

any questions on how they were killed, what the circumstances were?

A. I don't recall asking any questions.

Q. Do you remember being curious as to why there were no calls for fire support, why there were no reports of contact?

A. I do not recall it, sir.

Q. What can you recall about the period of time that you spent at LZ Dottie between the time you brought in the prisoners around 0830 and an hour and 5 minutes later when General KOSTER arrived?

A. Except for meeting with General KOSTER at LZ Dottie, sir, I cannot remember any of my conversations there.

Q. Do you remember any conversations about any VC reported by Charlie Company being killed by artillery fire?

A. I recall asking Colonel BARKER, but I believe it was over the radio while I was airborne, about the six to eight bodies that were to the southeast of My Lai (4) and how they were killed. He initially told me by artillery fire, and Colonel LUPER who monitored this conversation called the battery, I believe he called the battery, and a few minutes later over the intercom told me that this was incorrect, that these people had not been killed by artillery fire. I do not recall this taking place at LZ Dottie.

Q. Colonel LUPER called the battery and the battery advised him that they had not been killed by artillery fire?

A. That they had placed no artillery fire in that particular position.

Q. Would you indicate on the map the position you are talking about?

A. I'm talking about....

(The witness studies MAP-1.)

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Q. Why don't we use an aerial photograph? I show you P-1 which is an aerial photograph of the area around My Lai (4). Would you indicate the area that Colonel LUPER advised you was not the area where artillery had landed?

A. Well, if I've got this oriented properly, this is My Lai (4) here (indicating).

Q. That is correct. North to the top.

A. I'm talking about this road running along here where I observed, I believe, about this location and again at this location at this road junction here (indicating).

Q. You're pointing to a trail leading south of the village, the first point being where it intersects the irrigation ditch and the second point where it intersects Highway 521.

A. The junction of 521, correct. And in both of these locations or near these two locations, I observed what I considered possibly civilian bodies.

Q. How many were in the first location? That is on the trail just to the north of the irrigation ditch.

A. I believe that I observed there a man, a woman, either one or two children, and a water buffalo.

Q. And below that at the point where the trail junctures with Highway 521? How many there?

A. There were three adults. I believe it was two men and a woman or one man and two women. I'm not certain. Three there (indicating) and about three or four at this location here (indicating).

Q. Now, is it your testimony that before going to Dottie, you had asked Colonel LUPER to inquire of the battery commander whether any artillery had gone into those positions?

A. I believe so, sir.

Q. And do you know if he contacted the battery commander to make that inquiry?

A. I believe he did, sir.

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Q. And what did he report to you?

A. I had the report from him that those people were not killed by artillery fire, that no artillery had impacted outside of the LZ area, and that no requests for air other than the LZ prep had been received.

Q. Colonel LUPER was here the other day and he was asked the following questions and gave the following answers:

"Q. Now, Colonel LUPER, do you have any recollection of Colonel HENDERSON making any request to you to investigate anything with respect to this incident?

"A. I have none whatsoever. And this, sir, if I may say so bothers me in that I am apparently being questioned about things that other people have said...without...having a chance to clarify it with them.

"Q. Colonel HENDERSON in a rather long answer to a question, included the following: 'I had the report that some of the artillery had landed in the village, but Colonel LUPER investigated this, and assured me that no artillery landed on the edge of that village, which Colonel BARKER later acknowledged, that he had seen the artillery rounds but he thought he saw a building or two burning on the edge of the village, which led him to believe that the artillery had perhaps hit the village. But he could not later substantiate this. But the artillery commander and the battery commander, who had visual observation, claimed this was not true, and that all of his rounds impacted on the LZ which was several meters away.'

"A. He states that the battery commander had observation?

"Q. That is what he said.

"A. The battery commander is sitting at Uptight, and if he can have observed whether or not a round landed in that village, he's got terrific vision.

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"Q. I really was more interested in his comments on what you had assured, and what investigation you made before giving him that information.

"A. I could not have given him an assurance like that without landing and taking SHEL-REP's in that village. I could not possibly have given him that kind of assurance.

"Q. Did you give him any assurance with respect to any aspect of the artillery preparation?

"A. I do not recall giving him any assurances.

"Q. Do you remember any discussion with Colonel HENDERSON pertaining to this subject?

"A. I do not, sir. I do not."

Colonel LUPER has no recollection of any discussion with you on where the artillery impacted. Can you explain that, Colonel HENDERSON?

A. The only thing that I can explain--you have read my testimony there where I asked him to investigate. This was not my interpretation of the investigation that he was to make a formal or even an informal investigation. When I had the word from Colonel BARKER that these people were probably killed by artillery fire--and I'm sure I was in the helicopter at the time--I either looked over at LUPER or I told him on the intercom, "How about that, Bob?" And he got busy on his little portable radio that he carried with him, his "25," and called who I assumed to be the battery and later came back to me and said: "That's incorrect. We did not do any firing to the southeast or to the south of the village."

Q. So you are absolutely certain then that there weren't any VC or other people killed by artillery fire that morning? Is that your testimony?

A. No, sir.

Q. I'm having difficulty understanding it. You say that you had Colonel LUPER check and make sure that none of the artillery had impacted in the area where you had seen bodies, that it

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• had all gone to the LZ. Is that what your testimony is?

A. I'm saying that the only two places or three places that I saw bodies, based on what Colonel LUPER said to me, it was not the result of artillery fire.

Q. All right, and that the artillery fire had gone where it was supposed to go, on the LZ?

A. In the LZ area, I do not know if anybody was killed in the LZ. I do not believe so, but I do not know this for a fact, sir.

Q. Let's go back then to your learning of a large number of VC being killed by Charlie Company. You were at LZ Dottie. You say now that your recollection is that you heard of 30 or 40 of them being killed. This is difficult for us to understand in view of the transmissions by Colonel BARKER of 84 and confirmation of those transmission in the task force log. By 0840 in the morning Charlie Company was credited with 84 VC. First of all, is there any explanation that you can give us as to why you were not aware of that or made aware of that while you were at LZ Dottie?

A. The only explanation I have, sir, is that I believe that this is a reconstituted log. I do not believe that the log was typed at that time as those transmissions came in. There was one part in the morning of this operation, and I think it was when I was en route to Colonel TOAN's headquarters, that Major MCKNIGHT called back to my brigade headquarters to find out what kind of reports in this operation we were receiving. We were informed that the reports were still very sparse, that we were not getting these reports, and we call back to fire support base Dottie to find out why we weren't getting them. I believe it was Major CALHOUN on the radio, I could be wrong, who reported to us they were having a difficult time of reading the transmissions from the company to the battalion commanders. We asked him to get it corrected and get to the battalion commander as soon as he could cut in on him and tell him we needed these reports as rapidly as possible and to pass them on to the 11th Brigade. What I'm saying that I believe is that this log was prepared later in the day and was not kept up on a moment-to-moment basis as it should have been.

Q. Well, without regard to when it was reported, do you have any question as to the accuracy of the entries? Is that

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the point you're making or why does it make any difference when it was typed up?

A. Well, it makes a difference when the information was received in at the TOC. I question whether at 0830 or 0840 in the morning they had a report that 84 VC were killed. I do not believe they had that information in there at that time of the morning.

Q. The reason you believe that is that when you called the 11th Brigade, you couldn't get information about how many casualties they were reporting?

A. That is correct, sir.

Q. I have a document here, Exhibit M-46, the log of the 11th Brigade for 16 March. I call your attention to a number of entries there including item 39 at 0805 in the morning reporting from the Task Force Barker TOC, 14 VC KIA; at 0805 another report from the Task Force Barker TOC, 1 VC KIA, making a total of 15. And then I would like for you to take a look at item 53 at 0930 and see if that doesn't refresh your memory with respect to the number of VC that were reported killed by Task Force Barker.

(Exhibit M-46 is given to the witness for examination.)

Now, I would also like you to take a look at the map (MAP-1), colonel, with respect to the coordinates given on that item 53, and I remind you that the coordinates reported on the Task Force Barker log of 69 VC killed by Charlie Company were in the middle of My Lai (4). You'll notice the coordinates as recorded in the 11th Brigade log are in a different location.

A. I notice these--this is the brigade log here I believe.

Q. Correct.

A. 714794 which is to the west.

MR WEST: No, it's north about a half kilometer.

MR WALSH: And the coordinates given in the Task Force Barker log at 0840 make no reference to artillery fire at 716788 which you'll notice is the location of My Lai (4) itself.

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A. 716788 (looking at MAP-1)?

Q. Now in view of these entries in the 11th Brigade log, I wonder what you're referring to when you said you were on your way to Quang Ngai, which would have been shortly before 1945. You couldn't get any information from your headquarters about casualties.

A. I believe that was the time that Major MCKNIGHT had an occasion to call and find out whether we were getting our reports into division, and he was informed that our TOC was not being kept up to date as to what was going on. If this was entered in my log, then I have no recourse but to accept it. I should have known the numbers.

Q. What I would like to get at now is whether you have any recollection at this time as to what your reaction was and what discussions you had with people when you received these reports of very large numbers of VC being killed?

A. Sir, I do not recall any specific or special conversations regarding this.

Q. Do you recall any conversations with Colonel LUPER with respect to the extraordinary toll of 69 killed by artillery fire?

A. I do not, sir.

Q. Do you know of any other occasion while you were in Vietnam when an artillery preparation of 5 minutes duration killed 69 VC? Wasn't this something you would congratulate him about or ask questions about?

A. I can recall no conversations about it, sir.

MR MACCRATE: Where did the idea originate that 69 had been killed by artillery? You note that in the Task Force Barker log at 0830 there is a notation of 69 having been killed at one coordinate. But in the brigade log, over an hour later, you have the coordinate moved and 69 killed by artillery. Do you have any recollection of anyone suggesting that the KIA's were due to artillery rather than ground forces?

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A. No, sir. I do not recollect anything about it, sir.

MR WEST: We'll recess at this time.

(The hearing recessed at 1611 hours, 16 February 1970.)

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(The hearing reconvened at 1630 hours, 16 February 1970.)

IO: The hearing will come to order.

RCDR: All persons present when the hearing recessed are again present. Let the record show that General PEERS has rejoined the hearing.

MR WEST: Colonel HENDERSON, were you aware that Captain LEWELLEN made a tape recording of traffic over the Task Force Barker net the morning of 16 March 1968?

A. I am now aware, or in December I became aware that such a tape existed, but what it pertained to, I have no knowledge.

Q. You didn't know it at the time?

A. No, sir.

Q. A transcript of this tape has been introduced into evidence as Exhibit M-20. I am going to read you a little of it as background which involves your presence over the area in your Charlie-Charlie ship, picking up these two suspected VC. There is a transmission about 0805:

|          |   |   |
|----------|---|---|
| "Rawhide | 3 | This is Rawhide 3. Over.  |
| Warlord  | 3 | This is Warlord 3. Go ahead.  |
| Rawhide  | 3 | This is Rawhide 3. When you get a chance to check out those people down to the southwest, you will be able to see our ship orbiting over them. Over." |

Now following this, the aero-scout people, who have been working down south, do move down and take a look at the people moving down the highway. About 2 or 3 minutes later, this transmission is about 0808:

|                        |   |
|------------------------|---|
| "Warlord Alpha<br>Lead | Request Warlord 3 come over to check people. We got one down here that is surrendering. He's taking all his clothes off. Standing by if you want to come down and pick him up." |
|------------------------|---|

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(A tape recording transcript as revised by CPT LEWELLEN and annotated with sequence numbers and times was marked and entered into evidence as Exhibit M-20A.)

All right, now look at page 14 in Exhibit M-20A. On the top of the page, you'll notice some letters and some words in capital letters. Those are remarks made back in the Task Force Barker TOC, that are superimposed on traffic that is going. I'll read that again:

"Warlord Alpha  
Lead Request 3 come over to check people. We got one down here that is surrendering. He's taking all his clothes off. Standing by if you want to come down and pick him up."

Somebody in the TOC says: "Pick his ass up."

"(Warlord Alpha  
Lead) I'm ready to pop the two white smokes on the highway. We got your 'dink' down here; he's stripped down. He is standing with his hands over his head."

"Rawhide 3 This is Rawhide 3. Over."

Somebody else in the TOC says: "Come on now. Major MCKNIGHT has to get in on it."

"Rawhide 3 This is Rawhide 3. Over."

"Warlord Alpha  
Lead Rawhide 3. This is Warlord Alpha Lead. Roger. We have your 'dink' now at this time. He is stripped down and got his hands over his head. He tried to run once and we caught him again. He's down on the road if you want to come down and pick him up ... He's stopped and ready."

"Rawhide 3

This is Rawhide 3. Roger. We're on our way in at this time. There were two others that were going along with him. Did you manage to get them also? Over.

"Warlord Alpha  
Lead

Negative. We got two of them now at this time.

"Rawhide 3

Rawhide 3. Roger. Out."

This is about 0810 or just shortly after and this is when he picked up the two suspected VC. The next point of interest I think is at the top of page 18. Now this is about 0829. Colonel BARKER talking to Charlie 6:

"Coyote 6

Coyote 6. Roger. Dig Deep. Take your time and get 'em out of those holes. Over.

"Coyote 6

Coyote 6. Is that eight...ah... eight four KIA's? Over.

"Coyote 6

Roger. Out.

"Coyote 6

65. This is Coyote 6. Over.

"Coyote 65

This is Coyote 65. Go ahead.

"Coyote 6

This is Coyote 6. Returning to your location to refuel. I'll stop down in the TOC and bring you up to date. Over.

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"Coyote 65

This is 65. Roger. I'll have a vehicle up to meet you. Over."

Now this is when BARKER returns to Dottie and the TOC and reaches there perhaps 5 minutes later. At 0840 they make the entry, "69 VC KIA."

IO: You'll have to look in the log. It won't be in there. The log shows it.

A. Yes, sir, I saw that.

MR WEST: Now your ship's still in the air, but not very much longer, about 0835, you will notice on page 20 (referring to Exhibit M-20A) there are a couple of noncommittal transmissions by Rawhide 3. He's talking to Charlie 6 and something passes between them. Rawhide 36 says, "You're coming with your element."

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Now by this time you're out of gas. So you head back to Landing Zone Dottie.

A. Where does it show that I'm out of gas and heading back?

Q. It doesn't show. It just has to be, from the time you've been in the air. But at any rate, I think it's also interesting that there's an entry in the brigade TOC, at 0820, a message from the Task Force Barker TOC, at 0805 hours, giving coordinates "detained 2 VCs evading; will evacuate to Landing Zone Dottie." Now there are further entries in here which show Colonel BARKER taking off for Bravo Company area about 0855, using his Charlie-Charlie ship for a dustoff. They drop him off about 0930, take the wounded on. It may be a little after that. It probably is a little after that because there's a transmission there you can read later on where he tells Sergeant JOHNSON he's going to hop off the helicopter and let him take the wounded on. Sergeant JOHNSON rogers and says, "Be advised Saber 6 is at this station." He gets back there about 0940.

But meanwhile I ask you to think back now and just remember who was there and what took place. You arrived there probably about 0840. BARKER was there. With you was MCKNIGHT, LUPER, and MACLACHLAN. All of you went into the TOC. CALHOUN was there; LEWELLEN was there; Sergeant JOHNSON was there; STEPHENS was there; KOTOUC was there. Colonel PATTERSON reminded me that you landed first at the IPW cage; you hovered over and started to refuel. I want to get you into the TOC now. The TOC is pretty crowded. All these people are in it. You've been out over the operation. So was BARKER. You have at least about 10 minutes there together before he takes off. You've orbited at least a couple of times over My Lai (4). BARKER has been down taking a look. This is a little after the first hour of operation, the biggest operation the brigade had ever had up to this time. You get a report of 84 KIA from Charlie 6. You had already had 15 reported, so they make an entry of 69 KIA. I want you to take a look at this Exhibit M-113. These are some selected entries in the logs of Task Force Barker, the 11th Brigade logs, and the tapes with a list of times. At the moment I'm thinking about this body count problem. You'll notice that right at 0735 from an entry in the Task Force Barker log there's one VC KIA reported by Charlie Company. Seven minutes later there were three reported by Sharks. Lifts completed at 0747 into Charlie Company area. Three minutes later, two more from the Sharks. Five minutes later another. Now that's all the Sharks reported

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having killed, six. At 0757 Sergeant JOHNSON's on the tape, the Task Force Barker net, saying Charlie Company had 15. So they make an entry in the Task Force Barker log 14 more. That would give you a total of 15 VC KIA reported by Charlie Company. At 0829 you have the entry that we read where Coyote 6 asked about the 84 KIA. And a minute later Colonel BARKER tells Sergeant JOHNSON he's coming in. About 0840 you've got the entry in the Task Force Barker log that says 69. Evidently somebody subtracted 15 from 84 and you get 69.

Then there's an interesting entry in the log of the 11th Brigade at 0915. This is a report from Task Force Barker. It says, "30-40 VC left the hamlet at 0700 going east." Now in this exhibit, and this is abbreviated, let's read the entry in the 11th Brigade log at 0915. Entry number 50, 0915, Task Force Barker TOC, C/1/20, 0900 hours, and it gives the coordinates for the hamlet that you've seen before, 716788, "A VC informed the interpreter that approximately 30 or 40 VC departed the area at 0700 hours going east and C/1/20 will move eastward." Now this came from an interrogation in Captain MEDINA's presence in the village, in which the old man told him the only VC in there were 30 or 40 who left about 7 o'clock in the morning. That's on your log. It's not on the Task Force Barker log for some reason. Then at 0930 we have the entry in the Task Force Barker log which you've seen before that says, "69 VC KIA due to artillery fire." That's in the brigade log, excuse me.

A. At 0930?

Q. Yes.

A. 9:35 here, sir.

Q. Now, Colonel HENDERSON, you were there for almost an hour and a half. BARKER was in and out. CALHOUN was there all the time. You have all this radio traffic coming into the TOC. LUPER's there with you and MCKNIGHT. We've talked to all these people. We've talked to the enlisted men, the officers, everybody that was there. I haven't mentioned Lieutenant WATKINS I don't believe, the signal officer. He was right in Colonel BARKER's Charlie-Charlie ship. We've talked to all these people. I'd like to have your account of what went on during this period. It's also interesting that after this entry at 0840 in the Task Force Barker log there's not one other single entry

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for the rest of the day of VC KIA by Charlie Company; that's the end; there is a curtain dropped right there. It's also interesting that the entry in the brigade log reads, "69 KIA due to artillery" at a coordinate 500 meters north of My Lai (4). No artillery fell up there. You testified that Colonel LUPER assured you that it was all out in the landing zone. The fact is that some of it fell on My Lai (4).

IO: As a matter of fact, to further compound the problem, Colonel LUPER said that the artillery was on the southern part of the village, toward the landing zone.

A. On the village itself?

IO: Yes.

MR WEST: He testified that certainly no artillery fell up where the coordinates were in the 11th Brigade log. That's the area where you went down and marked two dead VC with weapons for somebody to come out and pick up the weapons.

A. Yes, sir.

Q. Did you see 69 dead up there?

A. No, sir.

Q. That's right. They weren't there. Now I think you can see why we're looking for some explanations. We've had some explanations, but we would like to have your account of what transpired in this hour and a half in and around the Task Force Barker TOC, including General KOSTER's coming in and getting briefed. We've had several accounts of this already from people who were there. You were the brigade commander, and this is a big operation, and you're watching it. You've been out there.

A. I do not believe that I spent that much time at the brigade TOC--I mean at the Task Force Barker TOC or at LZ Dottie. I did not get into that operational area until about 0750 that morning, or I was late getting in. The artillery fires had already gone in contrary to what was said earlier here this morning. I know that I made a specific point that here the first operation that I was the brigade commander, my damn helicopter radio wasn't working, and I had to get a substitute vehicle to carry me up there with a console installed in it.

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And I got in late. I spent considerable time over these two VC with weapons. When I picked up the two VC suspects later--I do not know the time--I did take those two VC to LZ Dottie, but I believe I picked those up after Bravo Company had CA'd in.

IO: No, you've got mixed up just a little bit.

MR WEST: It's in your own log.

IO: One fellow remembers this extremely well. And he knows where the two PW's were, because there wasn't a very good search made of the PW's, and they put them on board and he wasn't sure whether they had any grenades with them or not. And so these fellows were sitting right on the seat right next to him, and he knows where you went and how long those PW's were in that airplane with you. So you had the PW's or the VC suspects, I should say, which later turned out to be Popular Force Soldiers, from the time you picked them up until you saw the insertion of Bravo Company, and then came back over My Lai (4), and then went to LZ Dottie.

A. Well, I do not recall riding around with those VC suspects in the aircraft for any period of time. It seems to me we picked them up and took off. I could be wrong on that.

MR WEST: The time may have passed rather rapidly but you hit LZ Dottie about 0840, something like that, and dropped off your prisoners. You were there a good while. You were at Landing Zone Dottie for a while. During that period of time General KOSTER--

A. (Interposing) I was there with General KOSTER?

Q. Over an hour. We've had pretty good accounts of what took place there, but we would like to hear your version. You're the brigade commander. You must have talked pretty thoroughly to your task force commander and the others that were there. In fact we know that you huddled with BARKER over in the corner in TOC and talked at considerable length. He's dead. We can't ask him what you said.

IO: The rest of the group pretty well huddled around the map and were talking with CALHOUN and MCKNIGHT while you and BARKER were over there for quite a considerable period of time before BARKER took off and went back out to the operation.



A. I could have had a conversation with Colonel BARKER there in the TOC. I can't deny that I didn't. But I cannot recall anything specific that I said to him or that he said to me regarding this operation. And I would assume that any discussion we had regarded this ongoing operation because it was of the moment. I don't believe I would have discussed other administrative or any other business. It must have had to do with the operation.

Q. Well, as of that time, what did you talk to him about, civilian casualties? You knew some civilians--

A. (Interposing) I do not recall, sir. I do know there was six to eight civilian casualties that I had seen that could have been civilians. I hadn't positively identified all of them as civilians, but some of those were definitely civilians. I'm certain with my concern and interest in civilian casualties I probably said something to him about it. But what I said I cannot recall.

MR WEST: Let me set the stage a little further. These three platoons of Charlie Company were put down the 1st, 2d, and 3d Platoons. The 1st and 2d Platoons moved in shortly after they landed. They went through this whole place in less than an hour. By the time you were ready to come back they had been practically through the village. By this time there were dead civilians all over the place. There wasn't any resistance. There wasn't a shot fired at them. They suffered no wounds; they took no prisoners. The only wound suffered was CARTER who shot himself in the foot. There were dead people all over the place. Hootches were burning by this time. This is what you saw out there. And this is what you had to talk about when you got back to the TOC. And BARKER saw the same thing. By this time the Shark pilots and the other helicopter pilots were on the air talking about civilians, innocent civilians, being killed. This traffic was heard in the TOC. It was heard in the 11th Brigade TOC. It was heard in the operation van of the 123d Aviation Battalion. This report of 84 KIA, they were women and children, they weren't VC. Charlie Company was methodically killing everybody they came to. That was the count up to the moment. Later in the morning MEDINA made reports of 186 killed, later 310. This was around noon. You had a lot to talk about when you got back there. This is your opportunity to tell us what you said and what you did back there.

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A. This is incorrect, sir. I did not have this information.

IO: What were you doing? You were the commander. You were listening to all this going on.

A. Sir, I did not hear this conversation.

Q. This was on the air. Everbody was listening to it.

A. I did not hear it, sir, nor was it reported to me that any of my people heard it.

MR WEST: Let's say you didn't know all of these things. At this time you knew a hell of a lot of civilians had been killed. You had this body count that went out over the air of 84. Now what discussion took place between you and BARKER?

A. Sir, I recall no conversation between me and Colonel BARKER at his battalion TOC, and I absolutely knew nothing about any civilians being killed other than the six to eight that I had observed on the ground.

Q. Colonel HENDERSON, quite a number of people heard you make the transmission over the air saying, "I want this excess killing stopped."

A. I made no such transmission.

Q. They heard MEDINA get on the air. They heard BARKER get on the air to MEDINA and MICHLES telling them to stop the killing.

A. Sir, I made no such transmission.

Q. This took place while you were at Landing Zone Dottie.

A. Absolutely not.

Q. Could you tell us anything that transpired while you were there? It's remarkable that nothing transpired. Did you just stand around mute, drinking coffee, maybe.

A. I'm certain I did not, but I cannot remember 2 years ago what I did in that location.

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Q. Well, you seem to remember some things that went on there, and this is perhaps one of the highlights of the day, when you are in the TOC. You come back from looking at the operation. BARKER is back. This thing's still going on out there. You've had a big body count: later, 90 attributed to Charlie Company, 6 to the Sharks, 84 to Charlie Company, the bulk of the 128 reported for the whole day by two companies. This was such a big deal it got headlines all over the country and a congratulatory message from General WESTMORELAND. You never had such a big kill in the brigade. And the information was there. There was something to talk about. And you don't remember anything about it?

A. No, sir. I do not.

Q. We'd like to have an explanation for this. This is your opportunity to give us one. We've talked to a lot of other people.

A. I wish I could, sir, but I cannot (referring to M-20A). Was this made in the TOC or in the helicopter?

Q. The transcription was made in the TOC by LEWELLEN. He had his tape recorder in the TOC. This is why you hear remarks made in the TOC cutting into the transcription. A recording was made of the traffic on the Task Force Barker net. He evidently had a mike attached along with it, and he was taping off the Task Force Barker frequency, and there were comments made in the TOC.

IO: If you will look at that you will notice that you have three different types of transmissions. You have ground-to-air, that is TOC-to-air; you have air-to-ground, C&C-to-ground; and you have air-to-air.

MR WEST: They were still monitoring all those nets in the Task Force Barker TOC that morning. I will just asked you a question, Colonel HENDERSON. Did you direct BARKER to call MEDINA and MICHLES and tell them to stop the killing?

A. I did not, sir.

Q. All right. Did you and BARKER conspire to alter the reports of body count and attribute the 69 KIA to artillery fire and change the coordinates to a location north of My Lai (4) in the rice paddies?

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A. I did not, sir.

IO: When you were back at LZ Dottie, from your previous statement which you have supplied us a copy, you indicated that Task Force Barker was now--this is about 0930--Task Force Barker was now reporting approximately 60 enemy KIA. Do you remember supplying that information?

A. I'm not certain I understand.

Q. This is a statement which you had prepared.

A. Yes, sir.

Q. And when you appeared before us you provided us a copy.

A. Yes, sir.

Q. One of two statements in which you recounted your participation in this operation.

A. Yes, sir.

Q. And it's based upon this that, because of the mis-information and the misplacement of yourself, I'll walk you through what we believe you actually did as far as time is concerned during primarily the 16th through the 18th because these points are all particularly relevant. Now, also you've stated:

"Following General KOSTER's departure from LZ Dottie, I returned to the objective area. Contacting LZ Bronco by radio, I discovered required reports from Task Force Barker were not being received. I consequently directed Lieutenant Colonel BARKER to bring his own headquarters, LZ Dottie, up to date and to insure he requested Lieutenant Colonel BARKER to query the commanders on the ground to determine how many civilians had been killed and whether they had been killed by artillery, air, or small arms fire."

A. Yes, sir. I am confident that I did that.

Q. That is while you were over the objective area?

A. Yes, sir.

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Q. And at that time did you also issue instructions for them to stop the burning?

A. No, sir. I did not.

MR WALSH: Colonel, when General KOSTER arrived at LZ Dottie, where did you meet him, what did you say to him, and what did he say to you?

A. I met General KOSTER near the helicopter refuel pad and talked to him there.

Q. Who was with him?

A. I do not remember if anyone--I'm certain his aides--I believe--no, I can't even say that. I do not know who was with him.

Q. Who was with you, who participated in the conversation or could overhear the conversation?

A. I'm not certain anyone was, sir.

Q. In other words, you spoke to General KOSTER apart from any other group?

A. That would be normal. Yes, sir. I can only assume that that was the case.

Q. Was Colonel BARKER there?

A. I do not believe that Colonel BARKER was there.

Q. Did you go with General KOSTER to the TOC?

A. I do not believe we went to the TOC. I believe our conversation was carried on right there at the helipad near the refuel station.

Q. And General KOSTER did not go to the TOC?

A. I do not believe that he did, sir.

Q. All right. Now, what did you say to him when you reported to him?

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A. To the best of my knowledge, he asked me how the operation was going, and I gave him the results as I knew it at that time. I do not know what I gave him in terms of the results or what I knew at that particular time. I did tell him, or he asked me about any civilian casualties, and I do recall telling him that, yes, I had observed six to eight, but I had no other report from Colonel BARKER as to civilians killed, but I had observed these. I also reported to him about the VCS's that I had brought in a short time earlier and that I felt that these were--that we could possibly confirm that this was the 48th Local Force Battalion. He indicated an interest in this, and I sent somebody to find out how the interrogation was coming.

Q. Could you hold that for just a moment? You indicated in your earlier testimony that you told General KOSTER about a woman and children and a couple of dead water buffalo that he had also seen. And what did he say to you about that?

A. As I recall, General KOSTER evidenced some displeasure that any civilians were killed.

Q. Did he indicate to you that he had seen other bodies other than the woman and the children and the two water buffalo?

A. No, sir. He did not, and I'm not positive that he was these that I--as I recall when I told him about having seen this to the south of the village, he agreed, which led me to believe that perhaps he had seen them. I'm not positive he did see those, but I was under the impression that he had been out over the operational area and had come in to refuel.

Q. Do you recall anything more than an impression in that respect?

A. No, sir. I do not.

Q. What did he say to you? Did he comment on his observation of the operation or make any criticisms?

A. I know of none, sir.

Q. Did you tell him about the intelligence report that 30 to 40 VC had left the village at 7 o'clock that morning?

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A. I do not recall, sir.

Q. What did you tell him about the number of VC that had been killed up to that point by Charlie Company?

A. Whatever report I had, I thought it was in the vicinity of 30 to 40. It could have been 69 if I had that report. I'm not confident that I did have it.

Q. Well, all of the indications are that you had a report of the number of 69 with a total of 90, 6 by the air elements and 84 by Charlie Company by that time. Did he make any comment to you with respect to the success of the operation, any inquiries as to how these VC had been killed?

A. I do not recall any specific query to me. No, sir.

Q. Do you remember any discussions with him about any VC being killed by artillery?

A. No, sir. I do not.

Q. Did he make any inquiries of you of what casualties Charlie Company had suffered?

A. I do not believe so, sir.

Q. All right, now, I'd like you to recall just as specifically as you can exactly what you said to him about the six to eight noncombatants that you had observed dead south of My Lai (4) and what he responded to you about those bodies?

A. General KOSTER asked me how many, if any, or how many civilians, if any, had been killed. I told him I had no reports from Task Force Barker as of that time of any civilians being killed. However, in flying over the area that I had personally observed six to eight south of My Lai, that from the way their bodies appeared to have sort of been thrown around that they'd either been killed by gunships or by artillery. But I did not have a report from BARKER of any others. I do not recall him saying anything specifically about these except that I believe he did evidence some displeasure that possibly some--these civilians had been killed.

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Q. Well, isn't this a rather unusual subject to raise, just to make this inquiry of you, how many civilians have been killed? In other words, what would cause him to raise that subject with you?

A. I don't know what caused him to raise the subject except that we were always concerned about civilian casualties.

Q. I take it your impression was that he had observed at least some noncombatants killed and raised the subject with you when he saw you at LZ Dottie?

A. I had the impression that he may have seen either the same ones I had seen or a part of that group that I had seen, or one of the two groups, I mean, that I had seen.

Q. Well, now, did he ask you to make any further inquiries about this subject of noncombatants that had been killed?

A. I believe he did ask me to find out from Task Force Barker if there were any others.

Q. All right, did you do that immediately?

A. I believe I asked Colonel BARKER while I was airborne, radioed him, to give me a count.

Q. What report did you get back from him?

A. I do not recall what report, if any, that I got back at that time.

Q. Now what time are we talking about, when you were airborne before you went to Dottie, or are you talking about after you took off after seeing General KOSTER?

A. I'm talking about after I saw General KOSTER. I placed this requirement on Colonel BARKER, and I did not receive any numbers until I had returned to LZ Bronco after meeting with Colonel TOAN.

Q. We'll get into that later. I take it your testimony, then, is that in your conversation with General KOSTER you do



not recall any discussion as to a large number of VC that were being reported as killed, as to how they were killed, or the lack of any casualties by C Company, or any of the other operational matters that one would normally expect would be discussed.

A. At this time, I cannot recall.

Q. All right. After you finished your conversation with General KOSTER and he departed, you took off in your helicopter and went back over the operational area. You were there for approximately 40 minutes before proceeding on to Quang Ngai where you arrived about sometime between 1045 and 1100 for your appointment with Colonel KHIEN. I'd like you to tell us what you did during that approximately 45-minute flight. I understand you went back over the operational areas of both Charlie and Bravo companies, and I'd like you to describe in detail what you observed and what transmissions you made during that trip.

A. I recall receiving or overhearing a message that the Warlords had discovered on Hill 85 a number of mortars, and I went airborne immediately. This was in the morning of the 16th.

Q. No, this happened before you ever took off after seeing General KOSTER. Times are confirmed by the tape.

A. This did not, sir, absolutely not.

Q. Well, now, Colonel HENDERSON, it's just not an arguable proposition. The operation of the Warlords of Hill 85 had been entirely completed before you left LZ Dottie after your conversation with General KOSTER.

A. No, sir. It had not.

Q. Mr. WEST, will you give us the tape entry please? Suppose you take a look at page 23, colonel, at the top of the page. Notice the time of the transmission from Warlord Alpha Lead.

IO: What time is that?

MR WEST: That would be 0855.

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IO: The entry in the log, actually, of Task Force Barker is that "Company B, 123d Aviation, found up to 40 60-millimeter rounds and will destroy." This is at 0855. "11th Brigade notified."

MR WEST: You were there in the TOC, and that's just about the time that BARKER took off for the dustoff in the Bravo Company area. If you'll look on page 26 of Exhibit M-20A again in the middle, you'll find item 296:

"Roger. This is Warlord Alfa Lead. Cancel that two mortar tubes. Make that two-zero 60-millimeter, 60 Mike-Mike mortar rounds. We're calling EOD in now to destroy 'em.

"Coyote 6: This is Coyote 6. Roger. Negative on mortar tubes. Is that right? Over.

"Warlord Alpha Lead: That's affirmative. We just got the rounds, didn't get the tubes."

A. I was airborne when that message came--when I heard that transmission, and I flew down over Hill 85, and I was over Hill 85 for at least a half hour. I was thinking that I had seen the infantry inserted on that operation.

Q. And if you'll notice over on page 27 is where they're ready to blow:

"We got them all stacked up now. We're going to blow them with an EOD team from Dottie.

"Coyote 6: This is Coyote 6. Thank you. Out."

That's where they go. Now the time on that is--

MR WALSH: (Interposing) It doesn't show.

A. I don't go along with these times. I can't accept them, sir.

Q. All right. Well, let's just assume that you were in the air when those were taken. It's irrelevant to what we're talking about here. There is no possibility that this operation wasn't completed by the time that you had your conversation with Major General KOSTER. What we're talking about now is what hap-

pened? What did you do? Where did you go? What did you observe? And what transmissions you made after your conversation with General KOSTER and your departure from Dottie shortly before 10 o'clock for 45 minutes before you arrived at Quang Ngai? Now we understand you went back over the operational area, and at that time you observed certain things, such as, for example, My Lai (4) was in flames, and there were bodies all over the place. And some transmissions were made.

A. I saw no bodies at My Lai (4) other than those that I have already spoken about. At one time, and I don't know if it was after I had seen General KOSTER or before, I saw some buildings burning in My Lai (4), and I made a radio transmission to Colonel BARKER to ask him why those buildings were burning. To the best of my recollection, he told me that the ARVN or-- not the ARVN, the National Police, or the company interpreter, or ARVN interpreter that was with the companies were setting them afire. And I told him to stop it.

IO: Well, we'll tell you one thing right offhand. There were no National Police with them at that time. There were no ARVN with them at that time. There were only two interpreters with them, one with Captain MEDINA and one with Lieutenant JOHNSON. And they were both with MEDINA's command group, both of them, Sergeant MINH and Sergeant PHU.

A. Well, this is the report that I had from Colonel BARKER, and I'm not certain--some way I had it that the National Police were down there--had a squad down there with that company.

Q. Well, that's erroneous because they did not appear on the scene until later on in the afternoon, and we know specifically when they appeared on the scene. We know what they did, but they were not there.

A. As far as what I specifically did during the 45-minute period and what I said, I do not know.

Q. All right, now let me talk just a minute. How low-- what was your altitude?

A. At what time, sir?

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Q. Well, when you came back over it. You left Dottie. You'd been talking to General KOSTER. And you came back over. The H-23's and the gunships, they're not receiving any ground fire. Nobody's receiving any ground fire. There hasn't been any ground fire there since about 0745 in the morning when there may have been a stray enemy round fired. They're working right on the ground picking out these things. What altitude did you fly when you came back over? Remember, we've talked to other people that have been in this aircraft, too, so we have a pretty good idea, Colonel HENDERSON, on what you did and so on. So we have indications what they saw.

A. I can recall nothing specifically, except I did see some hootches burning. Whether it was earlier or whether it was this time, I'm not certain.

Q. By that time practically the entire village had either been burned or was on fire. And not only that hamlet, but the northern subhamlet just above it, Binh Tay, the southern part of Binh Tay had been burned by this time. Now, I'll show you on this photo (P-1). I know what happened, you see. Mind you, now, before 9 o'clock, the killing stopped. There was no report of casualties after that. None. By 0840 in the morning, they had reported 90 killed from Charlie Company. And by the time you got back out there, if you met General KOSTER and talked to him back at LZ Dottie, and he didn't get in till 0930, and by the time you got down here, which would put it in the time frame of about 10 o'clock or thereabouts, this village, for all practical purposes, ceased to exist. This is the subhamlet of Thuan Yen, right there, and the southern part of this subhamlet had also been burned. And by this time, the troops were out in this area in the defensive position. Now you're a commander. You can see these things.

A. If I saw any burning, sir, I had it stopped immediately. And there was no excuse for that burning. And I did not see this burning except some houses burning in My Lai (4). And as I recall they were on the western side of My Lai (4). I did not see My Lai (4) in flames or having been burnt or burning.

Q. Well, then the other people we that we've talked to, who indicated you came back over this area, must all be in error because they all indicated that you did fly--when you

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left LZ Dottie and before you went to Quang Ngai, you did fly back over My Lai (4) for some time and allowed yourself some time to get to Quang Ngai, where you entered at the Tropo Pad.

A. I cannot recall where I went. I'm certain I did go back over the operational area before I went to Quang Ngai.

Q. Well, I will tell you by that time, which we have reconstructed from all the men in the company, by the platoons and so on, for all practical purposes this subhamlet was destroyed. And not only was the subhamlet destroyed, but a vast majority of the animals were killed. A large number of men, women, and children were killed. And there was considerable raping going on. Now, you conversed with the people in your helicopter, I take it, didn't you?

A. I'm certain that I did, sir.

Q. All right. How is it that you only saw six to eight, and Colonel LUPER, who's sitting right next to you saw 15 to 20, for example? In one location alone, he saw 15 to 20. He saw 15 to 20 right on that road, right there (pointing to Route 521).

A. I do not know, sir. I certainly did not.

Q. He was sitting right next to you. Don't you communicate with him?

A. On the intercom, yes, sir.

Q. Yes, I would assume you did. He saw those and reported them. We so have it identified on the map. Also, your pilot, you were low enough that your pilot--not your pilot, but your radio operator. You were low enough that your radio operator saw 12 to 15 bodies in the hamlet itself. But you must not have been communicating with those people.

A. I did not fly down over My Lai (4) at any low altitude after--when I went back out. I know that. I flew over My Lai (4) after I had those two VC picked up early in the morning, and came down southward flying over at least the western side of My Lai (4) at a fairly low altitude to where I saw those bodies and attempted to land down in this area here, which I later aborted.

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Q. Yes, there were also 10 to 15 bodies right on the road right down there at that time.

A. I saw three bodies and--

Q. (Interposing) There were 10 to 15. There were also more than 5 bodies in the field right here, which were marked by smoke right at that time.

A. I did not see them, sir.

Q. Well, I'm quite sure that what I'm telling you is the correct story. I could look back in the testimony, but I'm so sure of this that I find it unnecessary to.

MR WALSH: Colonel, at or before this time, either at the time you were at LZ Dottie or after you left there and went out over the area, you made a transmission that you didn't want any unnecessary killing going on there. And we have independent testimony from three different individuals who remember this very distinctly. It might refresh your recollection if I read you a transcription of their testimony. The first one is Specialist KUBERT.

A. Specialist who, sir?

Q. KUBERT. K-U-B-E-R-T. He was monitoring the transmissions. He said:

"Yes, I remember that because there was a comment. We didn't like to work with Rawhide because he tied up the net, wanted to know everything. We preferred not to stay up with him. I remember that really rang a bell when he first said that, Rawhide 6, 'No unnecessary killing'.....a little bit later than 9 o'clock."

And Captain SABRE, a pilot who was also monitoring the transmission that day, testified:

"I seem to--I think maybe I did hear either--Rawhide 6 or Coyote 6 transmit a message, 'Let's not have any needless killing,' or 'I don't want any unnecessary killing.' I would say it was Rawhide 6-- I don't remember the time."

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Finally Captain MOE testified:

"I seem to remember one comment that I'm quite sure now came over the air that particular day. I think that was probably Rawhide 6, because it had kind of a distinctive--you know, you get to hearing a person's voice several times. The comment was, 'I don't want any unnecessary killing down there.'"

Now does this possibly refresh your recollection to the transmission that you made in this connection, either while you were at the TOC, or at LZ Dottie, or after you went back out over the area and observed what was on the ground?

A. Well, I certainly can't deny the fact that I didn't want any unnecessary killing, period. But whether I made such a transmission or not, and I question whether these people recognizing my voice--I think they're hearing it for the first time over the air.

Q. They were familiar with the call signs and I think Rawhide 6 was your call sign, wasn't it?

A. I believe so. I'm not certain, sir. It changed every month.

Q. Do you recall, colonel, giving testimony to Colonel WILSON in which you said that all of the VC reported killed on this operation were killed in fighting bunkers which surrounded the village? I'll read it to you if you want me to. I'll read it to you anyway. We were questioning you about the VC reported killed in this operation and you said:

"My Lai (4) Village, it is a misnomer really if you refer to it as a village in the sense of a peaceful existing village. This was a defended village defended by a bunker system, communications trenches running through it. The bunkers completely surrounded this village. They were not the type bunkers that we refer to as family protective bunkers. These were fighting bunkers that had been prepared by the Viet Cong to defend that village. The KIA's, the VC KIA's reportedly killed in that village were killed inside these bunkers."

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What was the basis for your information in that respect?

A. Well, the basis of this was my discussions with Colonel BARKER and the other people who had operated in that area. This was the feeling that I had last April when I talked to the IG regarding My Lai (4), that this was a defended hamlet, and I know that I got the word from him that the people in the village who had been killed, or bodies reported in the village, were killed in those fighting bunkers. Now, I had reports that there was severe fighting, initially.

Q. Now, just a minute. Let's stop right there.

A. Yes, sir.

Q. What reports did you have that there was severe fighting? There were no casualties reported. There were no calls for fire support. What were the reports of severe fighting that you had?

A. When I came into the operational area, I asked for a SITREP, and I got a SITREP from Colonel BARKER, over the air, that C Company, upon landing, had initially landed in a cold LZ, it turned hot, and initially they had had severe fighting on the outskirts of My Lai (4).

IO: What push did you talk to him, on?

A. I'm certain that I talked to him on his battalion command net, sir.

Q. Would that not have appeared on this tape then?

A. I do not know, sir.

Q. That was on all morning?

A. I do not know, sir.

Q. All the activities are right there. All on the battalion push. Beginning at 0730 (reading from Exhibit M-20A):

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"Dolphin Lead: This is Dolphin Lead. We're out of the LZ. LZ appeared to be cold.

"Coyote 6: Coyote 6. Thank you. Out."

And he reports that back to Sergeant JOHNSON:

"Coyote 6: Coyote 65. Coyote 6. Over.

"Coyote 65: 65 Go ahead.

"Coyote 6: Coyote 6. Touchdown 0730. LZ appeared to be cold. Over.

"Coyote 65: 65. Thank you. Out."

And I'll run along here. Look at the top of page 5:

"Coyote 6: 6. Over. This is Coyote 6. You say it seemed to be hot. Did you receive fire when you first went in? Over.

"Dolphin Lead: This is Lead. Negative reported from any of the slicks. Over."

Now, I don't find any transmissions about a lot of resistance, but if you can find them, fine.

A. I had the report that they had, that this LZ was hot, initially cold and then hot, and that there was heavy fighting.

MR WALSH: All right. You were there. You were there by 0750. By your own admission, you were there. And you were down low, treetop level. Now I don't think--

A. (Interposing) I was at treetop level to the north of My Lai (4).

Q. You were landing to the southwest, and you were at treetop level to the north?

A. That is correct, sir. I heard no firing. When I got the initial report on casualties--before I got into the operational area, I had a radio transmission that I had monitored

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that--I don't recall the number, 10 to 15--which gave me an indication, okay, they have made contact. At that time, I got a hold of Colonel BARKER to determine whether I should try to hold onto these slicks to deploy another company from 4/3 into this operational area. I had another company standing by because if we did run into a hot LZ or run in and make immediate contact, it was our plan that we would introduce even yet a fourth company into this operation. And Colonel BARKER assured me that they could handle it, that they were in initially, what he termed--and I'm not sure the word "severe" is proper--but a substantial firefight.

MR WALSH: Colonel, you have seen a lot of action, I'm sure, and I find it very difficult to believe that you could mistake very substantial action when none, in fact, was taking place. You were there. You were down low. There were no calls for fire support. There were no casualties, no requests for dust-offs, and nobody was receiving fire. It's just incomprehensible to me that you could sit here and say that you were under the impression when you talked with Colonel WILSON that there had been heavy contact in fighting bunkers, with the VC being killed in fighting bunkers surrounding the village.

IO: On your radio console there, how many radios did you have on your console?

A. I had two, sir.

Q. Just two? You didn't have a third radio?

A. No, sir, I had the old makeshift that had--this was one of the reasons I was delayed in taking off that morning. The regular console that I should have had in my command ship was not available and I had two of the 47's, I believe the number of the radio is, two 47 radios.

Q. Did you normally fly with a console with three sets in it?

A. I normally did when that aircraft was "flyable."

Q. Well, if that's the case, why did your artillery officer have to carry along a separate PRC-25?

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A. He always did. There was no reason why he couldn't have used one of the radios for a moment's talk. I did monitor my--had to monitor my brigade command net as well. Then I would switch to a battalion frequency in whosever area I was operating in. Also I would keep my third radio on the division, but I had an arrangement with my brigade that if they heard the division commander calling me on the division or anybody calling on the division net, I was immediately notified and I switched to that frequency.

MR WALSH: After your trip to Quang Ngai you returned to Duc Pho for lunch. I think you testified a little earlier that on the way to Quang Ngai, Major MCKNIGHT was in communication with the 11th Brigade TOC and he'd had some difficulty--they had at the TOC had some difficulty getting reports. I wonder if you could go over that just one more time and tell me exactly what it was that Major MCKNIGHT was talking to your TOC about, what report you got on that?

A. Major MCKNIGHT received from whoever the TOC duty officer was that they were not being kept updated on the Task Force Barker's operations and consequently we were unable to keep division informed. I had Major MCKNIGHT call Task Force Barker TOC and ask them to expedite getting reports into the brigade headquarters so that we in turn could send ours in. The excuse given was that they could not hear all the radio transmissions coming from the ground. This advises me here (indicating M-20), this one that they could hear Charlie Company. I was under the impression that Charlie Company was the one that they could not hear all of his transmissions. I believe that I personally called Colonel BARKER and asked him to get his system set up so that his TOC could get more immediate information, and in turn my TOC.

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Q. You have no recollections of what these transmissions were about or these reports that you weren't getting?

A. No, sir. Only that my TOC reported to Major MCKNIGHT that they were not receiving a continuous flow of information.

Q. All right. Well, after your meeting in Quang Ngai you went back to Duc Pho. Now, were you briefed when you got back to Duc Pho about this operation?

A. I was not briefed per se, as I recall. I'm certain that I did walk into my own TOC and take a look at the board

that we keep posted.

Q. Did you give any instructions to the TOC duty officer or anyone else there with respect to information you had being personally on the scene?

A. I do not recall any such information, sir.

Q. When you came in and looked at the board and looked at what reports had come in, did you say, "Well, that's not right in this respect," or, "I was there and I saw this," and, "That is incorrect," or anything? Did you give them any briefing in what you observed yourself?

A. I cannot recall anything, sir.

Q. Do you recall with whom you had lunch that day?

A. No, sir.

Q. All right. After lunch you returned to the operational area. I'd like you to tell us what you did and saw at that time.

A. I cannot recall what I did that afternoon, where I went, who I saw. I believe I did go back up over the operational area. I may have landed at--I do not know.

Q. Well, you previously told us that you gave instructions to Charlie Company or Colonel BARKER to have Charlie Company retrace its steps back into My Lai (4). Do you recall that?

A. I recall that I kept insisting that C Company was to sweep back through My Lai (4), but I had it on the 18th because I kept tying in when one of Colonel BARKER's reasons for not doing it was the extraction of helicopters. I thought about this for a period of time, and although the extraction ship was still on my mind, I am not as positive that it was on the 18th that I ordered that sweep back through My Lai. It could have been on the 16th. And my concern for whatever number of civilian casualties--I think earlier in the afternoon I did have a report that there were 12, 14, or something of this nature, civilians that had been counted as a result of my directive that morning to BARKER to get me a head count of any civilians that had been killed. This could have prompted it. I do not know what prompted it.

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Q. All right now, this is quite important. I'd like you to recall for us exactly what Colonel BARKER reported to you after you said you wanted a count of civilian casualties. Where were you? How did you get the report? And what did he say?

A. I'm not positive how I gave him this instruction, whether I gave it to him over the air or whether I gave it to him on the ground, but I believe that Colonel BARKER pointed out to me certain problem areas in having a sweep conducted.

Q. Well, now, the sweep comes after the report. I want to know what Colonel BARKER reported to you first, where you were, and what he said after he reported to you that some 12 to 14 noncombatants had been killed.

A. I believe I received this in my TOC after lunch that day.

Q. Now, this was in response to a requirement that you had put on Colonel BARKER that morning?

A. Yes, sir.

Q. Okay, now, what did you learn in the TOC from Colonel BARKER? What did he say?

A. I do not recall talking to Colonel BARKER.

Q. I mean when you were in the TOC, you got a report from Colonel BARKER. I think you just said when you were in your TOC in the early afternoon you got this report.

A. This message had been delivered or reported to my TOC that Task Force Barker was now reporting that 12 or 14, I'm not certain of the number, but it was greater than the 6 to 8 that I had observed that morning as possible civilians, and that was all I got, sir.

IO: Let me read a statement here. Here's a part of a statement from your own statement which you provided us, which we have entered into the record as S-3. You said:

"Following the visit with General TOAN, I visited LZ Sue (Command location 4/3) and overflew its units

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operating in the AO. I periodically overflew TF Barker operations and returned to my home base (LZ Bronco) approximately 1900 hours. At no time did I observe any civilian bodies other than those cited above. I talked to Lieutenant Colonel BARKER on the ground at LZ Dottie twice on the afternoon of 16 March. Our discussions, although centering around the ongoing operation, touched also on future operations. I received a report from him that a total of some 128 enemy and 24 civilians had been killed in the operation. He was still attempting to secure additional information regarding the manner in which the civilians had been killed."

And then it goes on from there. But this would indicate that you--I don't know whether you were talking to him by radio, on the ground, or whether you landed at LZ Dottie to talk to him, but you also indicate that you're over the Task Force Barker operational area again. He gives you a report of 128 enemy killed plus 24 civilians killed. This is according to the statement which you have provided.

A. Well, I recall preparing that statement, yes, sir. Now, your question was?

MR WALSH: What did you do when you got the report from Colonel BARKER, I take it, you got while in your TOC at Duc Pho? Does the material that General PEERS read you refresh your recollection as to getting it someplace else, that is, the report of 24 noncombatants being killed?

A. I cannot specifically recall seeing Colonel BARKER on the ground there at LZ Dottie that afternoon. I believe I did go up to LZ Sue, and I may have stopped off at BARKER's headquarters. And I may have also, at this time, ordered this sweep through My Lai (4).

Q. Do you know who you transmitted that order to?

A. I felt that I gave it to Colonel BARKER because I got some--this hesitancy on his part to sweep back through there because of the lateness of the hour and so on.

Q. Now, this was early in the afternoon you received this report from Colonel BARKER, and I don't understand the lateness of the hour problem.

A. Well, I'm speaking of the time that I--if this is the day that I ordered the company back through. There were three or four areas that I recall Colonel BARKER, when I did order the company's sweep back through, that he wanted to point out to me. One was that the enemy would have had time to place mines and booby traps in this area. One was the lateness of the hour of getting

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back to My Lai (4) and then to a laager area. And I have had on the back of my mind the problem of helicopter extraction, and that's why I continue to insist that this has been on the day the helicopter extraction was scheduled. But now it was something about helicopters, but I'm not positive it was for the extraction.

Q. Now, let me ask you this. Did you have any discussion with General KOSTER at Duc Pho or LZ Dottie that afternoon?

A. On the 16th, no, sir.

Q. You didn't see him either place that afternoon?

A. No, sir.

IO: Did you meet General DOLEMAN when he arrived at LZ Dottie?

A. No, sir.

Q. On the afternoon of the 16th? DOLEMAN I am talking about.

A. No, sir, I did not.

Q. You were not there when General KOSTER arrived, perhaps to pick him up?

A. No, sir.

Q. That's at 1535 in the afternoon at Duc Pho?

A. No, sir.

Q. He arrived at 1510 and departed at 1535. He was there a total of 25 minutes. Were you present at the briefing which was presented for General KOSTER and for General DOLEMAN at LZ Dottie between 1645 and 1750?

A. No, sir. I was not.

MR WALSH: Did Lieutenant Colonel BARKER tell you about the allegation or report that he had received from a helicopter pilot with respect to unnecessary killing of civilians?

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A. No, sir. He did not.

Q. Where were you when you first learned that General KOSTER had countermanded your order to have the company sweep back through My Lai (4)?

A. I was airborne over the Duc Pho AO.

Q. I believe you testified you went immediately to Dottie. What are the reasons for this?

A. I did earlier testify but now then since I'm not confident it was on the 18th, I do not know how I verified this. I recall questioning the Task Force Barker TOC. I don't believe I talked to Colonel BARKER, but I talked to somebody at Task Force Barker as to exactly what instructions they had received.

Q. Earlier that day when you saw General KOSTER at Dottie and you had told him about the six to eight people, had he suggested that he wanted a count as to how these people were killed, how many of them there were?

A. I do not believe so, sir.

Q. Well, this was entirely your initiative to have the company sweep back through My Lai (4)?

A. Yes, sir.

Q. And you gave these orders after your return to Duc Pho and after your receipt of a report from Colonel BARKER that not the six to eight you had seen, but about 24 noncombatants, had been killed.

A. I'm not certain at this time that I had a count of 24. I was thinking in terms of 12 to 14. It could have been 24. I'm not certain at this time, sir.

MR WEST: I'm familiar with the testimony that your orders to go back into My Lai (4) were countermanded and that the company proceeded to its laager area and laagered in for the night with Bravo Company. The next morning, Charlie Company moved south. The 1st Platoon angled off a little bit toward the right and headed for Hill 85. They had a mission up on Hill 85, perhaps to set up an OP. The only thing that happened was MEADLO stepped on a

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booby trap and blew his foot off and wounded CALLEY in the face. As they were hiking along the way to Hill 85 they passed My Lai (4) off to the right. The place was still smoking. Clouds of smoke were coming up. Between them and the hamlet were freshly dug graves that hadn't been filled yet. The people had dug a great many graves and apparently hid when they saw the troops coming. My question is, if you were so concerned about having a count made to determine how the civilians were killed, why didn't you send Charlie Company in the next morning? They were right there.

A. I have no reason--no excuse for not doing it, sir.

IO: You had even a better means if you had any qualms in your mind about civilians getting killed, and knowing that Charlie Company had received one wounded man, which was a self-inflicted wound, that there was no resistance in the village. You had the aero-scout company of the 123d with a ground platoon which could have easily been inserted to check it out in a matter of minutes. Even if someone had flown low in a helicopter over this, he couldn't have missed it.

A. This didn't dawn on me, sir.

Q. The order to go back through My Lai (4), which you initiated, finally got to Charlie Company just before they got into the laager area, which is to say, sometime in the time frame about 1500, maybe just a few minutes after. What time was it that you received word that your order had been countermanded by the division commander?

A. I do not recall, sir.

Q. Yes, well, you evidently were brought up pretty tight as far as your statistics were concerned later in the afternoon because that evening you called General KOSTER, according to your testimony, and you talked to him and indicated the six to eight that you reported to him was something greater than that as had been given to you by Task Force Barker and was now somewhere in excess of 20. General KOSTER exhibited considerable concern, according to your testimony. Did you at that time take up with General KOSTER his order not to send Charlie Company back at this time to My Lai (4)?

A. I do not believe I did, sir.

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Q. Well, now, you knew at that time that there had been some civilian casualties, irrespective of how they happened or what the number was. You talked to the division commander about it. Why was this not included in your SITREP? Why was it not transmitted to the Americal Division?

A. I cannot answer that, sir. I know it was posted on our board at the TOC.

Q. It did not show up in your log. There is one entry in the Task Force Barker log which was along about 1640 I think.

MR WALSH: 1555.

IO: 1555. And they were asked for a casualty count of civilians. Bravo Company indicated that they had none. There were no civilians included with their body count. Charlie Company indicated that there were 10 or 11 civilian casualties, but these were not included in their body count. In other words, their body count was VC. That was received at Task Force Barker. The log shows that it was transmitted to brigade, but there's no entry of having received such information at the brigade, nor is there an entry of the information which you received, nor is there an entry in the division log of any civilian casualties having been transmitted to the division TOC.

A. I cannot account for it, sir.

MR WEST: Colonel HENDERSON, as was indicated earlier, and as you've told us, you relieved General LIPSCOMB and assumed command of the brigade on 15 March 1968, the day before this operation we've been talking about. Prior to that time, I understand you had been executive officer.

A. Yes, sir.

Q. Were you familiar with the Son My operation that was to begin the day after you assumed command?

A. I was briefed very broadly on it about 2 days earlier, sir, by Colonel BARKER or his S3.

Q. All right. Are you familiar with the steps that were taken to obtain approval of the operation before it kicked off?

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A. Well, I'm familiar that we put in for our helicopter assault ships in advance.

Q. Well, do you know who briefed General KOSTER on the operation?

A. No, sir. I do not.

Q. What was the purpose of the operation, the concept?

A. The concept of the operation was to CA in, to locate and destroy the 48th Local Force Battalion, with a unit on the west, the unit on the east, the unit on the north, and the Warlords screening to the south.

A. Yes, you talked to the company commanders and you urged them to be aggressive, to close in, not let the enemy get away, to eliminate the 48th VC Battalion once and for all.

A. Yes, sir.

Q. Was this characterized as a search and destroy operation?

A. No, sir.

Q. Then Captain MEDINA must have somehow gotten a mistaken idea because this is what he told his men. We've talked to over 70 men in the company who were on that operation, who sat and heard his briefing that evening. You understood that this was an inhabited area, that the operation was going into several villages that were inhabited. What were the plans to take care of the noncombatant civilian population?

A. There were no plans, sir.

Q. I don't think I understand you. You knew, you and everybody else knew, that there were people living in these hamlets, old men, women and children.

A. That is correct, sir. The brigade and battalion in planning this operation did not include in its plans any provisions for the evacuation or for taking care of a collection point for civilians. It was a complete oversight on my part. In my report to General KOSTER I acknowledged this.

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Q. Let me take you back a little bit now into the planning. If you were briefed, you must have realized that one of the reasons the operation was planned at the onset was to clear the area and the civilian population which had been a hindrance to operations in the AO. BARKER had frequently talked about it, and in his discussion of the operation with his own people and with others, he spoke of this. Our evidence is also that he talked to the ARVN's; he tried to arrange some cooperation so that they could take some of the civilians and put them in the refugee settlement, and he was informed the refugee settlements were full, and it couldn't be done. Were you told this?

A. No, sir.

Q. Getting back to the approval of this operation, at this time our information is, and this is quite strong evidence, that there wasn't any operation of a battalion or larger size which could be conducted in the Americal Division without first getting the approval of the commanding general. Tell us what you know about getting approval of this operation. And you knew this as well as anyone else; it would have been your neck if you'd conducted a task-force size operation without the approval of the commanding general. You must have known about this and how the approval was secured.

A. I must have known what, sir? I didn't understand the last part.

Q. You must have known how the approval of the commanding general was secured. You must have known that it had been approved before the operation kicked off.

A. General LIPSCOMB told me that General KOSTER was aware of this operation and had approved it in concept. This was before, I do not recall what date, but possibly the 13th or 14th.

Q. Who had briefed General KOSTER?

A. I do not know, sir.

Q. There had to be a briefing, though. There were no operational written orders. It couldn't have been done on the paper basis since there were none.

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You weren't present when he was briefed on this operation?

A. No, sir. I was not.

Mr WALSH: Now, on the evening of the 20th--on the evening of the 16th, you talked to General KOSTER and reported that 20 or more civilians had been killed in the operation. Now, what did he say to you about this?

A. I know he was quite disturbed. He asked me how they had been killed. I told him that I did not yet have the report of how they had been killed, but that I had asked Colonel BARKER to get me the details of whether they had been killed by small arms, artillery, gunships and whether they were men, women and children. At this time, I did not have this information.

Q. You did say to him, "I asked him to go back into this village and check this, but you countermanded the order, general"?

A. I did not, sir.

Q. How did you expect Colonel BARKER to get that information?

A. Well, I hoped that Colonel BARKER had the information. If he knew that 20 were dead, that 20 civilians had been killed, I hoped the people who had reported to him that 20 civilians had been killed would know how they had been killed.

Q. The following day, the 17th, did you have any discussion with anyone with respect to the report that you had of 20 noncombatants being killed?

A. Did I have a conversation with anybody?

Q. You will recall that General PEERS told you that the afternoon of the 17th at Duc Pho you had a meeting with Colonel HOLLADAY and Major WATKE with respect to the employment of the aero-scout company, and I want to know if you talked to anyone else. Did you talk, for example, to Colonel BARKER? Did you talk to General YOUNG? Did you talk to General KOSTER with respect to the report that you had of noncombatants being killed the previous day?

A. I do not recall talking to anybody on the 17th regarding noncombatants being killed, sir.

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Q. And, it's your testimony that you had not heard anything from Colonel BARKER or anyone else with respect to the helicopter pilot's allegations about unnecessary killing of civilians that had been made to Colonel BARKER the previous day?

A. That is correct. I did not have any knowledge of that.

Q. Did you go either to LZ Dottie or over the operational area at any time during the 17th?

A. I do not believe that I went north on the 17th, sir.

IO: Let me ask one thing. You have been talking to the division commander the night before and he exhibited, according to your testimony, great concern over these civilians being killed. The fact that they had not been reported in the log by official traffic is another matter entirely. You and he had discussed this matter and he told you how concerned he was and told you how he wanted you to find out all about this. He was down at your headquarters early the next morning. He was at your headquarters according to your log, and this entry is at 0915 and the entry reads as follows: "General DOLEMAN arrived at 0825 along with CG Americal Division. Departed LZ Bronco at 0915 hours." So they were there a total of about 50 minutes at LZ Bronco on Sunday morning, the 17th. And after you'd had this heart-to-heart discussion, would it not appear logical that you just can't let something like that go off in the blue and not discuss it? Here you have the division commander right with you and you don't discuss: one, his countermanding the order to send Charlie Company back in there to make this count by age and by sex and by the manner in which they had been killed; and two, the fact that he was tremendously upset when you talked to him about these casualties. But you see him Sunday morning and everything is sweetness and light. Nothing is said.

A. I told the general on the 16th what I had asked BARKER to do in getting this information.

Q. But that's over the telephone. That's not eyeball-to-eyeball.

A. That's right, sir. And on the 17th when he came down, he was with Lieutenant General DOLEMAN. I personally briefed

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Lieutenant General DOLEMAN in the brigade TOC on the operation, on other operations, and the brigade in general, and went airborne with him, and I'm certain General KOSTER remained with us, through the southern part of the AO. I think he had lunch with me. I'm not positive of that. But at no time do I recall talking to General KOSTER about this operation on the 16th.

MR WALSH: Previously on the 17th, probably, you received the advice that General YOUNG wanted you to be at LZ Dottie for a meeting the next morning, the 18th. Do you recall how you were notified of that meeting?

A. I believe my TOC received the information.

Q. Did you have any conversation with Colonel BARKER concerning what the meeting was all about?

A. I do not believe I did, sir.

Q. Early on the morning of the 18th you went to visit A/3/1, which received a sapper attack the night before, resulting in a lot of casualties. You got over to LZ Dottie about 5 minutes after 0900 and General YOUNG arrived about 10 minutes after 0900. I'd like you to be very clear about a couple of points about the meeting with General YOUNG, Colonel HOLLADAY, and Major WATKE in the van. For example, did General YOUNG open the meeting by telling you why you were there?

A. I do not recall, sir.

Q. Did he direct Major WATKE then to give you an account of what Major WATKE had reported to him?

A. Sir, I do not remember Major WATKE being present, and I'm positive that I was not briefed by Major WATKE as to what had occurred.

Q. Did General YOUNG tell you that he wanted you to report on the allegations of a helicopter pilot?

A. Sir, when I came out of that meeting, the most serious offense that I recall was the captain killing the woman, and I told General YOUNG that I wanted personally to look into that, and I do not recall having been told to conduct an investigation. But I did tell General YOUNG that I was conducting or that I was going



to look into this, that I was quite concerned that one of my very fine officers had been accused of this killing of this woman.

Q. You have heard allegations of unnecessary killing of civilians having been reported by a helicopter pilot. You were asked to make an investigation and report on this. My question is, what did General YOUNG say concerning to whom you were to report?

A. To the best of my memory, I was not tasked by General YOUNG to conduct an investigation and make a report, but I informed General YOUNG that I was going to look into this matter and he approved that.

Q. Let's pass that for a moment, colonel, and go to the interview with the warrant officer after the meeting broke up. Could you tell us again exactly what the warrant officer reported to you when you talked to him immediately following your meeting with General YOUNG at LZ Dottie?

A. I still cannot accept that I talked to Warrant Officer THOMPSON after I talked to General YOUNG. I'm still confident that I talked to Warrant Officer THOMPSON before I saw General YOUNG.

IO: Well, I must say here, we've gone over your testimony time and again on this particular point. We've also gone over the testimony of many other people, including Warrant Officer THOMPSON, including the people who were in the van with you when the order was issued, and including the individual who stayed behind and talked to you for a few minutes before the warrant officer came up. So this thing gets tied down pretty tight, really.

A. Your question is what did Warrant Officer THOMPSON relate to me?

MR WALSH: That's right.

A. He stated that he considered the operation on the 16th to be completely out of control, that there was wild shooting by both the ground troops and by the gunships, the Sharks. He stated that they were firing all over the area, firing at everybody. He stated that he had marked with smoke wounded civilians and that this company would advance on these positions firing. He

specifically talked about a colored soldier and Captain MEDINA, or a captain. I do not believe he could further identify the colored soldier but he said, "I was close enough to see this dark-complected captain, and I could identify him." He went through the explanation of his marking this woman, this wounded girl, about 20 years of age he estimated, and that Captain MEDINA came over to investigate and then walked away and then whirled and shot. He said he acted like a cowboy. He stated that he was not talking to the troops or talking to the company commander by direct communication or any communication as far as I understood. He repeated several times that to him the operation was completely out of control.

MR WALSH: He also stated that he had seen large numbers of dead noncombatants?

A. Yes, sir.

Q. Now, after you spoke to him, you spoke to two other people from the aero-scout company. What did they tell you?

A. I did not speak to anybody else from the aero-scout company.

Q. Colonel HENDERSON, we have very clear testimony from two other individuals who went with Warrant Officer THOMPSON and whom you interviewed as well as him.

A. You are absolutely mistaken.

Q. All right. After that--

IO: (Interposing) I would like to pursue this because you also indicated, I believe, when we first talked to you, that when you did interview Warrant Officer THOMPSON, you talked to him only for a very short time.

A. Yes, sir.

Q. Five minutes or so, Warrant Officer THOMPSON believes it is closer to 20 or 30 minutes that he talked to you.

A. I did say 5 minutes the first time I talked to you; and later I told you I felt it was a little bit longer, perhaps 10 minutes.

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