

(The hearing reconvened at 1207 hours, 16 February 1970.)

IO: The hearing will come to order.

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

Sir, the hearing recalls Colonel Oran K. HENDERSON.

Colonel HENDERSON, sir, I remind you that you remain under oath before this hearing. Are you represented by counsel?

A. I am.

Q. Will counsel please state his full name, rank, Social Security number, organization, and station?

IC: Carlisle C. TAYLOR, Colonel, Judge Advocate General's Corps, Office of the Judge Advocate General, Washington, D.C.

RCDR: Thank you.

COL MILLER: Colonel, for the record, how do you spell your first name?

IC: C-A-R-L-I-S-L-E.

Q. Are you a lawyer admitted to practice law before a federal court or the highest court of a state?

IC: I am.

COL MILLER: Colonel HENDERSON, on the 13th of this month you were advised of offenses of which you were suspected and also you had read to you the warnings which had been given to you on prior occasions. You were also advised of your testimonial rights and privileges and of your right to counsel. After this, you indicated that you would like to have military counsel made available to you and Colonel TAYLOR was so made available. Have you had an opportunity to consult with him?

A. I have had that opportunity.

Q. Have you had sufficient time to consult with him?

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A. I have, yes, sir.

Q. Are you satisfied to have him represent you before this hearing?

A. Yes, sir.

Q. Do you wish time to seek any civilian counsel in this case?

A. I do not desire such time.

Q. When you were here, I advised you that you had the right to make no statement and other circumstances under which you could make a statement. Would you like to have that reexplained to you or do you understand it?

A. I understand it.

Q. Are you now willing to answer questions and to make statements?

A. I am so willing.

Q. Before we proceed further, do you have any questions, Colonel TAYLOR? You will be introduced in a few moments to the people who are before the table. If you have other questions, feel free to ask them.

IC: Thank you. No questions.

IO: For your benefit, Colonel TAYLOR, on my left is Mr. Robert MACCRATE, a civilian attorney who has volunteered his services to Secretary RESOR to assist in this inquiry. He also provides legal counsel to me and to other members of this inquiry team. Mr. WALSH, second on my right, is also a civilian attorney working with Mr. MACCRATE in the same capacity, having volunteered his services to the Secretary of the Army. And I'm sure you are familiar with Mr. Bland WEST on my right, an assistant in the General Counsel's office. On my extreme right is Colonel FRANKLIN, who is an Army colonel designated as an assistant to this investigation by the Office of the Chief of Staff. Now this afternoon any of these individuals at the table may address questions to Colonel HENDERSON. Before I proceed, do you have any questions, Colonel HENDERSON.

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A. No questions, sir.

Q. First, I have reread your statement to General WESTMORELAND as of 10 December (Exhibit M-13), Colonel HENDERSON. I'm sure what you said in this memorandum you had full meaning of it. I would refresh your memory on a couple of things you did say. In your second paragraph and in the beginning of the third paragraph. You stated:

"I continue to maintain the highest admiration, confidence, and faith in the integrity, fighting quality, and courage of the officers and men of the 11th Light Infantry Brigade present during the alleged incident in the interest of strengthening the American people's confidence in its Army and to halt a growing disenchantment within the Army junior officer corps, a speedy decision is urgently needed."

I hope that you have the same feeling to date that you had indicated in your letter to General WESTMORELAND as of early December.

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A. I do, sir.

Q. I think that it is necessary for me to tell you, Colonel HENDERSON, in the beginning here that as we have gotten into this investigation, although we were directed to look into the investigation and reporting of the incident and whether or not there had been any attempt to suppress information of the incident anywhere including people who had been involved in it, one of the first things we had to determine is whether an incident had in fact taken place. And I can tell you and must tell you that an incident did take place, and I can tell you that it was of considerable magnitude, the enormity of which in some instances almost defies description. And as a consequence, we have a problem of considerable magnitude that we are looking into. I think in all fairness, you should know this. Also, since we last talked to you, as I indicated to you the other day, we have talked to a large number of people. At the present moment, we have talked to as many as 360 people. We also have assembled a large number of documents concerning the incident, concerning the reporting of the incident, and concerning the investigation of the incident.

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At the moment, we have a pretty good understanding of what transpired throughout the operation itself and throughout the reporting and the investigation of the operation. Although you in the past, on several occasions, in your four previous appearances, have attempted to provide us this information, the lack of documents and the lack of some of this other information has really prevented you from providing a complete story as to what transpired and the part you played in this particular thing. One of the things, for example, that we have looked at and looked at very carefully has been the investigations which have been conducted. We at least see the one paper of the 24th of April, but we can find no real depth in this investigation or the previous investigation, the one which was made of Warrant Officer THOMPSON's allegation. As a matter of fact, we have heard of numerous eyewitness' statements. But to date we have not found a witness who made an eyewitness statement. So these are the dilemma that we are faced with. But in order to know as much as we can about what has transpired in the various areas, we have talked to numerous people in the Americal Division headquarters, including not only the commanders, the commanding general, the ADC's, the chief of staff, but all of the key general staff and special staff officers and also numerous enlisted personnel in the headquarters of the Americal Division. The same thing is true of the 11th Brigade. We talked not only to Colonel BLACKLEDGE and Major MCKNIGHT, but we've also talked to a large number of people in the G2 and the G3 section: Sergeant Major GERBERDING and various other people in the S2 shop, the clerks and so forth responsible for handling the papers; Sergeant Major KIRKPATRICK in the S3 shop and a large number of people there; and also to a large number of people who have been associated with Task Force Barker. This was done with the intent of trying to find out and being able to put together a story of what actually transpired. I think that at the present time we have a fairly complete story, and we can assist you as we go along by providing information. I think that we will be able to provide certain parts of testimony from others and also documents which I'm sure will tend to make your story more complete.

A. Yes, sir.

Q. Now, in your previous testimony, you have alluded to a letter which you had seen, which reported a large number of Vietnamese civilians having been killed. I'd like to show you that letter. This has been entered into the record as Exhibit

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M-34 and is dated 11 April 1968. It is a letter from the district chief, Son Tinh, to the lieutenant colonel province chief of Quang Ngai. I refer that document to you. The Vietnamese version is on the third page, and I would particularly call your attention to the distribution which shows up at the end of the second page. I'll give you time to look at that, Colonel HENDERSON.

(Witness reviews Exhibit M-34.)

Is this the letter that you had seen?

A. No, sir, this is not the letter I have seen. I have never seen this letter.

Q. You have never seen this letter?

A. No, sir. I saw a letter or a letter was read to me, and I'm not certain right now which it was. But in the basic body of the letter it made reference to two incidents, an incident in either late February or early March, and the date 15 March was the one which actually related to My Lai. This letter here I have never seen, sir.

Q. Well, were you ever familiar with the fact that along in about mid-April General KOSTER talked to General TOAN, Colonel TOAN then?

A. To the best of my knowledge--about this incident, sir? Talk to him--

Q. (Interposing) Yes?

A. No, sir, I do not believe that I did have knowledge of that.

Q. Did you receive a letter or a directive from General KOSTER stating that he had talked to Colonel TOAN and that Colonel TOAN--along this line--I'm not saying specifically what it stated, but along this line, that he had talked to Colonel TOAN who had informed him of the allegation of the district chief, who was relaying the information of the village chief, to the effect that a large number of civilians had been killed in the area of Son My Village in about mid-March, and further directing that you investigate the incident?

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A. No, sir. I did not.

Q. And to it was attached a copy of this letter?

A. No, sir. I did not receive any such directive from General KOSTER.

Q. When you went to see Colonel TOAN sometime in about mid-April, what was your purpose?

A. The best I can recall I had received--and I'm not positive how I received it--a VC propaganda document in which this incident at My Lai was mentioned. In the final paragraphs of this VC propaganda leaflet there were instructions or there was propaganda targeted against or towards the ARVN soldier to now pick up his arms and turn them on the U.S. soldiers. This was the purpose of my visit to General TOAN, to determine that he had seen this and what he felt that we should do about it to insure that this did not occur.

Q. And what did General TOAN tell you?

A. General TOAN told me that he had seen that VC propaganda document. We talked about the operation at My Lai. He told me that General LAM had forwarded a letter, I believe, from the village or the district chief to him to look into it. I asked him what he felt about it, and I'm positive he told me that there was absolutely no truth to it, that he had forwarded a letter to Lieutenant Colonel KHIEN at province to handle.

Q. What did he tell him to do?

A. From Colonel TOAN, I understood that he told Colonel KHIEN, at least he was telling me this, that he had sent this to Colonel KHIEN for him to investigate it.

Q. To investigate what?

A. The reported incident at My Lai.

Q. As reported by what?

A. I understood it was an order from General LAM to TOAN that in turn went to Colonel KHIEN. But it was based upon a letter

from the--a complaint or a letter from the village chief that had gone to the district and I guess had gotten to General LAM or had gone to General LAM. Whether it had gone through Colonel KHIEN to General LAM, I don't know. But at least there was a letter reportedly originating either at the district or the village level.

Q. That's exactly what you have there. You have a letter from the district chief to the province chief with Colonel TOAN receiving an information copy. If you will notice in the--

A. (Interposing) Yes, I see.

Q. (To recorder) And give me the village chief's letter.

(The recorder did as instructed.)

This has been entered into the record as Exhibit M-49, dated 22 March 1968, to the first lieutenant district chief, Son Tinh District, subject: "Report of Allied Operation of 16 March 1968." I show this document to you and ask if you have seen this document? This is the village chief's report to the district chief. 12356

A. No, sir. I have never seen this document before.

Q. (To recorder) Give me Exhibit R-1.

(The recorder did as instructed.)

I show you Exhibit R-1, which is actually your report of investigation. Referring specifically to the second enclosure, is this the piece of VC propaganda which you had obtained?

A. Yes, sir.

Q. And how did you get it?

A. To the best of knowledge, it came into my headquarters through intelligence channels, sir.

Q. And up to this time that it was called to your attention, you had no knowledge of any of this propaganda or had not talked to Colonel TOAN or had received any instruction from General KOSTER?

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A. Well, now, I had received instructions from General KOSTER to reduce my oral report to writing.

Q. That has nothing to do with that, Colonel HENDERSON.

A. Well, this, sir, I did not receive this until sometime in mid-April. So this is the 1 month period there, and I'm certain I saw General TOAN during this period. But to discuss the My Lai affair, no, sir.

Q. Your oral report had nothing to do with propaganda?

A. No, sir.

Q. Your oral report had to do with allegation of Warrant Officer THOMPSON?

A. Yes, sir.

Q. And if you did make a written report, it would have supported your oral report?

A. Yes, sir.

Q. So this is not your follow-up written report against the THOMPSON allegation?

A. I'm sorry, sir?

Q. All right. Let me go through it briefly. You'd indicated that you had been directed by General YOUNG to conduct an investigation. You conducted such an investigation, and you reported orally to General KOSTER on or about the 20th of March. You further indicated you were directed to put your oral report in writing.

A. Yes, sir.

Q. Which you did.

A. Yes, sir.

Q. And from what I can gather, it was about a three-quarter

of a page report. That was sometime in either late March or early April. The date you gave the last time was about 4 to 6 April. That had to do with THOMPSON, the warrant officer aviator's allegation. We now come to another situation having to do with Viet Cong propaganda, having to do with the village chief and district chief's letter.

A. Yes, sir.

Q. So, although we are talking about the same incident, the reports are on different allegation. This allegation, the first response to it was on 24 April. You had further indicated that subsequently you were directed to conduct a formal investigation which was conducted by Colonel BARKER which you endorsed to General KOSTER. Is that not correct?

A. The point that I would say is incorrect is having submitted this oral report of three-quarters of a page. I believe you said three-quarters of a page.

Q. No, I believe you indicated that it was four or five pages and had several statements attached to it.

A. I do not recall ever having made the comment that there were statements attached to my reducing this oral report to writing. I do not recall any such statements.

Q. Yes. What did your written statement look like then?

A. Sir, to the best of my knowledge, it was entitled, "Report of Investigation." It was three or four pages long. Some where between three and five pages long. It included accusations that had been made to me by Warrant Officer THOMPSON and by individuals whom I had talked to during my investigation.

Q. Well, we'll come back to that.

A. Yes, sir.

Q. Now then, with respect to this report of investigation of yours, I would turn to the first inclosure.

A. Yes, sir.

Q. Where did you get this statement?

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A. Sir, again I can only assume that I got it through intelligence channels. I do not know how this statement--I do not remember how this statement came to me.

Q. Well, who was the author of this statement?

A. At this time, sir, I cannot recall.

Q. Well, how can you include in your report of investigation a statement: one, you don't know where you got it; two, you don't know who the author is; and I would say three, in the opening paragraph of this statement it refers to a letter from the district chief to the province chief, and in the second paragraph it refers to a letter from the village chief to the district chief. How can you possibly include a statement like this without knowing where you got it, who the author of it was, or having never seen the backup materials.

A. Sir, when I was at Colonel KHIEN's headquarters immediately following my visit to General TOAN to discuss this propaganda leaflet and he informed me that Colonel KHIEN had been directed by him to conduct, I believe, an investigation; and I had gone immediately to Colonel KHIEN's headquarters and I met with--perhaps for the first time--

Q. (Interposing) Who was present with you?

A. I'm not certain who was present with me. I think it was my S3, Major MCKNIGHT. I believe that when I arrived at Colonel KHIEN's headquarters that I either met Mr. MAY or Colonel GUINN, and one of those two gentlemen got me an appointment with Colonel KHIEN, and we went up into Colonel KHIEN's office. At that time, I discussed with him this incident at My Lai (4), informing him that Colonel TOAN had told me he was investigating it. Colonel KHIEN had with him or went into his office and recovered a letter which might have been this one. I do not know. I believe he translated part of that letter to me and to everybody present. But the letter, as I recall him reading or stating what the letter said, was that there were two incidents as I mentioned before, one in either late February or early March and this one on 15 or 16 March. I do not recall if that letter had been translated at that time into English or--I believe it was still in Vietnamese. I believe I asked one of my people to get me a copy

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of that letter or something--to get a copy of a translation to me. At this time I do not know if this is my effort or the effort that was given to me as--of getting that or not. I think Colonel BLACKLEDGE, to my mind, would be the best one to answer how I got that. I would think it would have through him. But this statement was not handed to me at any time that I was in Quang Ngai. I am positive that this letter or this statement either came to me with this VC leaflet or came to me through intelligence channels immediately following the VC leaflet.

Q. Well, you see that letter of 11 April actually was in all three headquarters.

A. This was in my headquarters?

Q. I said in all three headquarters in the area of Quang Ngai City. You notice it came from the district. Colonel TOAN had a copy of it. Colonel KHIEN had a copy of it because it was addressed to him, and so did Colonel GUINN have a copy of it if you will notice it--or Mr. MAY.

A. And Son Tinh subsector also, I see. The letter that Colonel KHIEN made reference to that day in his office had the name of a village or of a hamlet, I'm not certain which, that he claimed was not in the Quang Ngai area. It was located down around Saigon or completely removed from Quang Ngai, and that there was this discrepancy, and I remember him pointing this out, "Typical VC, they don't know where they are operating," or something to that effect.

Q. Well, this seems very strange, Colonel HENDERSON, because we have been to all three headquarters, and we've talked to all of the people and this was the exact piece of paper that was being discussed in then Colonel TOAN's headquarters by Colonel KHIEN and by Lieutenant TAN.

A. By whom, sir?

Q. By Lieutenant TAN, the district chief. And each of the three headquarters had copies of that paper in it.

A. Yes, sir.

Q. And it is known that Colonel TOAN directed the province chief to investigate it and to report. So how they could be talking about something else is very difficult for me to understand.

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A. Sir--

Q. (Interposing) There are two incidents here. There is no question. They are talking about--in case you don't know the geography of this area, I can acquaint you with it very quickly. When it says Tu Cung Village or Tu Cung Hamlet, that refers to what you commonly referred to as My Lai (4), the area where Charlie Company was operating. When it talks about Co Lay or Co Luy, that refers to the area south of My Lai (1), the area that Bravo Company was operating in. And that is the significance of those two names.

We have talked to Colonel BLACKLEDGE at length. He recognized having picked up VC propaganda and called it to your attention, but your response was to the effect that the matter is under investigation.

A. What, sir?

Q. "It is under investigation. You indicated the Americal Division headquarters knows that and they are investigating it." These things become very difficult to put together. I don't see how you could possibly feel justified in a report of investigation to a division commander, to have in it a piece of paper that you don't know where it came from, you don't know who the author is, you have none of the backup--you have no knowledge concerning the backup material which is referenced in it.

A. Sir, my report or my cover letter sending this to division was for the purpose of calling to division's attention-- and not only division, I anticipated that this might go all the way to MACV--attention to this VC propaganda effort directed toward the ARVN soldiers throughout Vietnam because the incidents that are mentioned throughout here are not isolated to the Quang Ngai area. This statement--I believe that I had a telephone call from a Colonel WILSON after I had forwarded this letter to him.

Q. Who is Colonel WILSON?

A. The IG.

Q. Well, you're talking about in the spring of last year in 1969?

A. Yes. The spring of last year when I forwarded this to Colonel WILSON. He called me to tell me that on the original that I had sent--or on the copy that I had sent to him, there was some writing or there was another cover statement or something that made reference to this first inclosure. He asked me to try to identify a name or what the writing was. I did not recall what it was. Whether that is any indication of where this may have come from, I do not know, sir.

Q. Just a minute. Are you trying to tell me that your report of investigation that you submitted did not have this 14 April inclosure to it?

A. Yes, sir, it did. What I am saying, sir, or trying to say, is that there was additional writing on the 14 April inclosure when I sent this entire package to Colonel WILSON of the Inspector General's Office. What this was, I do not know. He called me on the telephone in Hawaii to ask me if I could identify where this statement came from and said on his copy there was some penciled or ink writing which made reference to something, and I could not identify that, sir.

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Q. Well, let's get back to the point now. Let's come down to your opening paragraph in your letter of 24 April, "Report of Investigation." It states, "An investigation has been conducted of the allegations cited in Inclosure 1." Inclosure 1 is the statement.

A. All I can say is, sir, that when I wrote this, what I was making reference to was my investigation that I conducted immediately after the event, and reported orally to General KOSTER--

Q. (Interposing) Colonel HENDERSON, don't try tell me that, please, because you're going back to Warrant Officer THOMPSON's allegation and that's--quite frankly it's about the incident at My Lai (4), but it's quite separate and distinct from this. This is an allegation. This is a severe allegation; 450, 500 people have been killed. This merits an investigation, and that's what this says you're doing.

"An investigation has been conducted of the allegation . . . the following are the results of the investigation."

(HENDERSON)

I mean up to that point it makes sense, but it doesn't make sense to say that you are relating that back to an allegation you received from Warrant Officer THOMPSON. Look at your paragraph 4.

A. Well, I'm basing this, sir, on the fact that when I prepared this letter of 24 April, I did no further investigation.

Q. This is the last investigation?

A. That this letter dated 24 April, which I sent to division, was based on the investigation that I had originally made. I did not, after having received this VC propaganda--except for going to General TOAN and to Colonel KHIEN, and I can't recall if I talked to anybody else or whether they had found out anything else earlier--but I did not make a further--I used the notes and used the previous investigation to prepare this, sir.

Q. Well, I wish you'd think a little bit more on this statement and where you got this statement because unless this can be satisfactorily explained to a division commander, this particular piece of paper doesn't really mean very much. I can hardly visualize you, Colonel HENDERSON, a senior brigade commander, sending a piece of paper into a division commander that you don't know where it came from, you don't know who wrote it, you have no supporting material to back it up, and you're sending this in over your signature to General KOSTER, your division commander. This seems extremely strange to me knowing full well that the first question General KOSTER is going to ask you is, "Well, what about this letter from the Son Tinh district chief to the province chief and what about the letter from the village chief to the district chief?"

A. Sir, I just cannot remember where this statement came from or how I acquired it. I honestly cannot.

MR WALSH: Colonel HENDERSON, did you make a copy of R-1 and keep it when you sent out a copy to Colonel WILSON?

A. No, sir. When I called the Americal Division--I forgot the sequence of whether Colonel WILSON called me or--

Q. (Interposing) I'm not interested in the sequence.

A. I did not. The Americal Division burned a copy and sent me the burned copy. The orginal, which was a carbon, was sent to USARV, and what I received

to pass on to Colonel WILSON was a burned copy. The original carbon, the actual carbon that I had saved in my safe, was sent to USARV channels.

Q. A copy went to you. My question is did you make a copy of the copy you got before you then forwarded on a copy to Colonel WILSON?

A. No, sir. I did not. I have a copy, but my copy was received last November when I called Colonel WILSON here in Washington and asked him to send me a copy of this since I had given him my only copy.

Q. I'd like you to be very clear in telling us what exactly it is you say Colonel WILSON said to you when he called you and inquired about writing on Inclosure 1?

A. Colonel WILSON called me shortly after he had received this package from me and stated that there was some handwriting--I don't recall if it was my copy he was talking about or the one that had come to him through USARV, but he had gotten this thing and there was some handwriting or some comments somewhere in it that might indicate--or that had a Vietnamese name, I believe he said, which might give him some relief as to where this came from. He asked me if I understood it, and I was unable to clarify the point.

Q. Could this have been an inquiry with respect to the initials on the document or on the letter itself rather then with respect to the inclosures?

A. It could have been, sir, but I believe it pertained to one of the inclosures.

MR MACCRATE: Colonel HENDERSON, does the copy that Colonel WILSON furnished to you show this notation on it to which you refer?

A. To the best of my knowledge, sir, it does not.

Q. Do you have it with you?

A. Yes.

IC: I had it in my pocket because it was still marked confidential.

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(The individual counsel hands a copy of Exhibit R-1 referred to to COL HENDERSON.)

A. I see no markings on this copy that would be what he is talking about, sir.

MR MACCRATE: You'll note that both that copy and R-1 are true copies or they are copies of true copies and not of anything that would have been found in your safe. Where did you get the information that a carbon copy, your carbon copy from your safe, had gone to USARV?

A. I got this from Colonel DONALDSON, sir, who was chief of staff of the Americal Division at that particular time, now Brigadier General DONALDSON, who called me and told me that the document had been found in my safe and that USARV had made inquiries several months earlier for such documents, and the Americal had given a negative report that there were none available, so that they now felt obligated to send the original carbon to USARV and that they would send me a copy.

Q. Now, that we are on this conversation that you had with Colonel DONALDSON, we have gone into this, and we find that before you spoke to Colonel WILSON, that you initiated a telephone call to Colonel DONALDSON in anticipation of speaking with Colonel WILSON. This would have been the week of the 20th of May 1969. We would be interested in what specific request, as you recall it, you made to Colonel DONALDSON at that time?

A. Yes, sir. I notified Colonel DONALDSON that I had or was being called to Washington as a witness for the IG investigation, and I told him that so many of the dates and things of this instant had slipped me and that I felt confident that I had left or had filed in the unit safe of either the S3 or the S2 office a copy of my report of investigation. I asked him if he would call down to the 11th Brigade and have somebody look in the S2 or the S3 safe to see if there was not an envelope there with my report of investigation in it.

Q. What was your recollection which led you to make the suggestion to Colonel DONALDSON as to what you had left behind and where?

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A. Sir, I don't recall. I was thinking that I had had word that the report of investigation could not be found, but this couldn't be right then because you are correct, I did call--and I think I testified differently here once before--I did call Colonel DONALDSON in the Americal Division before I went to the IG. I was under the impression later that it was after I left the IG.

Q. I think I can help you further. Colonel DONALDSON first informed you that it couldn't be found and then, fairly promptly after that, he told you that something had been found. Now, I want to go back behind this and get your recollection of what you thought he might be able to find, what had been left at the 11th Brigade or that you recall had been left at the 11th Brigade that you thought he could find..

A. I was looking and hoping that he could find my reduction of my oral report to General KOSTER that I had reduced to writing. This is what I had thought I had left in the S3 safe of the 11th Brigade. This is what I was looking for, sir.

Q. Actually, what Colonel DONALDSON found was something different from what you had expected that he would find?

A. Yes, sir. It was, sir. I goofed when this thing first came in to me at U.S. Army, Hawaii, by not sitting down and reading it. At that time it would have been a year fresher in my mind to have recognized that this was not the thing, but I was in the process of moving to the mainland here, and when this came in I just put it in a sealed envelope and wrote a hasty note to Colonel WILSON and forwarded it as my report of investigation, which it frankly is not.

Q. It is a report of investigation as the title indicates, but it is not the one that you were expecting to get when you spoke with Colonel DONALDSON when you called him initially.

A. No, sir. It is not. And I am certain when I prepared this one I did have a copy of that oral report of investigation, which I reduced to writing to give me this basic information, and I would have hoped that I would have gone right back into the same location or the same file that it--I don't recall if it was in a file or safe. I was after that report, sir.

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Q. Now, coming back to this 24 April report and the copies that you have seen since you made your initial request to Colonel DONALDSON--all of those have been only true copies, isn't that correct?

A. Yes, sir. I have never seen this carbon paper or the original copy that I forwarded to the division. I have never seen that since releasing it.

Q. We have no indication that USARV ever received a carbon copy of the original document.

A. Colonel DONALDSON told me that he was sending them this carbon.

Q. What they received was possibly a carbon copy of the true copy, but what they received was the true copy.

A. Then, sir, I don't understand what happened to the carbon then.

Q. That seems to have remained at the 11th Brigade.

A. I don't know if the 11th Brigade had a reproducing capability down there now or--they didn't have when I was there to do this type of thing.

Q. This reproduction was just to make a true copy which could be typed from the file copy. If you will examine it, it is not reproduced by machine, it is not a Xerox or Thermofax or anything of that sort, but it is just a typed, true copy.

A. I feel that when the IG called me he was talking about the carbon copy, that the writing was on that carbon copy and not on the copy that I had sent him. I may be wrong. I could be wrong.

IO: Let me hear that again. The IG said something about something being on the carbon copy?

A. I said, sir, that is what I believe it was.

MR MACCRATE: When you say the IG, you mean Colonel WILSON?

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A. Yes, sir. I mean Colonel WILSON, sir.

Q. As of the time that he spoke to you, he did not have here anything other than a true copy. We know that.

A. I do not understand then where the writing is on this that he confused on or that initiated his call to me in Hawaii to ask me to attempt to identify what this writing was.

Q. Could it have been the letters just to the side of "XICO" on the first page? In making the true copy they apparently erred in putting a notation after your notation of "XICO" and it was erased, but not completely erased. Do you recall if that is what he called you about?

A. I don't believe so, sir.

IO: We will recess at this time for lunch.

(The hearing recessed at 1308 hours, 16 February 1970.)

(The hearing reconvened at 1415 hours, 16 February 1970.)

IO: The hearing will come to order.

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

(The witness was reminded that he was still under oath, and he testified as follows:)

MR WALSH: Colonel HENDERSON, I would like to show you a document which has been entered into evidence as Exhibit R-5. It is a carbon copy of a report that you have previously seen as R-1. I would like to know if that refreshes your recollection (handing Exhibit R-5 to witness) in any respect with respect to the preparation of that document and its inclosures?

(The witness examined the document.)

A. Could I have the question again now, sir?

Q. Does the examination of that document refresh your recollection in any respect either to the preparation of the document or to the conversation with Colonel WILSON with respect to the possible notation on the copy that he'd received?

A. I can see no notations on here, except a couple of apparent additions to it that are different from R-1.

Q. I will call your attention to the initials on the first page which are not reflected on R-1, one difference; and another one is in the symbols.

A. The "XICO," of course, was my own special for the 11th Brigade CO's office. This "BA" something, I don't know what it was. I do not know what it was or how it got added. The file, Richard K. BLACKLEDGE, Lieutenant Colonel BLACKLEDGE, my S2.

Q. Well, Colonel BLACKLEDGE has identified those and those are his initials. I want to read you testimony by Sergeant GERBERDING, who was in charge of the preparation of the original document of which R-5 is a carbon copy, to see if this refreshes your recollection in any respect. Sergeant GERBERDING, who has appeared before General PEERS, was asked the following questions and gave the following answers:

"MR WEST: Sergeant major, you told us a little bit ago that you had understood that you had gotten a report from I believe the district chief concerning the events in My Lai (4) on 16 March 1968, some kind of a report. Would you tell us about this?

"A. No, sir, I did not say I received a report. I handled correspondence in which a report was made about My Lai (4). The report did not come to me-- the S2 office. This was correspondence which was addressed to the Americal Division commander which later on came down to the brigade headquarters.

"Q. Can you tell us what you recall about this correspondence?

"A. It was a letter from the division commander, General KOSTER, to Colonel HENDERSON, a personal type correspondence which was answered by Colonel HENDERSON, and it was processed in my office. It was given to me to type and process as correspondence and get it out to division headquarters, to General KOSTER.

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"Q. Do you remember about when this occurred?

"A. The day I do not know exactly, sir, but I recall some time in April, I think.

"Q. Well, let's refer now to when Task Force Barker was dissolved, which I believe was on the 9th. I think it was the 9th. Would you say it was before or after this?

"A. I'm sure it was well after the task force was dissolved, sir.

"Q. This occurred sometime after the 9th?

"A. I would say so.

"Q. Do you recall the contents of the letter from the general to Colonel HENDERSON?

"A. Well, it was a personal letter from General KOSTER to Colonel HENDERSON. You might say a person to person letter, and it stated in there that the district chief of Son Tinh made a complaint to the province chief of Quang Ngai that during the operation in March by Task Force Barker that 450 civilians--innocent civilians were killed by Task Force Barker. That correspondence I presume was relayed to the 2d ARVN Division commander who in turn relayed it to General KOSTER of the Americal Division. General KOSTER wrote a personal letter to Colonel HENDERSON asking him to answer the allegations or statements made by the district chief, and Colonel HENDERSON formulated a repy that was typed and dispatched back to General KOSTER.

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"Q. Do you recall whether the letter from the commanding general to Colonel HENDERSON contained any inclosures? For example, did it inclose the communication from Colonel TOAN, from the 2d ARVN Division commander?

"A. It had a letter in Vietnamese writing attached. Now, who it was from, I do not know. It could have been the letter from the district chief, the province chief or--

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"A. Yes, sir.

"Q. Now, I believe you said you prepared or processed the reply from Colonel HENDERSON to the general?

"A. It was given to me to have it typed. Since the letter was personal and of a confidential nature, I was to insure that it received no publicity and not too many people heard or knew about it."

Q. In returning to this subject sometime later in Sergeant GERBERDING's testimony, he was asked the following questions and gave the following answers:

"Q. I wanted to ask you. I don't believe we went over the contents of the letter from General KOSTER to Colonel HENDERSON. Can you recall the text of it?"

"A. Sir, I remember vaguely in general terms it was the same allegation which you have seen in this. In other words, General KOSTER stated that allegations had been presented to him by his Vietnamese counterparts concerning a supposed massacre by U.S. forces and he directed that Colonel HENDERSON conduct an immediate detailed and thorough investigation of the circumstances and any facts concerning these statements by the Vietnamese. That is, in essence, the instructions of General KOSTER.

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"IO: You say, 'his Vietnamese counterparts,' did he say who his Vietnamese counterpart was?

"A. Well, this was my terminology, sir. I do not remember the exact wording but what he was talking about was the information that he had received from Vietnamese channels which came from the division commander of the 2d ARVN Division which you might call his Vietnamese counterpart, sir."

Q. Now, I wonder, Colonel, if Sergeant GERBERDING's testimony refreshes your recollection about the letter you received from General KOSTER on this subject?

A. It does not refresh my memory. I am positive that I received no letter from General KOSTER, nor did I receive any letter from General KOSTER or correspondence forwarding through me any--well, this M-34, for example.

Q. Or any other documents relating to any allegation?

A. From General KOSTER, from the Americal Division, no, sir.

Q. All right. Now, with respect to the preparation of this document, would you dictate that letter, or did you prepare that document, R-5?

A. I wrote this in longhand, I believe. I did not dictate; I am positive of that.

Q. How did you have it typed?

A. It is possible that Sergeant Major GERBERDING is correct. I do not recall who I gave the letter to to have it typed. Since I've always considered it to be an intelligence matter, it is quite likely that I did have it typed by the S2 personnel, Sergeant Major GERBERDING.

Q. How about the inclosures? How were they prepared?

A. Sir, I cannot recall.

Q. Let me read you a little more of what Sergeant Major GERBERDING said:

"MR WALSH: Sergeant major, in previous testimony, you indicated you had been given the letter of 24 April 1968 in draft form by Colonel BLACKLEDGE along with a folder of loose papers including General KOSTER's letter to Colonel HENDERSON. Is that correct?

"A. Yes, sir.

"Q. Now, I think you indicated that you had given this draft to Specialist BAILEY to type?

"A. Yes.

"Q. Colonel HENDERSON's draft?

"A. Yes, sir.

"Q. I wonder if I could just trace what happened then; did you get back the original and three carbons together with General KOSTER's letter from Specialist BAILEY and redeliver them to Colonel BLACKLEDGE?

"A. No, BAILEY only got the pen copy, the handwritten copy; that's it, that's right. That's all he got.

"Q. And he typed it?

"A. Yes, sir.

"Q. And you don't recall seeing any inclosures or attachments to that letter, either at the time that BLACKLEDGE delivered it to you or that you delivered the draft to Specialist BAILEY?

"A. No, sir. In the folder there I had all the material. The Son Tinh letter and this leaflet was in there, which was all in one folder.

"Q. I see. Now, when you got back the typed letter from Specialist BAILEY, what did you do with it? Or did you get it back from him?

"A. Yes, sir, after I proofread it, I gave the entire folder to Colonel BLACKLEDGE to deliver to Colonel HENDERSON for signature.

"Q. I think you indicated earlier also that Colonel BLACKLEDGE had marked on one of the carbons that we have shown you here in the file with his initials, in the upper right-hand corner?

"A. Yes, sir.

"Q. Now, do you specifically recall getting back from Colonel BLACKLEDGE the carbon marked with instructions for you to file it together with the folder of other

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documents that you'd given back to him? My question is, is it possible that you got back from Colonel BLACKLEDGE and put into your desk only the file copy of the letter, or do you specifically remember getting back and keeping in your desk General KOSTER's letter and the other documents that were initially given to you by Colonel BLACKLEDGE?

"A. No, sir. The only thing I remember exactly is this correspondence here (indicating R-5). Anything else, I do not know.

"Q. I just want to be sure that it is absolutely clear about this. You do specifically remember receiving the file that contained General KOSTER's letter and the letter from the district chief together with Colonel HENDERSON's handwritten draft; but you do not specifically recall that after the letter was prepared and you received a file copy back, whether you kept all of those papers in your desk drawer until you left in November?

"A. The entire folder with all the material I had was given back to Colonel HENDERSON, and after he signed it, I received this (indicating R-5) back for dispatch.

"Q. Now, did you receive the original back to be dispatched to the commanding general together with the carbons that were going forward?

"A. Yes, sir.

"Q. And one of the carbons was marked "file RKB"?

"A. Right.

"Q. At that time did you receive back General KOSTER's letter and the other papers that were with it?

"A. No, sir, I don't believe I did."

Now, I wonder if this testimony refreshes your recollection as to your having received a letter from General KOSTER

with inclosures; having prepared a letter, Exhibit R-5, in hand-written form and given it then to Sergeant GERBERDING; having it typed; and having received back from him the typed letter that you then added the inclosures to it yourself, and retained, yourself, all of the additional documents that related to it?

A. No, sir. It does not. I am confident that I received no letter from General KOSTER regarding this subject. As far as Sergeant Major GERBERDING having this typed for me or for Colonel BLACKLEDGE, this is quite likely, but I'm also of the opinion that this inclosure--I'm not an expert on typing, but it looks to me like most of this has been typed off the same typewriter. I could be wrong on that.

Q. Do you have any explanation of why the one inclosure has a green carbon paper and the other one has white? The rest of the document is white.

A. No, sir.

Q. They were apparently prepared at the same time.

A. Sir, some of the staff sections within the brigade used green paper or yellow paper as the final hold copy. Others who didn't have the green would use white paper. It was no real--I'm not certain I ever saw green paper. I can't recall seeing green. I know, I am positive, we had some yellow paper there. No, sir, I can place no significance on the green carbon.

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Q. And you recall nothing further about where the inclosures were typed if they weren't typed by Sergeant GERBERDING?

A. No, sir, I--

Q. (Interposing) Following the completion and submission of R-5 or R-1 as your report of April 24th, you testified previously that you were instructed to and you instructed Colonel BARKER in preparing a formal report of investigation, which he did, which he submitted to you, and which you forwarded to division with your indorsement, containing sworn statements by numerous witnesses. Now, we've spoken to more than 350 people, including warrant officers, other pilots, and various people at Task Force Barker, some of those people that you indicated whose statements were connected with this report. Not a single witness recalls having been questioned or having sub-

mitted a signed statement in support of such an investigation. We've been able to find no copies of any such investigation, and I wonder in view of the apparent confusion over the initial report and the report that was forwarded to you when you expected to receive an earlier report, whether there has been some confusion in your mind with respect to the reports that were prepared and whether it's possible, in fact, that the document that you had been thinking of as the formal report was the document of April 24th, that has been marked here as R-1?

A. Absolutely not, sir. There was a formal report of investigation conducted by Lieutenant Colonel BARKER. It was submitted to me. I reviewed it, and I forwarded it to the next headquarters.

Q. Well, colonel, if there was such a report prepared and submitted to you, it would have had to be a forgery, and I will ask you if you know of any reason why Colonel BARKER would have prepared a forged report containing forged statements of witnesses?

A. I know of no reason, sir, and I just cannot believe that this is the case.

Q. Well, I'm telling you, colonel, we have talked to every person now alive whom you have named as having submitted signed statements in support of that report, and just about everybody else connected with this incident, and not one of them recalls ever having been questioned, let alone having made a statement. So, if there was a formal report of investigation prepared, the statements annexed to it would be forgeries.

A. I personally did not see any witnesses put their signature on the documents, but when the report was presented to me the inclosures were signed. The statements were signed.

Q. Can you suggest any reason why people throughout the various headquarters, the people that you've named as having submitted a statement, would now deny that they ever gave a statement?

A. No, sir, I cannot. I did ask Captain DANIEL, the trial counsel in the case, if within his investigation he had talked to anyone who had made statements in this formal investi-

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gation. And he informed me that he, at that time, did not recall the names, but that one or two people had said that they had made statements. Now, I am unable to tie this in with the formal investigation or anything else, but it was at least satisfying for me to hear that in his investigation as a trial counsel in the preparation of the case that he had talked to one or two of the individuals who had made statements.

Q. What was his name, again?

A. Captain DANIEL.

Q. We will certainly check with him concerning that, but I think we can be very confident you have misunderstood what he said, because we have talked to everybody that has had any connection with this thing, and no one has given any testimony to that effect. Witnesses have been uniformly asked this question and 350 answers have been, "No."

Q. Well, does anybody else have any questions?

MR MACCRATE: Colonel HENDERSON, with respect to R-5, which is in front of you, the third paragraph states: "Son Tinh District chief does not give the allegations any importance." He pointed out that the two hamlets where the incident is alleged to have happened are in an area controlled by the VC since 1964. Now, I understand you to say that when you prepared this letter, you wrote it out in longhand, and I would assume that in its preparation you had some assistance or were working with other people as you were putting the information down, things were provided to you, and focusing particularly on that one sentence that I just read to you. I would like for you to pause for a minute and tell us as best as you can recall today the basis upon which you were able to make that statement and wrote that statement in this letter to the commanding general.

A. To the best of my recollection, I got this information from Major GAVIN who was an advisor to the Son Tinh District. Shortly after this incident, I visited the Son Tinh District headquarters. I do not recall if I spoke to the district chief. I do not believe the district chief was present, and I spoke with Major GAVIN who met me down at the bottom of the hill at the helicopter pad in a 106 recoilless rifle jeep. We drove up to his office and, among other things, we discussed this incident, and

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I told him that I was looking into this and asked him what he could tell me about this area and what were the district chief's feelings on this subject. This information, I believe, I got from Major GAVIN. I'm most positive that I did.

Q. Was this during the time that you were laid up with your leg in a cast and were hobbling around, as we know you did throughout the early part of April?

A. Sir, I do not recall when it was, but it was the first visit--the day I immediately took over the command of the brigade I asked Major MCKNIGHT, my S3, to arrange calls on all of the district headquarters within the brigade, and I wanted to do all of this, and I think I told him I wanted to do it within the first week or 10 days that I was in the brigade. So I think this might have been before I had been wounded.

Q. Well, the difficulty with that is that we are here dealing with allegations that apparently the Son Tinh district chief has received, and from what we've seen, you can see that those allegations were at a later time. Are you clear that this particular information came to you through Major GAVIN and not, for example, through the province team?

A. No. I agree that this would not have been made to me on my earlier visits there. No, sir. I do not recall, but if I didn't have it, I wouldn't have said it. I don't believe I would have said it unless I was confused with the district and province, and I don't believe I was. I am confident that I meant exactly what I said, but I can't say where I got the information.

Q. Well, I think what we're trying to trace is what you did have before you at the time, and it seems quite clear that you had something. Now, we have had testimony that there was found at brigade a communication that came to you from province that referred to Son Tinh District. Have you any recollection of receiving an evaluation from province of what the Son Tinh District chief felt with respect to these allegations?

A. No. I can't recall any such evaluations.

Q. Well, do you have any recollection of a conversation with Major GAVIN on this particular subject? I gather you recall a visit there, but you feel that visit may have been at an earlier time?

A. I certainly feel that I had a conversation with him regarding this subject at some time, but when, I do not know. But, I'm positive that I did speak to him at least once on this subject.

Q. Do you have any recollection of speaking with Colonel GUINN on this subject?

A. Only that Mr. MAY or Colonel GUINN, one or the other, was present with me when I called on Colonel KHIEN sometime in mid-April or before this letter went to division.

Q. Now, I would like you to look at the green sheet. You will note there in the fourth paragraph the statement, "The letter was not given much importance by the district chief, but was sent to the Quang Ngai Province chief." Does that in any way help you to recall the origins of the statements in your letter, the first sentence in the third paragraph?

A. Well, all that I can say is that it is consistent; but not knowing where this statement came from, I just can't answer that, sir. This statement here does not jibe with my information from Colonel TOAN that he was directing the Quang Ngai Province chief to conduct an investigation. This reflects that the Son Tinh District chief was called in to the 2d ARVN Division, and I did not understand this at all from my conversation with Colonel TOAN.

Q. But having written this out in longhand, and having apparently attached the green sheet as Inclosure 1 to this letter, you must have some information as to the background or that inclosure. You must have some recollection from whom it came, who spoke to you about it, who gave you this assurance that permitted you to write to General KOSTER that the district chief does not give any of the allegations any importance.

A. Well, I certainly had this later from Colonel KHIEN, that he and the district chief gave no credibility to this.

Q. Well, when you say later, are you saying before or after you wrote this letter?

A. No, it was before that I would have written this letter. When I called on Colonel KHIEN and discussed this incident with him, he was adamant, as was Colonel TOAN, that this incident-- that no

incident had occurred there. And they were strongly opposed to conducting any investigation, although TOAN had said he had told the province chief to conduct an investigation. But the province chief led me to believe that he was not going to be conducting an investigation because there was absolutely no truth to the matter.

Q. Well, how could they know whether such a thing had or had not occurred? The Americans were there. And Colonel KHIEN was in Quang Ngai unable to enter the area without an armed force to bring him in, so that he didn't have any knowledge of what had or had not taken place, any personal knowledge.

IO: When you talked to TOAN, for example, did he advise you that he had informed General KOSTER of all of this and asked General KOSTER to have this investigated?

A. No, sir. He did not.

Q. What do you think those words mean that you put down there, "The district chief does not give the allegations any importance"? What do you think that means?

A. Well, I hope it means just what I said that it meant. I cannot recall where I got my information from, but I know that when I drafted this letter, the facts that were available to me, what I considered to be the facts, were what I was reporting.

MR MACCRATE: Well, who helped you to write this letter?

A. I believe I drafted or wrote this letter myself.

Q. But you certainly didn't do all the leg work that was necessary to bring the thing together, did you?

A. Leg work, sir? I conducted the investigation right after the incident. I had to give an oral report.

Q. Well, these are inclosures. Take the 14 April statement, Colonel HENDERSON. That's no part of what you had done before. You had to get these things, and you weren't running around personally. You must have had someone to help you.

A. No one outside of the brigade handed me, to the best of my recollection, a single piece of paper regarding this incident. Now, I believe that Colonel KHIEN only translated the Viet Cong letter, or letter in Vietnamese, when he told me what he knew or what this letter was from the district or village chief.

Q. Well, who in your brigade handed you the statement of 14 April?

A. Sir, I believe it had to come through my S2 to me.

Q. Colonel BLACKLEDGE has testified that he had nothing to do with it.

A. I do not know, sir.

Q. You have no explanation as to how that statement came into your hands?

A. No, sir. I have not. I feel that it came in through intelligence channels, and that would be through my S2.

Q. But without any indication of the intelligence source, how could you possibly evaluate it as to whether it had any substantiality to it? Speaking colloquially, there are absolutely no fingerprints on that statement, as if someone saw it, to eliminate, to expunge any record of where it came from. The only impression that someone can get by looking at that document unexplained is that there was a conscious act of suppression in connection with the preparation of that letter. An inclosure that has been deprived of all fingerprints so no one could be blamed or credited with having put the thing together.

A. Well, at the time, sir, I must have known the source of this document, but I do not know at this time.

Q. Well, it is reasonable to conjecture that someone might have delivered this to you with an explanation. But if you received it with an explanation, where is that explanation?

A. At this time, I do not have it, sir.

Q. Who gave you such explanations?

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A. I do not know, sir.

Q. We have had it suggested that it came to you from an individual at province on the U.S. advisory team.

A. This is possible, sir, that it could have been given by the headquarters of district. I'm confident that it was not handed to me personally.

Q. Well, the indication was that it did come to you.

A. I do not believe so, sir.

Q. What ever happened to all the other papers that were brought together to permit you to sit down and to write out in your own hand the basic letter, Exhibit R-5?

A. I do not know, sir.

Q. One is struck by the coincidence that the only document that is found is one that you didn't think was still in existence.

A. One that--

Q. (Interposing) Well, that one document that you understood that has not been found. A document that you didn't expect to be found, has been found. So, the question arises, where are the documents that you expected would be found?

A. I'm sorry, sir. I don't follow you.

Q. You have told us that the first report of three to five pages upon your early investigation is the one that you expected, or at least you asked, Colonel DONALDSON to locate. And rather than finding that document that you had understood was with the S3, nothing was found, and instead, this document, R-5, was located in the S2 file.

A. Yes, sir. But I do not understand why I did not want it found?

Q. Well, I didn't say that you wanted it found, but apparently you didn't expect it to be found.

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A. Well, I don't follow the reasoning. When I called Colonel DONALDSON, I was asking him for any and all reports concerning the My Lai incident. I did not limit it to one. I did remember that when I reduced my oral report to writing and submitted my report, I know positively, I saved a copy of that. I feel confident that I had a copy of that put in my and, I think, the S3 safe. And that was one that I felt was there, but anything that he had on this My Lai report, I wanted.

Q. Now, with respect to the one that you did save and put in your safe, did you put anything with it?

A. No, except that I did testify earlier that I think maybe I used that one to prepare this. I'm not positive, but I think I used the report of early April to prepare this.

Q. That may very well have been. But coming back to the earlier report that you recalled leaving in your S3 safe, did you leave any other papers with it?

A. Not pertaining to My Lai, because at that time, I don't think I had anything else.

Q. Well, in its preparation, if this were a three to five-page paper, there must have been other papers gathered or information, data. Did you write it out in longhand as well? 12384

A. Yes, sir, and I used my notebook that I had used when I had interviewed Warrant Officer THOMPSON and others.

Q. Did you put those things with this letter?

A. No, sir. I recall I had one copy of that letter that I either put in an envelope and had them put in the S3 safe, or asked the S3 to have it put in the safe or filed, I'm not sure.

Q. Well, did you get any help in its preparation?

A. I am of the opinion I either let Major MCKNIGHT, my S3, read this one or the earlier one for dates or for unit actions, or let Colonel BARKER read it. I'm not really positive who I let read it. It seemed to me that somebody did read it. But as far as help in preparing it, no, sir. I had no help in preparing it. I wrote it out myself.

Q. We have substantial information that Major MCKNIGHT did assist you.

A. In this one, sir?

Q. In the earlier preparation, taking that as the first.

A. Well, I feel that I at least got the dates, the units, where they were, the results and so forth from him, or had him review to make certain that what I put down was correct. But I don't know that I had any help from him in writing out the statements that I had myself talked to individuals.

Q. What recollection do you have on the physical preparation of the earlier report?

A. The physical preparation of it, to the best of my knowledge, I either asked Major MCKNIGHT or Sergeant JOHNSON, or Sergeant KIRKPATRICK, or one of the officers or individuals in the S3 office to let me have a clerk or--and I thought I directed it to a special clerk that I had. I do not recall who it was, but it was one of the better clerks to type this.

Q. Well, do you recall that Sergeant JOHNSON at this time was spending his time over at LZ Dottie?

A. That's why I directed Sergeant KIRKPATRICK.

Q. Sergeant KIRKPATRICK was there and he would have been available. Now, in this connection, a document three-quarters of a page in length or thereabouts was seen in preparation.

A. No, sir.

Q. That could have been a part of it, could it not?

A. Oh, yes, sir.

Q. Now, who in addition to Major MCKNIGHT and Sergeant KIRKPATRICK, in the brigade had any participation in that that you know of?

A. Well, other than those who had given me information

or statements when I interviewed them, I think only possibly the clerk who typed it.

Q. Did you discuss this with Colonel LUPER?

A. I cannot recall having done so, sir.

Q. So far as a later report is concerned, in addition to Sergeant GERBERDING, you can't recall at this time who assisted you in the actual physical preparation of R-5?

A. No, sir, I cannot. I think that I used my initial report of early April as a basis for this, and I do not know that I had any additional help. And, I believe my S2 gave me this VC propaganda message. And, I can't think of anybody else but him having given me this statement. Possibly, well, I know the MI didn't come to me directly. It would have gone to him, and I'm positive that nobody at province gave me that paper.

Q. When you left Colonel TOAN, did you receive any papers from him? 12386

A. No, sir.

Q. When you left Colonel KHIEN, did you receive any papers from him?

A. No, sir. I'm positive I did not.

IO: Well, did you get any papers from either Colonel ULSAKER who at that time was down with Colonel TOAN? Colonel ULSAKER left about the 1st of April and Colonel HUTTER came in. Did you receive any papers from them?

A. I do not remember Colonel ULSAKER at all. Colonel HUTTER I remember, but no, sir, not on this subject did I ever receive any papers from Colonel HUTTER.

Q. That's Colonel HUTTER. H-U-T-T-E-R.

A. HUTTER, no, sir. I didn't receive from him any papers on this subject.

Q. From Mr. MAY and Colonel GUINN, when you were talking to Colonel KHIEN?

A. No, sir. I may have asked him for an extract or a translation of a document that KHIEN made reference to, but I did not physically receive it from him. Whether it was sent to my headquarters, I don't know, sir. But I did not see this single piece of paper from either of those gentlemen.

MR MACCRATE: Well, you say you were accompanied by Major MCKNIGHT, so if the paper followed you over and was sent to you, possibly by Mr. MAY or Colonel GUINN, it would come to Major MCKNIGHT and not to you, would it not?

A. Well, it would depend on how it was addressed. I couldn't guess on that one. I would think, though, if I had asked for it, they would have sent it to me.

Q. Well, I would assume so. But you indicate that it may have come into your headquarters and not to you.

A. Well, I hope it would have come to my attention if it would have come into my headquarters. I, at one time, thought that I had seen this letter that had been written from the 2d, or from the village to the district and had gotten to province. But the longer I thought about that, I believe that it was only Colonel KHIEN's translation that I heard of that. I do not remember seeing where I could sit down and read what actually was said in that letter.

Q. Did you ever seek to get a copy?

A. I am under the impression that I asked for a copy of it, but I cannot recall ever receiving it, or having made a check as to why I didn't receive it, if I did not receive it.

Q. You have no explanation of your willingness to accept the statement in the first sentence of the 14 April statement regarding this 11 April letter without having before you a copy of the 11 April letter?

A. Which paragraph?

Q. Well, in the very first paragraph of the 14 April letter there is a reference to the 11 April letter. You appear to be taking that letter and a statement upon it and passing it on

to your commanding general without, as I now understand it, ever having seen the text of that 11 April letter.

A. I remember having the text of that read to me by Colonel KHIEN or explained to me by Colonel KHIEN, but I cannot recall having seen that in my headquarters where I would sit down and look at it. That is correct, sir.

Q. Now, of course, if that letter was known to the Americal Division at the time that you sent forward this statement, or if you had received a copy of that letter from the Americal Division and returned it to the Americal Division, it would explain why you did not have a copy in your file.

A. I did not see the copy of that letter or correspondence from General KOSTER on this subject, sir.

IO: Did General KOSTER ever talk to you about it and tell you to investigate it?

A. No, sir. When I reported orally to General KOSTER, it was my opinion at the time--

Q. (Interposing) Well, now, when did you report orally? What oral report are you talking about now?

A. Well, I'm talking about the report of 20--

Q. (Interposing) Well, that had nothing to do with this. That is a completely different allegation. This is an allegation by the village chief to the district chief, and the district chief puts it in a letter to the province chief. It is not Warrant Officer THOMPSON's allegation. Now, did you again make an oral report to the division commander concerning the allegation of the district chief to the province chief?

A. No, sir. I did not.

Q. R-1? Although the two are related, the allegation of Warrant Officer THOMPSON is quite separate and distinct from the allegation made here.

A. I understand that, sir. But on this report, as I mentioned earlier, my primary purpose, I feel, in sending this thing forward was to get this propaganda leaflet to division because of the implications in the latter paragraph 7.

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Q. Well, just a minute. You previously indicated, I think, and I'd have to check back in the testimony, but when you picked up this propaganda, that you provided copies of the propaganda to the division, and that you subsequently conducted this investigation and provided it?

A. That is correct, sir.

Q. So, division already had the propaganda?

A. That is correct, sir. The only thing they didn't have was my statement going along with it.

Q. Well, you see, the allegation that you point out in your letter is not the propaganda. The allegation that you point out appears in the statement of 14 April. That is why it is absolutely inconceivable to me that you as a senior commander would, unless there is more that is known between yourself and General KOSTER than has been brought forward to the present time, that you could have sent a paper forward to General KOSTER that you didn't know the origin of the paper. You didn't know how you received it, or anything about the paper. It just doesn't ring because that, you see, is the allegation contained in Inclosure 1.

A. I cannot explain it, sir. I absolutely cannot.

Q. Well, for minute, let me ask you a few other questions about these other things. You left this paper, you indicated, in the safe of the S2 section, this particular paper?

A. Yes, sir.

Q. Now, where in the safe was it retained?

A. I don't know, sir. I assume this was--I don't even know. I believe it was just a field safe.

Q. Well, you had a regular wall safe with combinations on it and so on.

A. Well, I thought Colonel DONALDSON told me this was found in a sealed envelope. I don't know.

Q. But in what condition was it when you left it?
How was it addressed? How was it maintained?

A. Sir, I did not see it placed in the safe. I can only assume that I gave it to Colonel BLACKLEDGE to secure.

Q. Was it in a sealed envelope of any kind?

A. I do not know, sir.

Q. You never went back to see the report?

A. Sir, I do not believe that I ever saw this report after I signed off on it. I'm not certain I hand-carried it to the division. I'm under the impression that I did. I never saw that report after that time.

Q. How many copies of this report did you make?

A. I believe I made three copies and sent two forward and kept one.

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Q. Now, what about the other report that you prepared earlier? How many copies were made?

A. Again, sir, I believe it was three copies. I kept one and two went forward.

Q. And you retained that one in the S3 safe?

A. I believe so, sir.

Q. Do you know what else was in either of these files?

A. No, sir. I do not.

Q. Do you know how your report of early April was delivered to division?

A. I do not believe I hand-carried it up. I believe I gave it to the liaison officer, or had the TOC give it to the liaison officer to deliver it to the division.

Q. How did you have it addressed?

A. I do not recall, sir.

Q. Do you recall a classification?

A. No, sir. I do not. I believe it was, possibly it was "For Official Use Only." But I do not know, sir.

Q. And the report of 24 April, you had three copies and you sent it to division. Did it go by courier, or was it hand-carried, and in what form was it delivered?

A. I believe that I hand-carried this one to division. I hand-carried one of the two. I can remember distinctly either this one or the other one being in a brown envelope addressed to the commanding general, and that I hand-carried that to the chief of staff.

Q. That was Colonel PARSON at the time?

A. Yes, sir.

Q. Did you indicate to him the contents?

A. Yes, sir. I recall sitting down with Colonel PARSON in his office and handing this to him, or laying it on his desk, in this manila folder this report for General KOSTER, and telling him generally what it was about. And I recall that we started talking about this and he made some comment about, "Oh, yes. I wanted to hear about that. General KOSTER and General YOUNG have been discussing this matter, or had discussed it, and I hadn't gotten involved in it." I just got a little bit out about what it was all about when either the general sent for him for a meeting or something, and that dropped the conversation. I do not remember getting back with him on this subject.

Q. Well, how long after this report was prepared on the 24th do you recall that you delivered it to Colonel PARSON?

A. I do not recall, sir. But I would think that I would have delivered it very soon after this date, sir.

Q. Do you know whether General KOSTER was present, or if he was away on R&R at the time?

A. I am of the opinion that General KOSTER was present at

the time, but I did not hand this report to General KOSTER. It was addressed to him and I left it with the chief of staff.

Q. Do you have any idea at all why we shouldn't be able to find, for example, in the S3 files or the brigade, a copy of your report of early April?

A. No, sir. There is no reason in the world why the copy that we retained shouldn't have been there. I'm fairly confident that it was the S3 office where I passed the thing on to be held.

Q. Well, we have had the headquarters searched, and we have had people from our own group conduct a very detailed search, and it is certainly not there at the present time, nor is there any record of it.

A. I have no answer for that, sir.

MR MACCRATE: At the division, in addition to Colonel PARSON, General YOUNG, and General KOSTER, in connection with this second report, R-5, did you have any conversation with anyone else at division?

A. No, sir. I did not.

Q. At or about this time, was Colonel ANISTRANSKI, who was the G5 of the Americal Division, at any time at Duc Pho speaking with you?

A. I do not remember him speaking to me about this subject, sir.

Q. Do you remember as you drafted the first paragraph of this letter of 24 April, "An investigation has been conducted of the allegations cited in Inclosure 1," just how it was that you expected anyone at the Americal Division to read into this with you? If this came in to a reader cold, what kind of an introduction would that be? Doesn't this in some way relate to what you knew was up at division when you sent this?

A. Well, I knew, sir, that my early report was up at division, and again I made no reference to it.

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Q. But the early report had nothing to do with the allegations of the hamlet chief.

A. No, it did not. That is correct, sir. I do not understand my lead into this letter. The purpose of this letter really was not an investigation. It was transmitting this VC propaganda leaflet forward, and apparently Inclosure 1, which right now, I have no recollection of how I got it.

Q. But Colonel HENDERSON, if it was not an investigation, why would you have written with your own hand at the very top of the page, "Report of Investigation"?

A. I cannot answer that, sir, at this time.

IO: Now, Colonel HENDERSON, we want to go back to the 16th. I have heard your testimony before, and because it is almost 2 years ago, there's quite a bit of loss of memory as far as exactly what happened, the time this happened, and so on. For example, I can read in your testimony, on one occasion you said you went to see Captain MEDINA on the 16th, and I can find in another place you went to see him on the 17th, and you talk to THOMPSON on the 16th. Well, we have gone through this and I would like to go over verbally for you what I think you did during the course of 5 days to put you into focus so we won't have to be jaunting back and forth as to whether this was the 15th, the 16th, the 17th, and so on. I'll give this to you as I remember it, and if there is any great slippage in it as we reconstruct within the staff, I'll ask the people here at the desk to correct me.

Going back to the 15th, it was on that date that you assumed command of the 11th Brigade from General LIPSCOMB. Early in the afternoon you proceeded to LZ Dottie where you had an opportunity to talk to the assembled staff and command of Task Force Barker, and you delivered to them a pep talk concerning their forthcoming operation on the 16th into the area of Son My Village. You pointed out to them their lack of aggressiveness and failure to close on the previous operation and you gave them a good pep talk. "For once, let's hold the 48th Local Force Battalion and eliminate them once and for all."

Coming down to the morning of the 16th, the preparatory fire started either at 0725 or 0727 in the morning and terminated at 0730 at which time the first lift went in. The second lift went in at 0747 and was completed by 0750. The LZ, of course, from where they were lifted was LZ Dottie. Subsequent to that time, Bravo Company was picked up from LZ Uptight and put into their LZ south

of My Lai (1). Now, as far as your movements that morning were concerned, you had proceeded from Duc Pho and went to Dottie briefly, briefly to LZ Uptight, and were in the area by the time the artillery preparation terminated or thereabouts. Shortly thereafter, after the second lift and after the troops had entered the village, you were involved in getting troops to come out north of the hamlet of Thuan Yen or My Lai (4) to pick up some weapons from a couple of VC that had been killed by gunships. Subsequent to that time, you were orbiting to the southeast of the village noticing these large crowds of people streaming down Highway 521-- 200, 300, maybe 400 of them. And at that time the H-23 cut out a couple of these which they thought were prisoners trying to evade at the time and held them in position so that you could go down and were able to pick them up in your helicopter, and you brought them on board.

MR MACCRATE: I believe it was southwest rather than southeast.

IO: No, orbiting southeast of the village and later went down southwest of the village to pick up the two individuals. I believe that is the way I would reconstruct it. Subsequent to picking up the two individuals, you went over to see the insertion of Bravo Company. This was while the two individuals, the two suspects, were still in the aircraft. In the aircraft with you that morning were the following individuals: you were sitting in the left-hand seat; Colonel LUPER was sitting next to you; a man who had just joined you from General LIPSCOMB by the name of ADCOCK was operating your radio; to the immediate right of him was Major MACLACHLAN; in front of him in one of the jump seats was Command Sergeant Major WALSH; and sitting on your side of the aircraft in that jump seat was Major MCKNIGHT. The two PW's were picked up and you watched the insertion of Bravo Company. You will remember this, I think, very vividly because the artillery did not lift in time and it forced the helicopters to make another circle to get back into the LZ after the artillery had finally been lifted. Subsequent to that time, you went back to My Lai (4) again for a "quick see" and then went to LZ Dottie. You stayed at LZ Dottie for quite some time until along about the 1030 time frame. There you saw Colonel BARKER. You also saw General KOSTER come in; you talked to him, and saw him depart. Then you again went to My Lai (4). Then subsequent to that time, you went to Quang Ngai to keep your appointment for a courtesy call with Colonel TOAN about 1100 hours. In the afternoon, or subsequent to that you returned to LZ Bronco at Duc Pho, and in the afternoon, you were back up in the area again, visiting the 4/3

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and also you stopped over at LZ Dottie a couple of times, at least once. That afternoon General KOSTER, in addition to the visit in the morning, had come back into your AO. He first was en route to LZ Bronco to pick up General DOLEMAN where he met him and spent about 30 minutes. At 1545 he and General DOLEMAN were again at LZ Dottie where they were briefed by Colonel BARKER until about 1715 at which time they departed for Chu Lai. That, I think, pretty well accounts for the 16th.

Now, with respect to the 17th: early in the morning on the 17th at about 0820, General DOLEMAN and General KOSTER are again at LZ Bronco, and I assume that after that time you took General DOLEMAN on a visit to some of your fire bases in the brigade area. That afternoon you had a meeting starting at about 1400 with Lieutenant Colonel HOLLADAY and Major WATKE concerning the optimum employment of the assets of the aero-scout company of the 123d Aviation Battalion.

Now then, coming down to the morning of the 18th, you had received a telephone call or some kind of a notice to meet General YOUNG at LZ Dottie at about 0900 hours. Prior to this time you probably stopped by A/3/1 which had been hit by a sapper attack the night before and had suffered some casualties. As I recall, there were at least a couple of dead and five or six or seven seriously wounded. You called on them prior to the time that you proceeded to meet General YOUNG at LZ Dottie. Then at LZ Dottie when you did arrive there, General YOUNG arrived a few minutes after you did. Five of you met in the van of Colonel BARKER including General YOUNG, yourself, Colonel BARKER, Colonel HOLLADAY, and Major WATKE. It was there that you had reviewed for you by Major WATKE the information that had been passed to him by Warrant Officer THOMPSON. It was also there that General YOUNG told you that he wanted you to investigate the matter. Now then, subsequent to that, you talked briefly to Major WATKE and then you talked to Warrant Officer THOMPSON. After talking to them, you flew down to the area of My Lai (1) where C/1/20 was en route from down south. They had laagered just north of Nui Ngang Mountain on the 17th and they were en route to the north generally to an area to the northwest of My Lai (1) up in the area of the Diem Diem River so they could be extracted early in the afternoon. You notified Captain MEDINA in the field that you wanted to come in to see him, for him to pick out an LZ and to mark it. That he did. You went in to see him generally somewhere just a little to the southwest of My Lai (1) and you talked to him there. At that time you had Colonel LUPER with you and you had

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Colonel BLACKLEDGE with you. You talked to Captain MEDINA. While you were talking to Captain MEDINA, your helicopter went aloft. You called the chopper back to you and you boarded it and departed.

Somewhat subsequent to that, when C/1/20 started arriving back at LZ Dottie, you met some of the early lifts and you talked to some of the personnel as they came back into the LZ. That, I think, fairly well completes the 18th.

Exactly what transpired on the 19th I do not know; however, on the 20th, this is the date you made your verbal report to the division commander. I would ask if there is any major deviation that anyone knows of here at this time?

MR WEST: Just a small matter. You arrived at Landing Zone Dottie with these two suspected VC around 0830 and stayed there until about 0950 to 1000. (To IO) I think you maybe said 1030.

A. I stayed there until what time?

Q. About 0950 or 1000. You were there about an hour and a half. General KOSTER came in at 0935. You left 20 or so minutes after that. While you were there, Colonel BARKER was in and out twice. He came in about 0840, then took off to Bravo Company, where his Charlie-Charlie ship was used for a dustoff. He dropped him off on the way out to the wounded and he stayed there; he was there when you left.

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MR WALSH: I would like to pick it up right there, colonel. After you had observed the insertion of Bravo Company and then went on back over My Lai (4), perhaps observing the markings of the two dead VC with weapons north to the hamlet which were being marked by other helicopters in the area so the troops could move up and get the weapons, you then moved back to Dottie, arriving there at 0830. Now, I would like to ask you to recount for us, first of all, where you met Colonel BARKER. Did you see him at the landing pad when you came in there? Did you see him in the TOC?

A. When I arrived at LZ Dottie and turned the prisoners over to the military police or whoever received them from me there at LZ Dottie, I'm of the opinion that I started for the TOC when General KOSTER arrived, and I turned around and met him. Your timing, I don't disagree with it, but if I met Colonel BARKER

there, I feel I met him up at the helipad. I don't recall talking to him that morning down at the TOC.

(General PEERS withdrew from the hearing.)

Q. Now, the timing is such that your recollection may be that you were about to depart when General KOSTER arrived. You may have moved or changed your intention at that time rather than when you arrived because the log and other indications are very strong that General KOSTER didn't arrive until about an hour after you did. So with that comment, I wonder if I could ask you again where you saw Colonel BARKER initially?

A. I feel that I would have seen Colonel BARKER at the helipad. I do not believe I saw him in the TOC.

Q. What did you say to him and what did he say to you when you saw him?

A. Sir, I am trying to go along with this scheme that General PEERS outlined, and I do not recall seeing Colonel BARKER there that morning at LZ Dottie. If there is evidence that I did see him there and talk to him, I don't deny it. But I cannot recall having said anything to him.

Q. All right. Let me ask you more generally, would you describe exactly where you went and exactly what you heard and exactly what you said during that approximate hour and a half that you were at LZ Dottie starting at 0830?

A. My recollection is that I was not at LZ Dottie for any one and a half hours that morning. At the time I was there I possibly did make it to the TOC. If I would have seen anybody it probably would have been Major CALHOUN, but what I would have said to him I don't know and I do not remember.

Q. What do you recall about hearing a report of VC killed reported by Charlie Company that morning, either monitoring the radio nets or reports received directly in the TOC from Major CALHOUN or Colonel BARKER?

A. I remember hearing radio transmissions, whether I was airborne or on the ground I'm not certain, of armed VC evading and the helicopters taking them under fire on several occasions, not just one occasion, but on several occasions I heard this. I heard certain casualty reports or reports of VC killed coming in

again from Charlie Company or at least from Colonel BARKER from his TOC and his command net. Whether I was in the TOC or monitoring, I don't remember.

Q. By 0830, Charlie Company had transmitted reports and Colonel BARKER had received information that Charlie Company was claiming to have killed 84 VC in the first hour of the action. Now, what was your reaction when you heard those reports?

A. I didn't have that report, sir. I don't believe I had that report. I think, I'm confident, when I talked to General KOSTER that I was under the impression at that time that I had information that there had been 30 or 40 VC killed. I don't think there was anywhere in the 80's. I do not believe it was, sir.

Q. We know that it was up in the 80's. It was 84 and was transmitted over the net that you were monitoring. Eighty-four had been recorded in the Task Force Barker log by 0840. How could you possibly not have been aware of that?

A. At this time, to the best of my recollection, I did not know it, sir.

Q. What did you know as of the time you saw General KOSTER? What did you know about Charlie Company and their success in killing VC?

A. I think it was that I knew that they had killed in the area of 30 to 40 VC. I believe that was my discussion with General KOSTER.

Q. Well, this is very curious, colonel. I suggest to you that your recollection is not accurate. I won't point out all of the entries. In addition to the number of VC reported by the helicopter unit, Charlie Company had reported killing 15 VC prior to 0830. We know there were transmissions over the net that Charlie Company had killed a total of 84 by 0830. I call your attention to the log of Task Force Barker, item 22, which has been entered in the record in this proceedings as Exhibit M-16, and ask you to take a look at item 22 on page 2. See if that doesn't refresh your recollection with respect to the number of VC Charlie Company had claimed to have killed by 0840 in the morning.

(MR WALSH hands Exhibit M-16 to the witness.)

A. Is this the morning log that I'm looking at?

Q. It is a copy of the log of Task Force Barker for the period commencing 0001 hours on 16 March 1968.

(The witness studies the log.)

A. Is this item 22, "VC counted," is that "09"?

Q. 69.

A. Well, if they were reporting that to my brigade headquarters, I should have known it and apparently did know it.

Q. Now, what was your reaction to knowing this? Do you think it was accurate?

A. Well, I have no reasons to think it was not accurate, sir.

Q. Because of the bodies that you had observed while you were over My Lai (4)?

A. No, sir, because when I was over My Lai (4), I had observed only two VC dead with weapons and some six to eight others to the southeast of My Lai (4) who--I had translated that these were civilians or could possibly be civilians.

Q. And you hadn't seen any other bodies?

A. I had seen no other bodies, sir.

Q. All right. What questions did you ask when you heard these reports of this large body count?

A. I had no questions, I believe, of the large body count.

Q. You had just been there and you hadn't seen any and you came back to Dottie and you heard these reports of large numbers of VC being killed by Charlie Company. Didn't you ask

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