mail and such as that. And Sergeant JOHNSON. And we had a signal officer, a lieutenant. The lieutenant was a signal officer, and he had a sergeant and some linemen. I am sure he had, they changed constantly, two or three at the most. The majority of the radio traffic was handled by Major CALHOUN, personally. The majority of it was handled by Sergeant JOHNSON--handled the radio traffic. At night we had a captain, his name escapes me, also, who handled it at night along with the sergeant--24-hour type thing. We did not have any enlisted personnel of lower rank than master sergeant that used the radio.

Q. What were your relationships with the 52nd MI Detachment?

A. They gave me funds for--when they brought in explosives and things like that--pay off. I would go and talk to them about that, and they would give me my funds and I would sign for them. They handled some of the prisoners that we sent back. I think probably all of them, actually. I have been down and talked to the MI people at brigade headquarters, Duc Pho, on different occasions. I'd take the interpreter whom I had. But my interpreter, a Vietnamese boy, was paid through them somehow or other.

Q. The Vietnamese worked directly for you?

A. The Vietnamese interpreter was responsible to me.

Q. Coming down to the time of the operation, I would like you to tell us, to the best of your recollection, the reports that were coming back in from the combat assault of C/1/20.

A. The morning of the operation, I went to the TOC and listened to the radio to see how things were going. I guess everyone was there, like I said. They were always there because they wanted to find out how things were going. The LZ were marked--

Q. (Interposing) May I stop you here just to ask you another question? How far was the LZ from the village, and in what direction?

A. As I recall, 500, maybe 1,000 meters, it is very difficult to recall. I recall the LZ being south of the village, and maybe a little west.

Q. I can clarify this later on an aerial photo which I will be going to anyway. Proceed with your story.

A. The morning of the operation I went to the TOC to listen to the reports, and we had everybody tuned in so we could monitor the whole thing. They went in. As I recall, they had a "cold" LZ, and everyone was happy. That is what we wanted. But then, just right after that, they had a "hot" LZ, had some fire. I could hear it on the radio as they were talking about it.

Q. Could you tell over the radio whether it was friendly fire or hostile fire?

A. I recall that they said that they were receiving fire, so I assumed someone was shooting at our unit. They were talking about the gunships. I think that the gunships' job was to screen. I think it was a screening mission implied or given to the gunships, as well as targets of opportunity, which was normal.

Q. Are you referring to the gunships that escorted the combat assault?

A. I have thought about this an awful lot, and I believe the gunships were there prior to the assault. I do not know if they were what we would term as escort. I am sure they were in the area at the time the assault took place. I have been thinking about this, and it just strikes me that that is the way it was.

Q. Do you know who the flight leader was?

(KOTOUC)

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A. No, sir. I do not even know whom the gunships came from. I thought it was probably--I asked Major CALHOUN when I got here, and I did not get an answer out of him.

Q. Were you familiar with any aero-scouts being in the area of operation?

A. Aero-scouts? We had Skeeter, a little bubble, if that is what you mean. He would fly around and pick out targets of opportunity for us, pick out movement such as that, sir. Skeeter was there that day.

Q. Were you familiar with any operation away from the immediate area of My Lai (4) in the vicinity of Hill 85, southeast of there, having to do with some mortar rounds?

A. I remember Hill 85, and I remember we used to have a lot of trouble there. When we got mortar fire on one of our units, it always seemed that it was coming from Hill 85. I believe that day that there was something-- I do not know--One day they said that 40 mortars were on 85, and we thought they had caught the troops. It turned out to be 40 mortar rounds. If that was the same day or not, I do not know. But 85 was an enemy hill.

Q. Proceed with your story as far as after you had landed. I want to know what information you received back in the headquarters concerning the operation.

A. They were saying there was running--going out of the village. There was periodic firing on the radio. I do not know whose fire it was, just periodic fire, though. It was--they were moving in and replacing units. You could hear them say: "Move over; get over, you're too far right; too far left." You could hear things like that. It really wasn't a very exciting operation that morning.

Q. Were there any references to civilians leaving the village?

A. No, sir. They said there were people running out of the other end, in the northern part.



Q. Refresh your memory. I show you the log of the Americal Division. This is Exhibit M-6 which shows you the entries in their log from the brigade, which had been transmitted to them from Task Force Barker.

I would like you to review the log down to the items checked in red, to page three, please.

A. Some of them I recall, the general nature of them, yes. I have never seen this document, of course. From these entries I recall--I see something that I did not recall. Somehow I got it into my head that MICHLES was walking out there, was put out there and walking into an area. But, I do not know. I remembered, as I said, the gunships were talking about taking targets of opportunity and this is pretty well about what that is. The 69 count I noticed here, sir, item 28. At 0940 Charlie Company reported 69 VC killed in action as a result of artillery fire. There was a report but the numbers--I do not recall if 69 was the number or not. I assume it was. It is here. There was a report, but I was not aware that it was quite that early in the morning. But it may have been, sir. There is nothing there that I could dispute. I do recognize some of those things from the reports that were coming in. It also should be noted that there were a lot of reports coming in, and some of them were logged and some of them were not because of the nature of the report. I do not say they were covering any reports up, but the report was not important enough to log. They were asking for a different--what's that, what's this, where's that, where's this? They had nothing to do--

Q. (Interposing) Would you consider those reports to be definite reports, where they would give you positive information and so on.

A. They were not directed to us, so I do not recall. I think not because we tried to monitor the best we could all the radios and all the "pushes" that were being operated during that period.

Q. That figure of 69, or whatever the figure might be, did that seem an unusual number of VC to be killed by an artillery prep?

A. No, sir. And the reason I say no is because we had two companies there plus the headquarters. And we hoped we were going to catch them that morning. We were going to catch them flatfooted, so to speak, and I think everyone was rather elated that there were some gotten by artillery fire.

Q. Will you continue with your story, leading up to your going in to see Captain MEDINA?

A. We spent part of the day there at Dottie, I did, in and out of the TOC. I had a duty to do, and it seemed to be going along pretty much like the colonel wanted them to go. He was happy, so I--

Q. (Interposing) Was he in the TOC?

A. He was using the TOC. And he had a radio in his hootch where he could monitor. He could also break in and talk from his hootch, which was eight steps from the south end of the TOC.

Q. During this operation was he in the TOC or in his hootch? Was he airborne?

A. Sir, I think he was all three, at one time or other, during this period.

Q. Who controlled the combat assault?

A. Major CALHOUN, I guess, if I understood the question correctly. When the ships were on the ground, he would log the time and all that.

Q. Yes?

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A. I do not know. I do not remember if--

Q. (Interposing) Normally, you have a commanding officer for the operations and you have a flight leader. The flight leader is from the aviation unit. My question is who was the commander of the operation that morning?

A. Sir, I think Colonel BARKER went out in his C&C. I think he did. To the best of my knowledge, he did.

Q. When were you with Captain MEDINA?

A. That was in the afternoon.

Q. What time in the afternoon?

A. It was after 1500, sir, sometime after 1500. It was light. It was 1500, 1530. As I recall, it was 1600. It was about the time we started to--for him to go to this defensive position.

Q. Had he linked up with B/4/3 at that time? Did you see Captain MICHLES?

A. No, I cannot remember seeing or talking to Captain MICHLES that day. Whether they had linked up, I was not aware of it. They may have, but I do not recall seeing MICHLES that day.

Q. This was sufficiently late in the afternoon. However, they had completely passed My Lai (4) and were pretty well either in or near the objective area. Had they stopped for the afternoon?

A. We were going to bunker our men in that area.

Q. Now then, tell me what else you can about the operation and the intelligence reports coming out of My Lai (4).

A. There was a report from Skeeter, from the helicopter pilot. The report, and I cannot quote it verbatim, was something about someone getting shot with a machinegun. "Looks like they are shooting them with a machinegun. Someone is going across the road and is getting shot with a machinegun." The helicopter pilot, whoever he was, said something like: "He doesn't have a

weapon," or words to that effect. Major CALHOUN got the report, and he got hold of both Captain MEDINA and Captain MICHLES, and I am sure he talked to both commanders, almost positive, and he told them: "Make sure we are not shooting anyone that is not necessary. Let's not be killing any civilians out there." They "rogered" the report.

Q. Did you hear them "roger" the report?

A. I heard MEDINA "roger" the report. That was the last I heard of anything like that going on.

Q. Did you hear any instructions being issued concerning burning of any houses, hootches, or the like?

A. No. Colonel BARKER, said something about being very cautious about the people in the area. We did not anticipate any, and he said something about that and he was, I think, I do not know if he talked on the radio or what he did, but I don't recall, "Don't burn anything down," or anything like that. I don't recall that being said.

Q. Did you ever hear Colonel HENDERSON instruct Colonel BARKER to stop burning, or Major CALHOUN or anybody issue instructions to stop burning the village?

A. No. If I did, I've forgotten it. I don't recall it at all.

Q. Did you get any intelligence reports from the interrogation of an old man conducted by Captain MEDINA and his interpreter?

A. No, sir, not that I know of.

Q. Intelligence to the fact that there had been about 40 VC in the village, but they had departed early in the morning?

A. Sir, I do not recall. I could well have, but I do not recall it. We got a lot of reports like that on a lot of operations.

Q. When you visited Captain MEDINA, northeast of My Lai (4), what report did he give you at that time?

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A. I got off the ship and went over to talk to Captain MEDINA. There was some Vietnamese there, kind of sitting by themselves. There was a guard standing by them. These were all men between the ages of 30 and, maybe, 50. When they are old it is hard for me to tell how old they are, after they get past 40. I went over and asked them how things were going, and he said pretty good. He said: "Did you get that report about shooting that civilian?" I said that I had heard that. He said that he was concerned about it, what they thought or what's the opinion. And I said that when he had gone through the village--I asked him how it was, and he said it had been torn up pretty bad by rocket fire or artillery fire, he did not know which.

Q. What kind of bodies?

A. Just Vietnamese. And he asked me: "Do you know the colonel wanted me to go back in"? I said: "Yes, I had heard." When I said colonel, I meant Colonel HENDERSON. Colonel HENDERSON told MEDINA, I can't quote it but I can give you the substance, to go back in and go through the village because it was reported that there was somebody killed. I want you to go back in there and to start counting bodies, and I want you to start listing by male, and female. And he wanted the whole report, sir. General KOSTER--

Q. (Interposing) Who issued--did Colonel HENDERSON say that personally to him or was--

A. (Interposing) This was on our radio, sir. Colonel HENDERSON was in a helicopter. It came over the radio. I was not there. I did not see Colonel HENDERSON, but it came over the radio.

Q. But you are sure it was Colonel HENDERSON?

A. I am sure it was.

Q. Could it have been Colonel BARKER or Major CALHOUN?

A. No, not unless Major CALHOUN got in on it to confirm that we had heard it.

Q. But in all events, with respect to whether it came from anyone of those or anyone else, you heard them say to return, to make a count of civilian casualties, of all casualties, men, women, and children, all the details?

(KOTOUC)

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A. Right, sir. It was right on the air. There was no one passing notes around. It was right on the bloody air. And General KOSTER was there--

Q. (Interposing) Where?

A. In a helicopter, sir. And he, General KOSTER, said no because of the number of booby traps and the mines. There were still Charlies running around in the paddies, and they were still getting sniper fire. He just didn't feel it was in the best interest of the company to go in there. And he told them: "I just don't want you to go back through there. You have done a fine job so far. I don't want you to go back down there and subject yourselves to more danger for apparently no reason whatsoever, or very, very minor reasons." And I asked Ernie: "Well, did you go back?" And he said not after the general told him not to go back.

Q. And did he go back?

A. Not after he'd been told by the general not to go back.

Q. When was he given this order?

A. I am sorry, sir, I can not recall if it was the morning or the afternoon. He was told, and I know he was told, and I know that Colonel HENDERSON wanted him to go look--

Q. (Interposing) Did you hear Captain MEDINA or anyone else object to such an order to return to My Lai (4)?

A. I think that the consensus of opinion, by the moans and groans around the TOC, was, "My God. They're probably going to send him back in there again."

Q. I am not asking that. I am asking whether you heard Captain MEDINA or somebody object to going back in there?

A. No, and I did not hear anyone question the order.

Q. When you saw Captain MEDINA there, did he give you or did you ask for any account of civilian casualties?

A. I asked him about how many he thought he saw. I asked him that. I said: "How many are in there?" He said he didn't know, 20 to 25. He said that some of them were blown up pretty bad, I did not want to pick them up and start counting them. I think this was that day, and this is what he told me. He also told me at the time, which was very well publicized, about shooting that woman. He told me about that day. I'd like to tell the board that Captain MEDINA was upset because he shot the woman, because he felt afterward that it might have been a mistake. He was just upset about it, about shooting her.

Q. Could he have been upset about something else?

A. If there was something going on, I would have found out about it in my own mind. I talked to the troops out there. In fact, I think I gave one of them my pants because he lost his on some barbed wire.

Q. Who else did you talk to out there? Did you talk to Lieutenant CALLEY?

A. Sir, I do not even know Lieutenant CALLEY. I wouldn't know him if he walked into the room right now.

Q. Did you talk to anyone in the 1st Platoon that you know of?

A. I think not, sir. I did not know the men in the company. I did not know them real well. I did not sit around and visit with them. My main purpose, one of the main purposes of going out there, was to--Colonel BARKER always wanted to know what the defensive positions were going to be, and we would mark it on our maps. I took my map out there so Ernie could show me how he was going to put the company in for the night. We would write it on the map, and I would write it on my map. If the colonel had any instructions written, he would send them with me. That was my main purpose in going out there. In addition, he had some captives there, some prisoners, and he wanted me to come out with my interpreter and talk to them.

Q. Did you talk to them?

A. Yes, I talked to a few of them.

Q. Who was controlling the prisoners?

A. Well, they were controlled by Captain MEDINA's company. But there was a sergeant or somebody standing there with a gun on them so that they would not run away. Also, the National Police were out there.

Q. Who controlled the National Police?

A. Well, I took them out, but I did not control them. They just hitched a ride with me in the helicopter, and they wandered around there talking with different people. One of the National Policemen might have been senior, I do not know.

Q. When you have an attachment from the ARVN working with the unit, who was responsible?

A. Senior ARVN officers, sir.

Q. Is the ARVN responsible, or is a U.S. officer responsible?

A. It is my understanding that the senior ARVN is responsible for his personnel.

Q. Did you ever hear that point discussed?

A. I heard it discussed many times. I was an advisor for a year. Many times they told us: "You do not give ARVN orders."

Q. But, this is an entirely different situation than in an advisory capacity.

A. If there were ARVN's under Captain MEDINA's command, or Colonel BARKER's command, I do not know about it, sir.

Q. Was an American officer with them, or any American enlisted personnel?

(KOTOUC)

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CONFIDENTIAL

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(KOTUUC)

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A. I am thinking about it, and I think there was a lieutenant, but he was Vietnamese. I do not recall if there was an American officer out there other than--if there was, I did not recognize him. Most of them do not wear their rank.

Q. Did you know Lieutenant JOHNSON from the 52d MI Detachment?

A. Yes, sir.

Q. Was he there?

A. I do not recall JOHNSON being there.

Q. You don't recall talking to him?

A. JOHNSON was one of these officers I was telling you about, from Duc Pho, who would come up and would stay for a period of time. If JOHNSON was out there that day, I do not recall it.

Q. When you were out there, did JOHNSON, MEDINA, or anyone else inform or advise you that the National Police had executed one or more of the VC suspects?

A. Yes, sir, but it was not JOHNSON that told me.

Q. Who told or advised you?

A. I saw it, sir. I saw them take the man behind the hootch, and I heard a rifle go off. I saw a National Policeman come back without the man. And Captain MEDINA said: "Let's knock that off, that is not the way we handle our people around here."

Q. How many--did this happen more than once?

A. Two at the very most, because MEDINA was awfully mad. He did not want the policeman going around shooting people in the area.

Q. Was this reported?

A. That is a very important question. I am trying to think. I believe it was, sir.

(KOTOUC)

Q. Who reported it?

A. Well, I did for one thing, but I didn't--I reported it to my commanding officer.

Q. Did you ever enter it into your log?

A. No, sir, I did not.

Q. Did you recognize this as an atrocity, violation of the rules of the land warfare?

A. Sir, to me it certainly was, sir.

Q. Was the National Police--

A. (Interposing) I did not see the body. I want to make it clear, I don't know if he was shot in the arm or the foot or where, I do not know. To me it was not necessary. The man was there, and we had him if we wanted to talk to him, we could talk to him. As an intelligence officer, I could not talk to the dead man very well. The National Police, from my experience over there, in a little over the year I had been in country, the National Police did pretty well much what they pleased. We had reported it, I had reported it many times in the past, and nothing had ever happened.

Q. At what point of time was your experience in the area of Quang Ngai in an advisory capacity?

A. I was in Quang Ngai from September until Christmas day of 1962. Then I went down south as an advisor.

Q. Then you were there from 1962 to 1963. Now, we are talking about a period 5 years later, but you still have the same appreciation of the National Police?

A. Yes, sir, I sure do. The National Police were not under my orders or orders from Captain MEDINA. They hitched a ride out there. They asked if they could ride out there, and they were welcome to ride. What they did, I do not know. It was their district and they were the police.

Q. Had this operation been cleared with the ARVN?

A. I assume it had. They had to get an AO extension.

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Q. That does not necessarily mean you are going in on a specific day unless they had the details of the operation, and so on, to get an AO extension.

A. We normally gave "X" numbers of hours. I had not thought about that aspect of it. I suppose that if I asked for an AO extension, we would not necessarily mean it had been cleared. A point well taken. I know that we had gotten an AO extension. I do not know that the operation itself per se had been cleared with the ARVN's.

Q. In operations of this sort, when you are going into a place, did you or somebody else within the headquarters normally ask for support by the ARVN or by the province to obtain National Police, to obtain additional interrogators, Popular Forces, or Regional Forces?

A. We had occasion, sir, to ask and receive assistance in the form of National Police and people. I do know that they were referred to as "spook." I don't know what they were. They were very close-mouthed.

Q. Did you feel, simply having indicated this to Colonel BARKER, that this fulfilled the responsibility that you had to report atrocities?

A. I felt at the time, sir, that I had done what I should do. I told Colonel BARKER. He is my commanding officer. It is not my habit to talk to other than my immediate commander. I have no doubt in my mind that the National Police chief, whoever he is, knows what was going on, no doubt in my mind at all. I reported it to my commander.

Q. You did not, then, report it to either the Son Tinh District headquarters or the Quang Ngai Province headquarters?

A. I did not.

Q. Do you know if Colonel BARKER reported such to them?

A. I do not know. I do know that he did make quite a few reports to Colonel GAVIN, and that they were together on many operations. I think that the conduct of the PF's that

were under Colonel GAVIN's advisory staff, their conduct-- I know that the colonel had mentioned the conduct to Colonel GAVIN, and Colonel GAVIN talked to his superior about these things and the National Policemen. I will be completely honest. I do not know where they fit in on the structure. I did know that they always seemed to be around, and that the National Police who were out there that day came out of Son Tinh District.

Q. When you visited Captain MEDINA in the area of Pinkville, did he give you statistics as far as the operations results; enemy killed, weapons captured, and friendly killed?

A. I do not believe so. I did not go and ask him for the list. I do not know what he volunteered. He did mention that the artillery fire and the rocket fire had torn up some bodies. He told me that, and we were concerned, because my interpreter asked one of the Vietnamese there: "Where are the VC?" The guy had said that most of them had run out into the surrounding rice paddy area, and the rice at that time was very high. They could get down and hide in it without too much trouble. And Captain MEDINA asked me, at that time: "I am concerned about the safety of the troops for the evening and for overnight stay in this area, because we know there are a lot of them out there. We ran out a lot of them. We did not get those." So we considered primarily these specific questions, and what defensive measure might be taken to avoid attack that night on their positions.

Q. You indicated you talked to some other people there from the company.

A. I said hello to them. I do not know anyone else in that company, sir, except MEDINA. I knew his XO, who was at Chu Lai at that time, and the first sergeant. Lieutenant CALLEY, I do not recall.

Q. Was his first sergeant with Captain MEDINA that day, or do you recall?

A. I do not believe he was. It was normal for the first sergeant to remain either at LZ Dottie or up at Chu Lai

and handle the supply end, administrative end, of the company himself. I do not believe that Captain MEDINA had an administrative force there at LZ Dottie or an administrative section.

Q. Did you see or hear any discussion between Colonel HENDERSON and Colonel BARKER either that day, or the next day, or the following day, 16, 17, or 18, concerning civilian casualties in My Lai (4)?

A. No, sir, I did not. I can also state that when Colonel HENDERSON came out there, I normally left the TOC, because he wanted to talk to Colonel BARKER. If he wanted to talk to me, he told me to stay. I slipped out as a matter of courtesy.

Q. Did you see General YOUNG during that period? General YOUNG, the ADC of the Americal Division, did you see him at LZ Dottie during this period?

A. I saw the general come in occasionally. It must have been close to that period when General RYDER was the ADC. I think it was General RYDER who was very helpful in getting supplies. He came down once in a while and talked to Colonel BARKER. And General KOSTER came by on several occasions.

Q. I am talking about these particular days, 16, 17, and 18?

A. Sir, I do not recall whether they were or were not there during that period.

Q. You did not hear any conversation, possibly between Colonel BARKER and any other senior officers, concerning the killing of noncombatants in My Lai (4) area during this period?

A. No, sir, I did not.

(The hearing recessed at 1214 hours, 6 December 1969.)

(The hearing reconvened at 1336 hours, 6 December 1969.)

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IO: The hearing will come to order.

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

(The witness, CPT KOTOUC, was recalled and reminded that he was still under oath.)

IO: Just before we recessed, Captain KOTOUC, we were discussing possible visits and/or discussions between Colonel BARKER with General YOUNG or General KOSTER, at LZ Dottie or elsewhere concerning any possible or unusual activities at My Lai (4). We had pretty well finished that. When this operation had terminated, did you receive any report from Lieutenant JOHNSON?

A. Sir, I have been thinking about it over the lunch hour, and Lieutenant JOHNSON, I honestly say that I cannot recall him being there. If he was there, the only possibility that I know of where JOHNSON might have been, might have been with MICHLES' company. Like I said before, I do not recall seeing him that day. Lieutenant JOHNSON did not make reports to me; he reported to his boss down at Duc Pho. I do not remember Lieutenant JOHNSON speaking to me concerning the operations.

Q. Who was the senior officer?

A. There was a senior officer. I met him once or twice. He was a captain down there.

Q. Could it have been Captain FLETCHER?

A. Sir, I know that name Captain FLETCHER, but I am not sure whether it was this man or not.

(The IO handed the witness Exhibits P-2 through P-25.)

IO: These photos were reported to have been taken by a specialist by the name of HAEBERLE, who was from the IO section, the information section, of the brigade. I will show you these photos and ask if you have seen any of these photos prior to the time you departed the brigade in South Vietnam.

A. (Witness examines photos.) No, sir, I have never seen any of these photos. This one here, I have not ever seen any of these before; I do not even recognize anyone here.

Q. These are photos that were taken by PIO section of the brigade, personnel from that section. Did they normally provide you with photos that they took in the course of an operation, provide such photos to the task force?

A. No, sir. In fact, I cannot recall one time when I was ever shown any photos. I can't recall that we had PIO coverage, so to speak, on any of the operations. I don't recall it ever being a policy there.

Q. Do you know whether the reporter and the photographer were there working under the direction of the brigade commander, or whether they were operating under the direction of the brigade and specifically the PIO section?

A. I do not know, sir. They weren't discussed in the planning to my knowledge.

Q. I will show you another set of photos which have been entered into the record as Exhibits P-26 through P-42, and I would ask if you have seen any of these photos prior to the time that you departed South Vietnam.

A. (Witness reviews photos.) I have seen these two photos, but I am sure it has been since I have been back in the States (referring to numbers 32 and 33). But I was not shown any photo while I was in Vietnam, in the brigade or elsewhere, for any kind of investigation or anything like that, sir. Possibly, I don't know whether you want me to say this or not, but I see a man here who resembles Lieutenant JOHNSON (referring to photo P-36). The soldier in the background (pointing to top figure in photograph).

MR WEST: The top figure in the photograph?

A. Yes, sir, top figure in photograph number P-36.

IO: Then neither of the sets of photos that we have shown you, the exhibits, none of these photos did you see in South Vietnam during the time you were there?

A. No, sir, I did not.

Q. Referring back to photo P-21, can you identify the Vietnamese in the picture?



A. The soldier, sir?

Q. Yes.

A. I can definitely state that it was my interpreter, that it was Captain MEDINA's interpreter. I knew Captain MEDINA's interpreter very well. He used to give me classes in Vietnamese. I recall an interpreter who worked out of the MI; I think it was from the MI. Lieutenant JOHNSON had him with him once in a while, and he somewhat resembles this man because of the glasses.

Q. Do you recall the name of Captain MEDINA's interpreter?

A. He came from Saigon. Sergeant--mine was MINH, PHO--I am sorry, sir.

COL WILSON: Could it have been PHU, spelled P-H-U?

A. Yes, sir, I think that was probably close.

IO: With respect to the investigation, did you ever hear of any investigation being initiated by Colonel HENDERSON or Colonel BARKER of the incident which took place at My Lai (4) on 16 March 1968?

A. No, sir, I haven't. There was no investigation conducted by anyone. I heard down there from friends of mine at brigade headquarters, when I went down there on different occasions. And they said that--they mentioned that there were some question about some acts of killing some civilians on this operation that day. This was in the course of having a beer with someone. We would discuss this. They were just rumors. They asked me if I knew about it, and I had not heard a thing about it myself. I knew that it was common knowledge within the brigade that there were some people that said, this is going to sound a little bit strange, I hope it is understood the way I mean it, we were getting our body count off civilians. And I say that because our body count was higher than any other unit in the brigade. I think that all the military personnel are aware of this. There is quite a bit of competition in the military. The body count in 1968 was part of that competition. I think that is pretty well established as true. I dismissed it by saying such things that if you get there and find Charlie, you would probably get a few yourself. It is just a matter of discussion. But I know that some-

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one had mentioned it, and I have never been talked to. I was never--nor was anything done. We never discussed March 16 or anything that happened on that day.

Q. Did you ever see a piece of paper or a card which had a breakdown of the civilian casualties resulting from the My Lai (4) incident of 16 March 1968?

A. I do not recall anything, sir. The only time I have seen any casualties in writing, it was put on the casualty board in the TOC. I did not see any card. There was a log kept in my S2. The sergeant kept a log and he made the entries because he was in the TOC. He would listen to the information coming forward, and he would make these entries. Sometimes I would see the log, and sometimes I did not get to see the log. But I would come back before the log was sent forward, and if there was anything pertinent, they'd tell me. But, I do not recall anything about it myself.

Q. You made one statement that your log was sent forward. Sent forward to whom?

A. I guess, brigade. That is where we send them. I do not know what we did with them.

Q. Did you not retain file copies of your log?

A. I would like to say that the administration of Task Force Barker was less than satisfactory. I read the file over, and he would point out things on it that were important when he was in there.

Q. Did you keep an intelligence log and an operations log?

A. Not in a strict sense, no, sir.

Q. You at no time saw or prepared or have any knowledge whatsoever of some 3-by-5 cards which had a breakdown of the kind of information which Colonel HENDERSON had requested from Captain MEDINA when he ordered the company back through My Lai (4)?

A. I am trying to remember. Sir, the way we kept our records was--I am afraid I just cannot recall, sir. My sergeant would know.

IO: May I have the combat action report?

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