

## SUMMARY OF TESTIMONY

WITNESS: LIVINGSTON, Brian W. CPT

DATE OF TESTIMONY: 12 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Pilot, Aero-scout Company,  
123d Aviation Battalion.

1. ASSAULT ON MY LAI.

a. Initial action at My Lai.

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Captain LIVINGSTON could not remember with whom he flew on 16 March 1968 (pg. 4), if there were two complete teams involved (pgs. 17, 18), if he was flying high or low gunship (pgs. 6, 10), or if he took off from LZ Dottie or Chu Lai (pg. 17). He did not recall an action involving mortars on Hill 85 (pg. 25), or the pursuit of VC in the vicinity of Hill 85 (pg. 19). He saw four VC that day, two of whom were killed and two of whom escaped, probably in the vicinity of Hill 85 (pgs. 39, 40). His mission was to screen people leaving the village to the south and pickup military-age males and other persons with weapons (pgs. 3, 4). When he arrived on station he saw smoke which he assumed to have come from the artillery prep (pg. 18). This was to the east of the village and not in the village itself (pg. 9). He was not positive that the smoke came from the artillery (pgs. 25, 26). It could have come from fires in the village, but he did not recall the village burning (pgs. 25, 26). He saw no gunship prep at all (pg. 9). He did not see the slicks land, and thus did not know the point of the CA's insertion (pgs. 14, 15). On his arrival the gun team from the Sharks orbited east of Hill 85 and the Warlords orbited to the west of Hill 85 (pg. 4). They had no radio communication with the Sharks that day (pgs. 4, 9). Due to the prep and assault many women and children left the village via its main trail and headed toward Highway 521 (pg. 4). LIVINGSTON did not

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remember trying to segregate males from this group or having a C&C ship land to pickup two military-age males (pg. 40). They received no fire that day and his gunship did not fire (pgs. 10, 19).

b. Gunrun on civilians made by Sharks.

While LIVINGSTON did not actually see the Sharks make the run, he heard their miniguns firing (pg. 17). Both Sharks made the attack which consisted of one pass (pg. 11). He could not see the assault itself because he was making a turn at the time (pg. 17). He recalled being surprised because he had no communication with the Sharks and did not expect them to make a gunrun (pg. 11). The Warlords checked the bodies on the road immediately after hearing the minigun fire because they did not know what was happening and wanted to discover if they were in danger (pg. 20). The assault had been made in a westerly direction (pg. 11). The bodies were lying to the left and right of the main trail leading out of the southern portion of My Lai, approximately 100 meters from its intersection with Highway 521 (pgs. 5, 6, 12). He overflew the scene at a distance of 100 feet and saw between 30 and 50 casualties, all of which were women and children (pgs. 6, 12, 13). He saw no males and no weapons (pg. 6). THOMPSON reported by radio that he had been asked to check out the area for "Dinks" with weapons and webgear and said, "I ain't seen any weapons lately" (pgs. 12, 20, 29). At the time, THOMPSON was hovering right over the bodies (pg. 12). To the best of LIVINGSTON's knowledge there was only one team of Sharks (pg. 20). He estimated that this action took place 15 to 20 minutes after the assault (pg. 11). He did not recollect the Sharks marking the bodies with smoke and did not remember seeing smoke used at all that day (pgs. 20, 21). On requestioning the witness asserted that he saw refugees on the road, heard firing by the Sharks and then saw the civilians dead (pgs. 23, 24, 26).

c. Observation of ditch with bodies in it.

Sometime after the Sharks made their attack he saw a trench with less than ten bodies in it, the water in which had turned red from blood (pgs. 6, 24, 28). This ditch was in the woodline on the east side of the village and is probably that shown in Exhibit P-102 (pg. 27). He flew within 200 to 300 meters of the ditch at an altitude of 150 feet (pg. 28).

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d. THOMPSON's landing.

THOMPSON reported to LIVINGSTON by radio that he had seen an officer empty a clip into a little girl who had been lying next to her parents (pgs. 6, 29). THOMPSON was unhappy about it and said that the next time something like that happened he was going to take drastic action (pg. 6). THOMPSON then saw a Negro sergeant fire a clip into a child (pgs. 7, 30). THOMPSON landed while the other ships circled overhead at an altitude of 150 feet (pg. 7). This was approximately 1100 hours (pg. 41). There was a child on the ground toward whom American troops were advancing (pg. 7). THOMPSON later told LIVINGSTON that he gave his doorgunners instructions to keep their M-60's on the Americans and to shoot if the soldiers moved toward the youngster (pgs. 7, 30). THOMPSON picked up the child and moved him to Quang Ngai and LIVINGSTON accompanied him (pgs. 24, 41). This was approximately 1130 hours (pg. 41). He did not see the gunships land and, in fact, saw no helicopters land that day other than THOMPSON's (pgs. 24, 40). Had the gunships landed he believed it would have stuck in his mind (pg. 25). He thought they returned to LZ Dottie after this (pg. 31).

## 2. INQUIRIES AFTER THE ASSAULT.

a. THOMPSON reports incident.

LIVINGSTON did not go with THOMPSON and the others to see WATKE about the incident, and he never spoke to WATKE about it (pgs. 31, 32). The witness recalled that THOMPSON and MILLIANS were going to see Colonel HOLLADAY about it, but he did not know if they indeed saw him (pgs. 7, 8). When THOMPSON returned he told LIVINGSTON that they had gone all the way up to division with it and that it was in division's hands (pgs. 8, 32). LIVINGSTON was never asked to make a statement about it (pg. 38).

b. Rumors within the company.

The incident was common knowledge within LIVINGSTON's company (pg. 33). The men said that civilians had been killed by troops from the 11th Brigade, and the term "massacre" was employed (pg. 33). The men were unhappy about the affair and were not proud of being part of it (pg. 33). Although he believed that WATKE was aware of this talk, he did not recall WATKE getting the company together to talk about it (pgs. 33, 36). LIVINGSTON heard that BARKER had been called in regarding the incident, but he could not remember who told him this (pg. 38). The witness also heard of ~~some~~ <sup>one</sup>

investigation; but did not know if he heard this after he left Vietnam (pg. 38).

3. OTHER INFORMATION.

a. Aero-scout communication system on the 16th.

The skeeter (UH-23) had an FM radio which was used to talk to the low gun (pg. 5). However, the witness thought that THOMPSON changed frequency so he could be in direct contact with the ground troops (pg. 6). LIVINGSTON was talking to the low gun on UHF (pg. 5). There was FM communication back to the S3 (pg. 5). LIVINGSTON did not monitor the Task Force Barker frequency (pg. 6). He did not communicate with the troops on the ground (pg. 6). He did not recall whether he was flying high or low gunship (pgs. 6, 10).

b. Assessment of WATKE.

Although LIVINGSTON termed WATKE a good commander, he stated that WATKE did not fly too much and was aloof with the pilots (pg. 34). Those in the company were upset about the fact that WATKE had won the Silver Star, since the evidence was that his helicopter had gone down due to engine failure rather than enemy fire (pg. 35). The only rounds fired into WATKE's helicopter, as found by the investigating team, were those from the gunships when they tried to destroy the downed craft so as to prevent VC use (pg. 35). The crew chief did not recall receiving enemy fire (pg. 35). The pilots all felt bad about this, especially because the pilot of the helicopter, a warrant officer, had only received the Purple Heart (pg. 36).

c. Assessment of WYCHOWSKI.

Mr. WYCHOWSKI was an over-confident pilot who had limited ability (pg. 35).

d. Rumors about Sharks.

In his 16 March 1968 letter to his wife LIVINGSTON called the Sharks "notorious killers of civilians" because some Scorpions had told him of the Shark's propensity in this regard (pg. 39). He had no personal knowledge of unnecessary killing by the Sharks other than their action at My Lai (pg. 34).

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e. Miscellaneous.

(1) LIVINGSTON did not recall if WATKE flew on the first mission on 16 March (pg. 21).

(2) He did not recall how many Scorpions were involved in the operation (pg. 18).

(3) The low ship usually flew between 50 and 100 feet, and the high ship usually flew between 100 and 200 feet (pg. 10).

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## REFERENCES

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(The hearing reconvened at 0842 hours, 12 January 1970.)

COL FRANKLIN: The hearing will come to order.

RCDR: The following named persons are present: COL FRANKLIN, LTC PATTERSON and MAJ COOP.

The next witness is Captain Brian W. LIVINGSTON.

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

Will you state your full name, grade, Social Security number, branch of service, organization and station?

A. Captain Brian W. LIVINGSTON, Head-quarters and Headquarters Company, 5th Battalion, 6th Infantry, First Armored Division, Fort Hood, Texas.

COL FRANKLIN: Captain LIVINGSTON, before we proceed with any questions, I'd like to inform you of several matters.

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

(1) the adequacy of prior investigations into what is known as the My Lai (4) incident of 16 March 1968, and

(2) the possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this. In other words, whether there was a coverup of what happened there that day.

This investigation is not being conducted to look into all facts and circumstances of what happened at My Lai (4).

We have had made available to us and have reviewed prior statements obtained in other investigations of the My Lai incident.

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

The general classification of our report will be confidential, but it is possible that your testimony or parts of it, may later become a matter of public knowledge.

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

Are you subject to the orders of the military judge in the general court-martial case of the United States v. Calley?

A. No, sir. It is the United States v. Mitchell.

(The witness hands his orders to COL FRANKLIN.)

COL FRANKLIN: I'm going to have a JAG colonel look at this and we'll take a temporary recess.

(The hearing recessed at 0846 hours, 12 January 1970.)

(The hearing reconvened at 0910 hours, 12 January 1970.)

COL FRANKLIN: Hearing will come to order.

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

The witness is reminded he is still under oath.

A. Yes, sir.

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COL FRANKLIN: Captain LIVINGSTON, what was your duty assignment on 16 March 1968?

A. I was a pilot in the UH-1B on a recon team. We were opcon to the 11th Brigade, supporting a Task Force Barker and were going in to the east of LZ Dottie, which was our home base at that time.

Q. What was your organization?

A. 123d Aviation Battalion, aero-scout company.

Q. We are going to start and let you go through without any interruption. Start with when you first had knowledge of this operation, any information you may have received or instructions, and then just talk it through chronologically. We are very interested in any detail that you can remember. We realize it's been a long time and after you get through Colonel PATERSON and I will have some specific questions to ask you.

A. Right, sir.

We were informed on 15 March that we would be opcon to the 11th Brigade which was going to be involved in a Task Force Barker operation to the east of LZ Dottie. We left a little bit earlier. We probably left Chu Lai about 0630. We went down to LZ Dottie which is our home base. We were on two recon teams. Now, a recon team is comprised of, at that time, an OH-23 which is a light observation helicopter, and two UH-1B gunships which we used. The time interval slips at the time. I can't really state the time. Then we went out to the AO, area of operation, where we were opcon to the 11th Brigade. At that time the CA was coming in, the combat assault, and we were supposed to screen and watch for any people leaving the village to the south as our troops moved through the area. We orbited on the west side of Hill 85.

Q. We're going to give you a map here. Later on we'll go through this in detail. Colonel PATERSON will take you through it somewhat. Let me orient you here.

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(Witnesses are seated on Exhibit MAP-1.)

A. Right. . . We orbited out to the west of Hill 85. As I said in the . . . our mission was to pickup any military-age males that were walking out of the area and pickup individuals that had weapons and anything such as this. There was another gun team from the 174th, Sharks. They were out of Da Pho and were organic to the 11th Brigade. They were orbiting out to the east of Hill 85. Mr. THOMPSON, Warrant Officer THOMPSON, was flying our H-23 at the time. Mr. MILLIANS and the other pilot at that time I cannot recall.

Q. Major WATKE.

A. The pilot I was flying with I do not remember. The artillery prep was fired prior to the CA coming in. The artillery prep came in and then the CA came in and then people started leaving through the main trail here that comes out of My Lai down to 521.

Q. Let the record show that the witness referred to the trail coming out of the southern edge of My Lai going south toward 521.

A. We were told to see if we can pick up any military-age males and the ground troops told us that there were VC leaving the area and see if we can pickup any more military-age males and weapons or any people looking like VC leaving the area. We were still holding over here, just orbiting around here to see if we can pick anybody leaving the area. A lot of women and kids were coming down here and taking off this way.

Q. Let the record show down the same north-south trail we referred to the last time and then west on Highway 521.

A. For some reason we didn't have communications. We could not intercept or listen, monitor, the transmissions between the ground troops and the Sharks. Somebody told the Sharks that there were VC going on this road, 521, off to the west. We didn't know they were going off when they made a gun run to the west down 521, which is this road here (indicating).

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As it will state here in my letter which I wrote to my wife--would you like to look at it now, sir?

Q. Just hold on to it.

A. There were bodies lying left and right. They took their miniguns and just did a job on it. Then THOMPSON was told to go down and see if he can find any bodies of any military-age males with weapons. What I am saying now, sir, is what I was told by THOMPSON. He is the only one that knows because he heard the transmission, but what I'm telling you, sir, is what I was told by him. I did not monitor his transmission with the ground people at all.

Q. I would like to square you away on your communications.

A. Yes, sir.

Q. All that Skeeter had was an FM radio which he used to talk to the low gun.

A. Right, sir.

Q. You were talking to the low gun on UHF?

A. Right, sir.

Q. Who are you talking to on your FM?

A. We were the high ship at that time. If we were on our FM we would be talking back to our operations, back to our S3.

Q. Mr. THOMPSON had no communications with the ground troops.

A. Right.

Q. As far as we know, any conversations with ground came from your ship, if this will help you recollect. If you were on your company push, fine. I don't want to put words in your mouth.

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A. No, I'm just trying to figure it out now. That may have been the case, but THOMPSON was the one telling us what his communications were with the people on the ground. I think he was switching FM frequencies so we could talk to the people on the ground and he was the one doing the talking because he was the lowest ship. We tried to keep him on it so he could tell them where to go. Our ship did not talk to the people on the ground.

Q. Or monitor the Task Force Barker command frequency?

A. No, sir, we did not.

The thing that passes in my mind now and that I feel a little bad about, I don't remember whether we were in high ship or low ship. We did not talk to the people on the ground. We did not monitor their FM frequency. So anyway, the bodies were lying left and right on the side of this road, this trail that comes out of the south of My Lai and off to the west there were bodies laying on each side. The greatest number of these people were all women and kids. We did not see any military-age males. We did not actually, in fact, see any males at all. We did not see any weapons at all. So, we still reconned the area and went into our normal recon mission and Mr. THOMPSON was the low ship. I remember remarking at that particular time that there are a lot of trench lines around the perimeter of the village. It was evident they used some defecation pits or something, anyway it was kind of murky colored water coming down. I remember the thing we remarked at the time was, "Remember the old biblical tale of Jesus turning the water into wine?" Well, this was blood-stained water and it was just the type of thing that stuck in our minds, something we could never forget or will never forget. So we reconned the area and I remember THOMPSON calling down, and THOMPSON came back and told us that he had talked to troops on the ground, either the RTO or the platoon leader. He saw an officer come up, and there was a little girl over here lying next to her parents, I believe it was her parents, and he said he saw the officer empty a clip off into her. This made him unhappy and in turn he reported back to us what he had seen done, and he was real unhappy about it. He said the next time it happens he is going to take some drastic action. He saw another body.

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He saw another little boy laying next to his parents or two people and he sees a Negro sergeant fire a clip off into him. Now, he's really mad, he is really hopping mad now. We're still reconning, we come over to the east side of the village of My Lai. The best I can remember THOMPSON landed at that time. We circled over his head and dropped 150 feet above and THOMPSON got out and whatever transpired on the ground, I do not know. He went over and picked up a little boy or little girl. The American troops were moving towards the child, and he went down and he told his gunners to keep their eyes on the American troops and to shoot if they moved towards the kid. He got out and went over and picked up the little boy, came back and got in the helicopter and went off to Quang Ngai. We came back to Dottie and we got the facts together and we went back to Chu Lai. At that time Mr. THOMPSON and Mr. MILLIANS and another AC all went to Colonel HOLLADAY who was our battalion commander at the time and they in turn went to the Americal Division. We did, in fact, report the incident on that day, March 16, 1968.

Q. Reporting of this incident was done on LZ Dottie. It was not done at Chu Lai. It was done to Major WATKE and not to Lieutenant Colonel HOLLADAY unless you recollect strongly otherwise.

A. Well, I remember we went back to Dottie, to LZ Dottie. Right, sir. We did report to Major WATKE but then we went back to Chu Lai around 1200 hours, and Mr. MILLIANS and Mr. THOMPSON left and they said they were going up to report the incident, and went back to Chu Lai. I was "peter pilot" and I did not go along with them. I went back to my hootch.

Q. It's your understanding they were going to go see Colonel HOLLADAY at this time?

A. Right, sir.

Q. This is on 16 March?

A. Yes, sir, it was.

Q. Did they see Colonel HOLLADAY?

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A. I don't know that, sir. I was not with them.

Q. Did they tell you that they had seen Colonel HOLLADAY?

A. No, sir. At the time, sir, they did not tell me that they did. They said that they went up there and went all the way to division with it. They did not say that they saw Colonel HOLLADAY.

Q. Let me give you something more to help you recollect here. Some of these points are very important to us. I know it's very hard to remember. If you're vague in your mind, say you are vague. If you are sure, say you are sure, because your testimony is very essential to us here, Captain LIVINGSTON.

LTC PATTERSON: Separate the best you can from what you were told after the incident, in your conversations, either at Chu Lai or in your hootch, and what you actually saw. We are not interested until later on what you discussed after the incident. We are interested in what you saw.

A. Most of this stuff is all transmission.

COL FRANKLIN: What you heard on transmissions, Captain LIVINGSTON, also what you were told, are extremely important, but separate, as Colonel PATTERSON said, what was what.

When your people came out you had four guns and you had the ones of 23, and the guns were relieving. Two would relieve two.

A. Right, sir.

LTC PATTERSON: Is that the way it was or did you have three and rotate on station?

A. We usually ran it that way.

Q. Do you remember what you had, not what you usually did?

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A. At this time, no, sir, I don't.

Q. That's what we want. Not what usually happens or what you think happened, only what you recall.

A. Right, sir.

COL FRANKLIN: Could you have been a low gun, say, for one particular mission and gone back and refueled and then come back and have been a high gun? Could this have happened?

A. This has happened, but I can't say for sure that is the way it happened.

Q. You saw the artillery prep?

A. Yes.

Q. Could you show us on this photo where that prep landed?

(Witness is oriented on Exhibit P-1.)

A. The artillery prep now, we just saw the smoke coming up right over this area here (indicating).

Q. The witness shows to the east of My Lai. Were any rounds landing in the village?

A. To the best of my knowledge, no, sir. I don't remember any going into the village.

Q. How about the gunship prep? Was there one and where was it?

A. I didn't see one, sir, if there was.

Q. You did not have commo with the Sharks?

A. No, sir.

Q. We know the Sharks were on the battalion push.

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A. Yes, sir.

Q. You said you were not?

A. Yes, sir.

Q. Do you remember if you were flying low or high gun at this time?

A. I wish I did, sir. I've been teasing my mind for the longest time trying to figure this out. I do not know, sir.

Q. We believe that Mr. MILLIANS and Major WATKE were flying the low gun.

Review that again, Captain LIVINGSTON, what you just said about how you would normally fly these formations. I'm talking about the high and low gun with respect to the LOH.

A. Usually, our low gunship was about 50 to 100 feet above the ground. Usually, I'm saying usually, it may not have been the case there, because we did not receive any fire that I know of. We did not receive any fire out there. We fly the high ship between 100 and 150 to 200 feet.

Q. In the south?

A. Yes, sir.

Q. That's above the terrain?

A. Right.

COL FRANKLIN: Captain LIVINGSTON, would you go into detail now on those Shark firing passes made on the highway. You made the statement that someone told the Sharks there were VC on this road, how do you know that?

A. I made the statement, sir, because I see no other reason why they made the gun run down there. In fact, nobody may have told them anything. They made the gun run on their own.

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Q. Let us know when it is an opinion.

A. Right.

Q. You saw the Sharks make a gun run?

A. Yes, sir.

Q. About how long was this after the prep or the CA?

A. Fifteen or twenty minutes.

Q. Fifteen or twenty minutes?

A. Right.

Q. Will you describe that run again, how many gunships in what direction?

A. Two gunships, sir, and the gun run was made generally in a southerly direction or westerly direction. There were people that had come out of the road generally running south to My Lai. People had come out to this main road, road 521 that runs off to the west. The gun run was made, generally in a westerly direction. Now, the reason I remember things so vividly is because we didn't know they were going to make the run, because we didn't have communications with them. It is a real funny feeling being in the air and all of a sudden you hear miniguns going off, sir.

Q. Both gunships made firing passes?

A. Yes, sir.

Q. How many?

A. One.

Q. One pass?

A. Yes, sir.

Q. Firing miniguns?

A. Yes, sir.

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Q. What was your impression of numbers on that road. I realize this is hard. A whole bunch?

A. I would say about 30 to 50 people we saw lying on each side of the road. I mean about 50 people all together.

Q. Are you sure about this, Captain LIVINGSTON? Point on there were you saw these people laying on the road.

A. It was off to the west of the trail. People came out to this road (indicating) and went off to the westerly direction and were lying on a ditch on the south and north side of the road. There were a few bodies lying on the road.

Q. Let the record show the point indicated is about 100 meters to the west of intersection of 521 in the north-south trail coming down from the middle of My Lai.

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You saw 30 to 50 people. You're guessing now?

A. I'm guessing now, sir. Maybe at the time I was in too much shock to really pick out numbers. It may have been only 10 people, I don't know, sir.

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Q. Did you go down to take a look at these people later on? You must have if you saw them.

A. Right, sir.

Q. About what altitude?

A. We were about 100 feet above the ground and Mr. THOMPSON was hovering right over them. He went out with an air speed of maybe 5 knots, just hovered over the area trying to pick up any people with weapons. Now, this is his transmission to me. This is not fact, this is what he told me. He said that he was told to go down and see if he could see any VC with weapons and what he said was, "I ain't seen any weapons lately."

Q. He told you this later or in the air?

A. He told me that in the air. He came over and told us the conversation that was going on.

Q. On the radio he told you this?

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A. Right, sir.

Q. Now, when you saw those bodies, what were they mostly?

A. Women and kids, sir.

Q. Women and kids. When they were going down this road even from your position, could you tell pretty well they were women and kids, from your altitude and distance?

A. Oh, very definitely, sir. At this particular time we were new in a recon team so we were given the area and we reconned mostly to the east of LZ Dottie which is off here to Highway 1. We reconned this area many, many times. We could tell if Quang Ngai would get hit because we could tell by whom was in the field. We saw women and kids in the field and we knew we were going to get hit that night. A majority of time we were right. I'm not saying that all the time we were right, but we could ascertain if it was actually a man or a woman.

Q. Your feeling when you saw those gunships? Go through that again, what your feelings were.

A. I believe, sir, this is the time, if you take a look at these letters. This is a letter I wrote to my wife and dated 16 March 1968. I marked out the personal stuff that you would not be interested in.

Q. That's all right.

(COL FRANKLIN reads letter to himself.)

This is a letter dated Saturday, 16 March 1968, to Captain LIVINGSTON's wife, Bets, from her husband Brian LIVINGSTON. I would like this entered into evidence.

RCDR: Letter dated 16 March 1968 from Captain LIVINGSTON to his wife is entered into the record and marked as Exhibit M-21.

COL FRANKLIN: I'm going to read part of this letter. In fact, I'll let you read the letter, Captain LIVINGSTON.

(Witness reads Exhibit M-21.)

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LTC PATTERSON: Captain LIVINGSTON, I would like just to go back here a little bit. There is some evidence in previous testimony, and records indicate considerable time lapse between the beginning of the operation and the child being evacuated to the hospital. I say considerable time, perhaps three or three and a half hours.

There were some incidents and some things which happened during this period of time which you have related to us here that I would like to get sorted out in some kind of sequence as to timing. In so doing, I'd like to refer to your testimony that we have on this subject and to other information that we have available to us.

A. Right, sir.

Q. We want to bring you right down into it and see what you can recall. This is recall on your part and not subsequent conversations.

When you arrived on station you say you saw the CA and you saw the artillery, and yet you didn't see the Shark gunrun.

A. The prep? No, sir, I did not see the prep.

Q. Do you recall specifically that that CA was as you have indicated on that map or is that because you believe that is where it was?

A. I did not see the CA. I was not looking for the CA. That is where I believe it was.

Q. Then you did not see the slicks land?

A. No, sir.

Q. You saw the artillery land?

A. Yes, sir.

Q. Can you positively state where you saw it land?

A. Positivey state? No, sir. I can--

Q. (Interposing) In relation to My Lai?

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A. Right, sir. I can tell you in relation to the city, town or village of My Lai. I saw the smoke come up. I did not see the round come in and make the big splat. I saw the smoke come up from the round.

Q. You're sure it was an artillery round and not another type of round?

A. It may have been some other type round.

Q. Could it have been rocket runs?

A. No, sir, probably not.

Q. Did you see any other CA's that morning, or other artillery preparations?

A. No, sir.

Q. You did not?

A. I did not personally see it, no, sir.

Q. What puzzles us here, at 0810 in the morning, in the area assigned to the aero-scout company, another CA, preceded by an artillery preparation, was taking place. In fact, on this particular CA of another unit in the area, the artillery didn't shut off and the nine slicks on final approach had to make a go-around before they could get in. This happened between 0810 until insertion was completed at 0827. Did you see any slicks land in this area to the southeast of My Lai?

A. No, sir. I did not.

Q. That also was a two-lift operation, two times nine slicks went into that area.

A. I did not, sir. I did not see any ships go in there, personally. That I can tell you.

Q. You indicated earlier that about 10 or 15 minutes after you arrived on station you saw these sharks make this gun run down the road?

A. Yes, sir.

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Q. The second lift into this western edge of My Lai wasn't completed until 0751.

A. What I saw is, now, I am assuming--

Q. (Interposing) That is what we want to scratch out, the assumptions.

A. I don't know what it is. I did see what I thought was artillery. I saw the smoke coming up from the rounds. We did not see any gunships because the Sharks were down here.

Q. You're pointing to Hill 85?

A. Yes, sir, they were off to the east. Now, what you say is true.

Q. What time was this now? Was this after you got on station?

A. Yes, sir.

Q. It was?

A. We saw the smoke come up here (indicating) and the Sharks were orbiting over here at the Hill 85 or in this general direction.

Q. Do you remember any coordination that anybody did between the Warlords and the Sharks?

A. I don't have any idea. I did not make any. We couldn't communicate with them.

Q. Did the Warlords make any gun runs?

A. No, sir. We did not.

Q. You did not?

A. We did not, sir.

COL FRANKLIN: I think it's pretty obvious from your letter that you wrote on 16 March that you saw certain things and you heard certain things.

A. Right, sir.

Q. If you were around this area on the first go of the Warlords, this would have been about 0730 and you well could have seen passes made by the Sharks. You're sure you saw those on this road, 521?

A. This is one thing that I'm sure of.

LTC PATTERSON: Did you see and can you state that those gunships did, in fact, engage those people and kill them at that time?

A. Now, you are running into a real legal question. If I saw that bullet, that particular aircraft.

Q. No, no. I'm only interested in time. We have previous testimony that indeed there were bodies along that road. You've indicated you've seen those bodies and you also indicated you saw the Sharks make a pass down that road. I'm trying to support whether or not you are sure those Sharks are the ones that shot those people.

A. We heard the "brapping" sound of miniguns go off and we came back around. We were in the process of making a right turn and being a "peter pilot" I was on the left side. I did not see the Sharks go down. I heard the miniguns being fired. I did not see the bodies. I assume the Sharks made the run down the road, because we didn't.

Q. You see again--

A. (Interposing) It's assumption.

LTC PATTERSON: Captain LIVINGSTON, let's go back to the morning of the 16th. Do you recall that you left Chu Lai to go to the operational area?

A. No, sir, I don't recall the exact facts here.

Q. Do you know whether you took off from Dottie or took off from Chu Lai?

A. For sure, no, sir. Only what I assume.

Q. You testified a little earlier there were two complete teams involved.

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A. When you asked me, sir, "Are you sure?" And I said, "No, sir." I did not know for sure. I assume it was that way.

Q. You don't know how many Scorpions were involved in the 16 March 69 operation?

A. No, sir, I don't.

You recall arriving on station as you have testified and saw some smoke that you assumed to have come from artillery fire?

A. Yes, sir.

Q. Do you recall whether or not you were there on time or whether you were late for the arrival?

A. No, sir. I do not.

Q. The evidence that we have, Captain LIVINGSTON, and I am telling you this just to try to make you recall things, is that the Warlords were a little bit late arriving in the operational area. I think it's advisable to mention this. We have a tape recording (transcribed as Exhibit M-20) that we have reason to believe was taken on that day. The tape recording consists of the transmissions on the battalion command net. The call signs, including Warlord Alpha Lead, gives us a great deal of information about the events that transpired during that time. The tape itself, we have reason to believe, is of the first couple of hours, the first 2 hours of that morning, beginning on or about 0720 hours of that morning and lasting until sometime after 0930.

A. Yes, sir.

Q. The tape indicates that the Warlords were a little bit late in arrival. They were estimating arrival on station somewhere around 0740 hours in the morning.

A. Right, sir.

Q. Seeing the smoke and not seeing the initial lift, of course, is a real good fact. The second lift into

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the LZ took place and was completed about 0751, and it is conceivable that you did not see that lift. The records also indicate that the Sharks did in fact fire at a target to the south generally in the vicinity of Highway 521. They also reported killing one VC and reported a weapon. They attempted for a period of time thereafter, to get infantry troops down there to police up the weapons and gear. This tape also indicates, and I would like to read a transmission from it. This is right after the first lift had departed the area. Warlord Alpha Lead says: "This is Warlord. We've got one rocket run in progress if you'll just stay where you are, we'll go past you." This indicates the Warlords were in fact firing on a rocket run.

A. I was not. Our ship did not fire.

COL FRANKLIN: Do you recall around Hill 85 any kind of a sighting of an enemy and the pursuit of this enemy and firing at this enemy?

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

Q. You don't recall this being seen by the OH-23 and then being followed by one of your gunships and rockets fired on that?

A. No, sir. I don't personally remember it. No, sir.

LTC PATTERSON: You indicated that when you arrived in the area you orbited west of Hill 85?

A. To the best of my knowledge, yes, sir.

Q. Do you recall the Skeeter, the OH-23, moving out at any time and going to the east of Hill 85?

A. He was going all around. He was to the east, yes, sir. I don't remember him going exactly to the east of Hill 85. He wasn't orbiting with us. He was going where he wanted to go.

Q. Were you watching him?

A. We tried to watch him, sir. But I can't personally tell you that I saw him go off to the east of Hill 85.

Q. The tape indicates that the Skeeter and the War-lords went over as far as the peninsula along the China Sea about 0845. The reason being to get coordinated with the Sharks in the area of operation. The Sharks gun team was going to cover in this operation until the lift was complete and you fellows and the aero-scouts were going to take care of the area then.

A. This may be in fact be true, but I was only a "peter pilot" and I was only told or listened to what I was told.

Q. The tape does inidcate, as you have indicated that the Sharks did in fact fire in the vicinity of Highway 521 and they did in fact report killing a couple of "dinks" with gear at about 0740 hours in the morning. You indicated that you saw all of these people on the road at this time of the morning and the Sharks made a gun run. You, I assume, meant you immediately went to check those bodies?

A. Immediately. Immediately, because we were called, we heard the miniguns and we thought, well, it must be some type action and it may be to our detriment if we don't find out what it is. THOMPSON was told, this same thing, some "dinks" with web gear on and weapons down there and that's what THOMPSON came back and said, "I ain't seen any weapons down there lately."

Q. This was right after you arrived on station?

A. A short time afterwards, sir.

Q. To the best of your knowledge was there only one team of Shark gunships?

A. To the best of my knowledge, yes, sir.

Q. The Sharks tried to mark these bodies with a lot of colored smoke for the next 30, 40 minutes or so. It appeared that they were marking these bodies and the smoke they were using was various colors at different times. Do you recall seeing any of these smokes?

A. No, sir. I don't.

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Q. Do you recall seeing any of the smoke that was being used to mark other areas that day, during your first tour on station?

A. No, sir. I don't.

Q. Do you recall whether or not Major WATKE was flying on the first mission?

A. No, sir. This is the other thing that has been giving me a long teasing period. I don't remember if Major WATKE was on the first lift. I don't also remember if he was low ship or high ship.

Q. Are you sure of anyone being in the gun on the first time on station?

A. Mr. MILLIANS.

Q. You're sure Mr. MILLIANS was on station? Would you tell me why? How you can be sure?

A. I would say for a fact he was there. I just assume he was there, because it seems like he was out there, but I don't remember seeing him out there. I don't remember who I was flying with either, sir.

Q. Mr. MILLIANS was there, but I'm not sure he was there on the first time on station or not.

A. I swear to the Good Lord if I can remember all this stuff I could help you out, but I really can't. I don't remember us going over to the east towards Pinkville, over to the peninsula, I don't remember that. Maybe it's just a matter of remembering what I want to remember. Something that just sticks in your mind.

Q. You saw something that did stick in your mind and I assume that this was probably the first time that you had seen this?

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A. I had only been in the country about a month, sir, and it did, sir, it really stuck in my mind. Do you have that tape, sir?

Q. Yes, I do.

A. I could possibly pick up the voices. Do you know who the lead was?

Q. Warlord Alpha Lead, Major WATKE or Mr. BAKER.

A. Right, sir. If he was in fact Warlord Alpha Lead then he was high ship, he was not low.

Q. The problem we're having here, Captain LIVINGSTON, Mr. MILLIANS said that he was flying with Major WATKE and Major WATKE seems to think he was flying with Mr. MILLIANS yet Mr. CULVERHOUSE also thinks he was flying with Mr. MILLIANS. We're having a bit of trouble sorting it out.

A. I can remember Major WATKE flying with our gunship twice.

Q. That morning?

A. No. Twice during the entire time he was with us before he went down, he was shot down. One time with Mr. WYCHOWSKI and this is the time he was medevac'd back and one other time he flew with Mr. MILLIANS. Now, I don't know which day that was. Now, Mr. CULVERHOUSE was new into the country the latter part of February and he flew with him sometimes too. We may have had him on standby to fly with Major WATKE. When he got done flying with Major WATKE he used to fly with us all day and Mr. CULVERHOUSE may have relieved Major WATKE. But if you ascertained that it is Major WATKE's voice as Warlord Alpha Lead, our high ship was Warlord Alpha Lead, was always our lead ship.

Q. Warlord Alpha Lead said, and the timing we think is somewhere around 0745, "This is Warlord Alpha Lead. Directly to the south of the LZ we had two 'dinks' with weapons, both of them KIA now.

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We are reconning now along the peninsula checking the people out that are 'di di'ing' the area and they are going out fast. We've got the area to the south and to your west. We're just covering it now." This was in conversation with Shark 6.

A. What time, sir.

Q. About 0745.

A. What time is supposedly this charge of killing civilians? Is it 1000?

Q. Of what civilians?

A. I'm just trying to get time as to whether there were two teams out there, if we were the second team coming out or the first team coming out. I'm confused now. Now you've got me confused. I'm trying to place facts together.

Q. No, I don't want to confuse you. I'm trying to--

A. (Interposing) Reconning over to the east peninsula, I do not remember that, and that's why it's confusing me.

Q. I've gone under the assumption that you remembered being there, being the first team on station in the morning.

A. I assume I was, but you start bringing this stuff up and--I think I was. I mean I can tell you right now, yes, I was, but then you start bringing stuff up like this and then I get confused again, because I do not remember going--

COL FRANKLIN: (Interposing) Are you sure that you saw several bodies?

A. Yes, sir.

Q. You're sure that you saw that?

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A. Yes, sir.

Q. That would put you then on the first relief of gunships, because first the high and low guns had gone into refuel at this time after having been, we believe, relieved on station. If you had only three gunships, maybe one came back. We do believe there were two and this would have placed you coming on sometime after 0900. Can you put a time between when you saw the Sharks make a firing pass on 521 and the time you saw the ditch?

A. The pass on the road was done prior to me seeing the bodies in the ditch.

Q. About how much time, can you recall?

A. Pretty good portion. This was in the beginning of our station and the bodies in the ditch were just about before we departed station.

Q. During the same period? The same flight? You had not refueled at anytime during this and flown back to Dottie?

A. I don't know, sir. I really don't know. So help me I do not know.

Q. Did you accompany Mr. THOMPSON to Quang Ngai?

A. Yes, sir.

Q. Were you flying with a gunship that went down and evacuated some civilians?

A. Not that I recall, sir. As I brought up before, I don't remember them going down.

Q. You don't recall that?

A. No, sir. I don't.

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LTC PATTERSON: Would that have stuck in your mind at that time?

A. If he would have gone down? If the gunship would have gone down, yes, sir, it would.

Q. And made two trips?

A. Yes, sir, very definitely. If he would have gone down there it would have stuck in my mind.

COL FRANKLIN: Do you recall anything about mortar rounds?

A. Enemy or friendly?

Q. Friendly. Discovering them and finding them. Do you recall your infantry putting down on Hill 85?

A. On this day?

Q. Yes.

A. No, sir. They were put down there before but not on this day, not that I recall.

Q. It's possible, Captain LIVINGSTON, that you didn't actually fly during the first lift. Which means you probably would not have seen any artillery coming in. If you in fact saw the ditch and you accompanied Mr. THOMPSON to Quang Ngai you could have been on the first, second, or third relief gunships.

LTC PATTERSON: The smoke that you saw. Let's try to pin down the source of smoke. You are not sure, as I understand, that it was artillery?

A. That's right, sir. I am just saying it was smoke coming up. I didn't--

Q. (Interposing) Could it have been the village burning or fires within the village?

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A. Since I cannot really deduce exactly what the source was, yes, I imagine it could be.

Q. Did you see any hootches burning in the village that morning?

A. Not that I recall.

COL FRANKLIN: You don't recall the village burning at all?

A. No hootches on fire, smoke coming up, yes. I don't know where it was or what. I assumed it to be artillery rounds coming in up here (indicating). That is why I assume I was on the first relief that went out. But after all of these things are brought into account about going out here to the east, I start to figuring that I am just fabricating a story.

Q. No, you're not fabricating. Nobody is accusing you of that and you are not suspected of anything like that, Captain LIVINGSTON.

You are confident that you saw refugees on Highway 521?

A. Yes, sir.

Q. And you heard the minigun?

A. Yes, sir.

Q. And Sharks did this firing and then there were people dead?

A. Yes, sir.

Q. You're confident of that?

A. Yes, sir.

Q. Could you describe now that ditch and just what you know about that ditch?

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A. Around the village there is a ditch that goes all the way around here (indicating) by these trees. I assume this was the ditch THOMPSON saw.

Q. I want to show you Exhibit P-102. This is looking to the east. That gives you a little more of the view you would have seen. You said there was a ditch. Show us where you mean exactly.

A. This is looking off to the east?

Q. Yes.

A. From west to east?

Q. Yes.

A. There is a ditch over here on the east side of the village (indicating), and this is the ditch on the east side and I remember seeing the bodies.

Q. Could that ditch have been over here (indicating)?

A. Yes, sir. In fact it could have been over that far.

Q. It was on the edge of the woodline. There was no more woods?

A. Yes, sir.

Q. There was no more woods to the east of this within 100 to 200 meters, right?

A. Right.

Q. All right, go ahead.

A. This is where I remember seeing the bodies. This is also in this area. It may have been here or it may have been right here that THOMPSON landed.

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Q. Describe what you mean you saw some bodies?

A. The bodies that you remember from reading the letter. THOMPSON saw the child, the GI moving in the previous little children were killed, and he landed and in fact picked up one little child, and this was the same ditch that we saw the bodies laying in.

Q. Give me the sequence of time. The first time that you saw the ditch, anything to do with the ditch.

A. I saw the ditch numerous times. One time when we were just orbiting we could see the ditch.

Q. What did you see in the ditch?

A. Bodies. The number of bodies, I don't know, it may have been one body or two bodies or three bodies, but there were some bodies in the ditch.

Q. What did you say earlier about the water in the ditch?

A. It wasn't actually water like it was pouring down rain. It was just kind of like murky looking, gray colored down there, that kind of filtered into being a kind of red. This is an assumption, this is not fact, that the blood from the bodies just changed the water into red.

Q. How close were you to this ditch?

A. We didn't fly right over it. We were right in 200 or 300 meters of it and only about 150 feet above the ground.

Q. Are you saying less than 10 bodies?

A. Right, sir. From that height, just a little change in color we could pick up. Actually, one body could have changed the color of it if we saw it right.

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Q. What was THOMPSON telling you on the radio at this time? You say that you had communications with THOMPSON?

A. THOMPSON was mighty unhappy. The first thing that sticks in my mind, maybe because I was new in the country and I never saw anything like this before. I was down here when I told you about the people we saw down here. The next case that I remember THOMPSON talking about--

Q. (Interposing) What did THOMPSON say about that?

A. He said they asked him to go down and see if he could see any weapons and THOMPSON said, "I ain't seen any weapons lately." That is what he told us he said. I remember him giving three transmissions. He came up here and he talked to the people on the ground, or said he did.

Q. He told you this on the radio?

A. Right. He had a child or something over here (indicating) and he pointed it out and he saw an officer, I assume it was a captain, I mean that's what I wrote my wife, because I assumed it was a captain come up to him and finished him off, I mean empty a clip off into him. I don't know whether it was a .45 or M-16, I don't know.

Q. You didn't see that?

A. No, sir, I did not see that.

Q. Did you hear that on a radio, or did THOMPSON tell you about that?

A. THOMPSON came over the radio, he told us that. He in fact later on told us the same thing over again.

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Q. You heard that over the radio. All right, go ahead.

A. The other one was the one where he saw the Negro sergeant and a child and the Negro sergeant moved over there toward her which I imagine was on the east side of the village. I can't remember right now where it was, and he saw the Negro sergeant fire a clip off into the girl. He didn't say what the rank was, E-5 or E-6, he did not say. The reason this stuck in his mind was he was a boy from Atlanta. I guess you could say he was kind of prejudiced. He stated that to us before. But this stuck in his mind. He was real unhappy about this. Now, these things are the things that stick out in my mind.

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Q. Where were you when THOMPSON went down to pick-up this child?

A. When THOMPSON went down to pickup the child we orbited off to the east. Now if he landed here, we landed--we flew like this. If he landed here, we flew on over here (indicating).

Q. Now, these guns covering. What do you remember about that? Explain that about "cover me."

A. Now, this is what he told us later.

Q. He told you this later?

A. Right, sir. He told his doorgunner, who I think was COLBURN, I don't know, his crew chief, he told him keep your eye on the GI's, keep your M60's on the GIs because I want to move toward the kid. This is what he told his doorgunner. He got out of the aircraft and this is when he went over and picked up the child. Now, I can't remember, I don't even want to say now, because I don't remember. Whether he talked to somebody on the ground or not and he went over and picked up the child--he may have said something to the people on the ground and he may not have. He picked up the child, came back to the helicopter and that was the end of the mission.

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We flew up to Quang Ngai. What we did from there, I don't know. We may have gone back to Dottie and landed there and told the people what's happening, gone back to Chu Lai or what, I don't know.

Q. We think you came back to Dottie and this was just prior to noon. What happened when you landed?

A. I believe it was Dottie. I don't even want to venture to guess what happened after that, because after that the AC's got together. I assume they went up to talk to Major WATKE to talk this thing out. I don't know for a fact because I didn't go up there with them.

Q. What rank were you at this time?

A. A first lieutenant, sir.

Q. What was your impression as to what had gone on in this village?

A. I think the letter I wrote to my wife expresses it.

Q. You were very emotional at that time.

A. I was impressionable.

Q. Were you also very emotional?

A. Yes, sir.

Q. These pilots went off. You don't recall asking them and finding out who they talked to and what they did. I don't understand why you normally wouldn't do this because you pilots are close. Why wouldn't you have talked to these people later on?

A. They went up there and they were going to start, I assumed, that they were going to start their investigation. They went up there and they told Major WATKE.

Q. Why did you think investigation?

A. They were going to go on up the channel. They were real unhappy. We thought we had to start someplace. THOMPSON was real unhappy and we thought he was going to take it all the way up. I mean he was really mad. We came back on our ship at Dottie and then we flew back around 1200 or 1230 to Chu Lai. Now, this is when, I assumed, that THOMPSON, the other AC's and they all got up there and left, and they were going up to see Colonel HOLLADAY. I assumed this is why I put it in the letter I wrote to my wife that we are trying to get--

Q. (Interposing) Do you recall any more about whether they did, of who they had seen? 526

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

Q. Did you ever talk to Major WATKE about this? 6

A. No, sir. Not that I recall, no, sir.

Q. What do you recollect, subsequent to the thought about an investigation, the talk in the company, and what went on?

A. Along what line, sir?

Q. About the incident of 16 March. What went on later? What did you hear about this after the 17th, the 18th, the rest of March and April? Anything that related to this?

A. I asked THOMPSON after he got back what had happened, and he says, "We just went up there and we put it in division's hands." That's why I assumed they went up and saw Colonel HOLLADAY. I don't know if they did.

Q. THOMPSON told you they had put it in division's hands?

A. Right, sir. That's all we heard about it. That's all I remember saying about it until I got to Fort Hood.

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Q. Did most of the pilots and crewmen in your company know about this? Was it talked about around the mess?

A. It was very definitely talked about.

Q. Was this common knowledge in your company?

A. Yes, sir, it was.

Q. What was this common knowledge? What was the talk in the company?

A. The talk was, and this is what we had actually seen, a bunch of civilians killed by troops from the 11th Brigade.

Q. Were the terms atrocity, murder, massacre or war crime, used?

A. I never heard them used, but I think the word massacre at one time was used. Atrocity, no; war crime, no.

Q. Was massacre used?

A. Yes, sir.

Q. Was this common knowledge in your company?

A. Yes, sir, it was.

Q. Do you think Major WATKE as company commander would have been aware of this?

A. Yes, sir. I believe he should have been aware of it, because it was nothing that we were trying to hide. It was something we were real unhappy about. We didn't feel happy about or proud of being a part of it.

Q. What kind of company commander was Major WATKE in relation to his pilots?

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A. I wasn't in the company that long, but what I saw of him, he was a good company commander. We used to play bridge sometimes at night and he was kind of-- I wasn't there when he formed up. We just formed up as an aero-scout company; we were a straight gun company prior to that. A gun platoon of the 161st Aviation Company. He was in the process of trying to get this aero-scout concept taken care of. We didn't see him that much. We were just newly formed. His relationship with our pilots was kind of aloof, really. He really wasn't among us as company commander. He didn't do that much flying with us. He did some flying, but not that much flying. We had a Lieutenant LLOYD, a Lieutenant WALKER, myself and Lieutenant REUTNER, the four commissioned officers that I can recall were with the company when I was there. Lieutenant LLOYD, Lieutenant WALKER had been there longer than I had. Lieutenant REUTNER and myself came into the country the same day. We got in on 5 February. We went to Vietnam together. Major WATKE wasn't particularly close to any of the warrant officers, and he was not real close to myself particularly because I was new.

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Q. How long did you stay with the company?

A. I stayed with the company, sir, I got there on 14 February 1968 and I stayed there until 6 September 1968, when I was shot down.

Q. You were there the entire time Major WATKE was?

A. Yes, sir, I was until he was shot down or he went down.

Q. Major WATKE was very highly decorated. How did he get those decorations if he wasn't doing much flying?

A. No comment, sir. It's not my place to give an opinion on this stuff.

Q. I'd like your opinion.

A. Seriously?

Q. Yes.

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A. Major WATKE went down and I assume to this day, and will to my dying day of plain engine failure. He was given a Silver Star for engine failure. Our infantry platoon leader at that time was a Lieutenant APPLE from Bowling Green, Ohio. He was told to take his Animals on the ground and find and document evidence that the aircraft had been shot down. Lieutenant APPLE took his people on the ground. He did not find any round in the aircraft that went down. He had to call back asking if on the rotor blade on the helicopter the serial number and the name of it is up or down. He found some rounds that had been lodged in there, but he did not find any evidence that there had been a round taken in the aircraft.

Q. What about the round in the rotor blade? I don't understand that about the serial number.

A. Well, after the aircraft went down and crashed we came in and it's our SOP to try and destroy the aircraft. We tried to destroy the aircraft and we made a couple of runs on it. Then our Animals, we call them our Animals, the Cav call them it's Blue, put them on the ground. That's the reason he called back and asked which way the blades are up. If the serial number and the name of the blades was up or down, because this way he could get some idea of what happened. I can't remember the way it was now. Anyway, the evidence he found was the only rounds that had been taken on the helicopter were rounds that we had put in it by us because it came in the top of the blades instead of the bottom of the blades. That's the reason he asked like that, but he did not find any rounds at all. If I remember now, MILLER, was the crew chief or gunner of the aircraft he went down in. He does not recall receiving fire. WYCHOWSKI at the present time may think he took rounds but he didn't originally. Originally, he said he didn't think they took any rounds. All along, the more he was in the hospital the more he said he may have heard some rounds come up. We did not find any evidence that the aircraft had been shot down. Now, to give you a little bit of an idea, WYCHOWSKI is a very, very overconfident pilot with a very, very, limited ability. He is the only man that I've ever flown with that scares me. They did not find any evidence that the aircraft was shot down. This is my personal opinion, sir.

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Q. Did you ever talk about this to other pilots around? Was this a general feeling or just your feeling?

A. Now, a general feeling you're talking about it as a prevalent feeling?

Q. Yes.

A. To the friends that I knew, yes, it was, that was the opinion. They felt badly because of the fact the ship had been shot down and Major WATKE was the "peter pilot," he was not the AC. The AC got a Purple Heart and Major WATKE got a Silver Star. They were real unhappy about this because the majority of the pilots in any aviation unit are warrant officers and they were real unhappy about this. They didn't feel the ship had been shot down.

Q. Do you recall Major WATKE ever getting a company together and talking about the My Lai (4) incident?

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

Q. Did he ever tell the people not to talk about it?

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

Q. Do you ever recall an assembly of your company or parts of the company when somebody came down from division and just give you a little briefing of what the division was doing, and mentioning a body count, and the people getting all upset and starting to make comments?

A. I have another letter here and can I read this to you, just a little portion of it? You are talking about this body count.

Q. Yes.

A. This is a letter I wrote my wife on 19 March 1968:

"You remember I told you about the massacre I witnessed. Well, I read a followup story in the paper the article said I quote, 'American troops were in heavy combat with an unknown number of VC. Two Americans were killed, seven wounded, 128 VC killed."

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That's the only thing that I remember.

Q. Did you go on to make any comment on this?

A. I wrote: "That's a bunch of bull.. I saw four VC, that is, those with weapons and the amazing thing about that, is two of them got away. It made me sick to watch it." Evidently there must have been some VC there but it slipped my mind.

Q. You used the term "massacre."

A. I know, sir. I know, sir.

Q. You were an officer. Having seen this, being very unhappy with it, what honestly upset you most to the point you wrote your wife? What did you think about doing through official channels?

A. Well, sir, I felt the investigation that we started on the 16th at Chu Lai--first of all I am a soldier. I do what I am told, and this type of case--war of any sort is not pleasant. There are going to be things like this to be done and I felt this was not really right, but right is right and wrong is wrong. I felt this was a part of war, an integral part of it, they'll never get away from it. I just assume this was one of those things. I was unhappy about it, yes, but I didn't feel this was a typical war. It was typical in a lot of ways.

Q. You thought it was a massacre from what you wrote your wife.

A. Right, sir.

Q. You think this is part of war?

A. I feel a type of thing like this--I feel every man has a breaking point. A man walks into a booby trap--I can see where people get a lot of hostility and animosity in themselves toward people just because they had people walk into booby traps.

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don't know where they are going to get fired upon, could get ambushed, they can't discern between who and who is not VC. The men get a little bit jittery and this may happen.

Q. The gunship, Shark, pilots don't run into booby traps making firing passes on women and children on a road. Do you consider this a natural part of war?

A. No, sir. No, sir, I don't. This is one of the things that I am still unhappy about today and always will be unhappy about. I'm a helicopter pilot and I'm a good pilot. I feel what I do is right and I feel I had a mission to do. I accomplished the mission to go out there and take a helicopter with armament, with 7.62 and M-71 systems or 2.75 rockets. You've got a lot of lethal power. You can more or less dictate who lives and dies. In this case they did, and it's not right, it's not right. It didn't set right, it never did. I have told and brought it up to a few Sharks at one time, those who were no longer with the unit. They were all shorttimers and they are all gone by now. No, sir, that is not any integral part of war at all.

Q. Did you think an investigation was being accomplished?

A. Yes, sir. I assumed it had been started. Being new in the company in Vietnam, I saw no reason to doubt it.

Q. You stayed in the company until September. Did you ever hear anything about this investigation? Did anybody ever come and get a statement from you?

A. Nobody got a statement from anybody that I knew. Now, I heard something someplace, and I can't remember whether it was after I got back to the States or whether I heard it in Vietnam, of an investigation. Colonel BARKER had been called in and they talked to him about the incident. I don't know who told me. I won't even say anything.

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Q. You have a statement in here, in this letter of 16 March, "the Shark, a notorious killer of civilians." What made you write that? What made you think that?

A. It was just the word of mouth when I got in there. I got in there and I was with some Scorpions and they were talking about--I heard things. I had not been in the country long enough to see any of this. This is what I was told, "You've got to watch out for the Sharks and the Muskets. Man, these guys are really bad. Anybody that walks is fair game to them." That's why I put "notorious."

Q. Do you have any personal knowledge of the Sharks doing any unnecessary killing?

A. Outside of this, no, sir.

Q. I would like to admit this second letter dated 19 March, written by Captain LIVINGSTON to his wife. I would like to submit that as evidence.

RCDR: This letter from Captain LIVINGSTON to his wife dated 19 March 1968 is admitted into evidence as M-22.

LTC PATTERSON: In an effort to pin down the times a little bit, there are a couple other incidents that I would like to tell you about that occurred and see if you can recall seeing them.

First off, you mentioned in your letter that you only saw four VC KIA on that day. Do you recall where you saw them?

A. No, sir, I can't. As I said in my statement, I did not read these letters before I came in and I don't remember the four VC. Now, we get talking about this thing I start recalling these two to the south of the village with weapons. Two of them got away. I think the Skeeter followed two VC to the south of the village, and he got away from the Skeeter, the two people got away. The exact location I don't know. That's why I said four VC. Evidently, there must have been two killed and two got away.

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COL FRANKLIN: Could this have been around Hill 85?

A. Yes, it possibly could have been around Hill 85.

LTC PATTERSON: Do you recall, after you saw all of these bodies along Highway 521 down there, seeing any civilians down there walking down the road? Were there any more live civilians?

A. Scattered troops to the best of my knowledge, sir.

Q. Do you recall an incident where either you or your other gunship went down low and tried to separate from a large group a couple of civilians or a couple of military-age males?

A. No, sir. I don't.

Q. We have testimony that there were a couple segregated from a large group of civilians along the road, 521. The helicopter was hovering low, trying to separate them, and they took off their shirts, these two military-age males. A little bit later a C&C ship came in and policed these fellows up, and took off with them. Do you recall any incident like that?

A. No, sir, I don't remember a Charlie-Charlie ship coming down to pick them up. Now, the way you are talking about, it may have possibly been Mr. MILLIANS that would have done something like this. He had a tendency to hover down.

Q. To hover at low level?

A. Yes, sir.

Q. Do you recall seeing any helicopters other than Mr. THOMPSON's land in or around My Lai (4)?

A. No, sir. I don't.

Q. Do you recall any dustoff of any sort?

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

Q. To the best of your recollection, the time that you escorted Mr. THOMPSON to the hospital at Quang Ngai do you have any feel for what time that may have been, based on such things as your eating times?

A. I would give the time roughly around 1130 or something like this, because it seemed like we went straight back to Dottie and went back to Chu Lai after we landed there. I assume, roughly, around 1130.

Q. And you say then you went back to Chu Lai?

A. No, sir. We were low on fuel because we had been on station. We would had to have gone back to Dottie.

Q. Do you recall being low on fuel?

A. No, sir.

Q. You don't recall participating in covering the Animals landing on Hill 85?

A. I don't.

Q. What time would you say you saw Mr. THOMPSON land?

A. Well, I'd say around 1100 hours.

Q. Did you see him land any other time? Did he only go on the ground one time?

A. Not that I can recall, sir.

COL FRANKLIN: The hearing will be recessed.

(The hearing recessed at 1049 hours,  
12 January 1970.)

(LIVINGSTON)

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