

STATEMENT BY ACCUSED OR SUSPECT PERSON
(AR 195-10)

PLACE Fort Benning, Georgia	DATE 28 Oct 69	TIME 0840	FILE NUMBER 70-C10011-02012
LAST NAME, FIRST NAME, MIDDLE NAME HUTSON, Max Dean	SOCIAL SECURITY ACCOUNT NO.		GRADE PVT
ORGANIZATION OR ADDRESS Company A, Infantry School Battalion, The Student Brigade, Fort Benning, Georgia			

PART I - WAIVER CERTIFICATE

I HAVE BEEN INFORMED BY **Robert R. GRAHAM**
OF **CID**
THAT HE WANTS TO QUESTION ME ABOUT **Murder, Violation of the Laws of War.**
OF WHICH I AM ACCUSED OR SUSPECTED. HE HAS ALSO INFORMED ME OF MY RIGHTS.
I UNDERSTAND THAT I HAVE THE RIGHT TO REMAIN SILENT AND THAT ANY STATEMENT I MAKE MAY BE USED AS EVIDENCE AGAINST ME IN A CRIMINAL TRIAL.
I UNDERSTAND THAT I HAVE THE RIGHT TO CONSULT WITH COUNSEL AND TO HAVE COUNSEL PRESENT WITH ME DURING QUESTIONING. I MAY RETAIN COUNSEL AT MY OWN EXPENSE OR COUNSEL WILL BE APPOINTED FOR ME AT NO EXPENSE TO ME. IF I AM SUBJECT TO THE UNIFORM CODE OF MILITARY JUSTICE, APPOINTED COUNSEL MAY BE MILITARY COUNSEL OF MY OWN CHOICE IF HE IS REASONABLY AVAILABLE.
I UNDERSTAND THAT EVEN IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT HAVING COUNSEL PRESENT, I MAY STOP ANSWERING QUESTION AT ANY TIME. ALSO, I MAY REQUEST COUNSEL AT ANY TIME DURING QUESTIONING.
I **(DO)** (DO NOT) WANT COUNSEL.
I **(DO)** (DO NOT) WANT TO MAKE A STATEMENT AND **ANSWER** QUESTIONS.

(Signature of Person To Be Questioned)

INTERROGATOR:

(Signature)
ROBERT B. GRAHAM

WITNESS:

(Signature)
DONALD M. HILT

ROBERT B. GRAHAM, Criminal Investigator
1st CID, Washington, D. C.

(Typed Name and Organization)

DONALD M. HILT, Investigator
139th MP Co, Ft Benning, Georgia

(Typed Name and Organization)

PART II - SWORN STATEMENT

I, **Max D. HUTSON**

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.

I was assigned to the 173d Inf from Jan - Apr 67. I returned to Hawaii and was reassigned to Co C, 1st Bn, 20th Inf Americal Div. In Nov 67 I returned to Vietnam and got in country 1 Dec 67. I was initially assigned to a base camp south of Chu Lai. We worked out of that area for a couple of months and then moved. At the time of My Lai #4, I think we were working out of Base Camp Broncho. I can't recall for sure as we were moving around quite a lot. I was with the second platoon and was squad leader of the weapons squad. I was also a member of a machinegun crew. Then I was moved up to squad leader of the second squad. This was after My Lai #4. During My Lai #4 I was on a machinegun. We arrived at My Lai #4 for the operation by chopper. We landed at the edge of the village and all three platoons got on line. Second platoon was on the left, the third was in the center and the first platoon was on the far right. The mortar platoon brought up the rear. The night prior to the mission, I think it was April or May, CPT MEDINA called the company together and explained the mission to us. He stated that My Lai #4 was a suspected VC strong hold and that he had orders to kill everybody that was in the village. We did not expect to find anyone in the village, and when we did, we did as ordered.

Q: When you first started on the operation into My Lai, who was the first Vietnamese you saw?

A: A woman coming out of a tunnel.

Q: What happened to her?

(Cont'd)

EXHIBIT

B

INITIALS OF PERSON MAKING STATEMENT

(Initials)

PAGE 1 OF 6 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _____ OF _____ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

DA FORM 2820
1 OCT 67

REPLACES DA FORM 19-24, 1 SEP 62, WHICH IS OBSOLETE.

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STATEMENT OF PVT MAX D. HUTSON TAKEN AT FORT BENNING, GEORGIA DATED 28 OCT 69 CONTINUED

A: She was shot and killed. WRIGHT and HUTTS were with me and we took turns on the machinegun. I was manning the gun at that time.

Q: Did she have any weapons?

A: We did not find any.

Q: Did you receive any hostile fire either prior to entering the village or while in it?

A: No. There were 2 VC's and the gunship got one of them prior to the operation. He had an M-1 and a few rounds of ammo.

Q: As you passed through the village, did you see any other Vietnamese, either alone or in groups?

A: Yes, I did.

Q: How many would you say you saw?

A: I couldn't say for sure. I just saw the ones in my squad area. They were all over. Some were in tunnels, some were in houses, and some were outside. I would say there were 20-25, however, this was just in my squad area. We killed them all.

Q: Prior to going into the village, did you see CPT MEDINA chase down a Vietnamese woman and shoot her?

A: No. Right after we landed, we saw a woman about a hundred meters out in the rice paddy and we all fired at her.

Q: Was she hit?

A: Yes. She fell. There were about 4 or 5 guys besides myself firing at her. I can't recall exactly who it was now. It is so long since this happened.

Q: Were you present when an old Vietnamese man was pushed down a well and killed?

A: Not during My Lai #4. I recall that during another operation, we had received hostile fire and we caught an old man in the village and SGT PHU and LT CALLEY and a few of the men from the platoon lowered him on a rope by his feet into a well in an attempt to make him tell us where the VC had gone. I can't recall if he was killed or not.

Q: Will you explain the action that took place at My Lai after the woman was shot coming out of the tunnel?

A: We just moved through the village and killed every thing that moved and burned the village.

Q: Did the order to kill everything include young children and babies?

A: I guess that is what it meant. I think that what was meant by a VC Held village was that the VC would come into the village at night, get fed and have a woman, and then leave prior to daylight.

Q: Did your platoon or squad round up any groups of civilians?

A: No.

Q: Did you see any groups of civilians rounded up or in any one location?

A: No. Where I was at, they were scattered out and hiding.

Q: Where was CALLEY during the sweep through the village?

A: He was with one of the squads, but I don't remember which one.

Q: Did you see CALLEY and MITCHELL and MEADLOE firing into a group of civilians or into a ditch?

A: No.

Q: Did you see any groups of Vietnamese that had apparently been shot?

A: After we had gone through the village, and come out to a little grove of trees, I saw a group of about 10 dead Vietnamese. They were up close to a hootch.

Initials MDH

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STATEMENT OF PVT MAX D. HUTSON TAKEN AT FT BENNING, GEORGIA DATED 28 OCT 69 CONTINUED

Q: Do you know who had shot this group?

A: They were in our platoon area, so I guess we all did.

Q: Did you see a group of Vietnamese women and children at a temple being shot?

A: No, I did not.

Q: How many persons would you estimate were killed at My Lai #4 during that particular operation?

A: Maybe 75.

Q: Did you hear CALLEY give anyone an order to "waste" a group of people?

A: No I did not.

Q: Are you positive of that?

A: Yes.

Q: Did you know SMITH and WEST?

A: Yes. They were two big colored guys in the 3d platoon.

Q: Did you see them shoot a group of women and girls?

A: No. They were in the 3d platoon and down to the right of us. There was a lot of confusion with some of the men getting ahead of us and the screaming and hollering.

Q: After the operation, a meeting was held by MEDINA with his platoon SGTs and squad leaders. This meeting was in regards to My Lai #4. Do you recall what MEDINA said at this meeting?

A: I can't remember. I didn't see it, but I heard that someone in a spotter helicopter came down at the village during the operation and that some officer on the chopper had words with MEDINA.

Q: Did you at any time receive orders to stop firing and if so, when and from whom?

A: No. I did not hear any cease fire order.

Did you see WIDMER shoot a little boy with a .45?

A: No.

Q: Did you see CALLEY shoot anyone?

A: Yes. I saw him shoot a woman who I think was going down a tunnel.

Q: Whereabouts in the village did this take place?

A: I think it was around the center of the village.

Q: Were you acquainted with SCHIEL?

A: Yes. He was a squad leader in the first squad of the second platoon.

Q: Did you see him shoot anyone?

A: No.

Q: Did you see MEDINA shoot anyone?

A: No.

Q: Did you see MITCHELL shoot anyone?

A: No. He was in 3d platoon.

Q: Did you see BOYCE kill an old man?

A: No.

Q: Did you see SGT COWAN doing any shooting?

A: No. I can't ever recall him.

Q: What individuals do you recall shooting children? MDN

A: I myself did not shoot any kids. I shot a woman. MDN Let me see the roster. There was a big guy in the second platoon - he caught malaria and I took his place - CROSSLEY was his name. I saw him shoot one child and one woman. The child was not a baby, but I don't know how old it was.

Initials MDN

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STATEMENT OF PVT MAX D. HUTSON TAKEN AT FT BENNING, GEORGIA DATED 28 OCT 69 CONTINUED

Q: Where did this occur?

A: It was off to the right of me. Our gun was covering a paddy to the left. The child was in a hootch with a woman. CROSSLEY just walked up to the hootch and sprayed them with his M-16.

Q: There were several mass executions that day at My Lai #4, who was responsible for these executions?

A: I think the responsibility started higher up. I would say probably the Battalion Commander and on up. I'm sure that is where the order had to originate. I am sure CPT MEDINA would not take it on his own to go in there and kill all of those people.

Q: We have determined where the orders originated, but I am still trying to determine who actually shot the groups of old men, women and children. Will you tell me who did this?

A: The only group that I saw was the group that we wiped out. I think it was on the south-east edge of the village after we had swept through the village. I believe the 3d and 2d squads of the 2d platoon were there. I was on an M-60 machinegun. We all fired into the group. As far as I know, the whole group was killed.

Q: Was your machinegun set up or just hand carried?

A: It was just hand carried.

Q: Was CALLEY with you at this time?

A: I can't remember where he was at, but he was there at the scene.

Q: Who was with CALLEY?

A: CALLEY had a platoon radio so he had his RTO with him. His RTO was BRUNNER.

Q: Was BRUNNER also shooting?

A: He had an M-16, but I did not notice if he had fired it.

Q: Was there an investigation conducted after this operation while you were still in Vietnam?

A: Not that I know of.

Q: Did you see a village elder or village monk or priest executed?

A: Yes. WRIGHT shot him with a .45.

Q: Was this old man questioned prior to being shot by WRIGHT?

A: No.

Q: It has been stated that CALLEY took a child, threw it onto a group of dead civilians and shot it with a M-16. Did you see or hear of this?

A: No I didn't.

Q: Can you recall any other specific incidents, especially involving the killing of children, that you have not told me about?

A: No. I guess there were a couple of kids in the group I told you about where I was firing my machinegun. As for specific instances of children being murdered, I don't recall any.

Q: How many prisoners were taken from My Lai #4?

A: None that I know of.

Q: Did you see MEDINA fire his weapon at any time during this operation?

A: No.

Q: Do you have anything further to add to this statement?

A: I would like to add that this whole operation and the results of it came as a result of orders which I assume were sent out of higher headquarters and I believe that this investigation should be carried up the chain of command to determine who was responsible. I also believe that the whole company, with very few exceptions, in addition to the Brigade and Division Commanders, should be tried if there is any action taken.

Initials MDH

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STATEMENT OF PVT MAX D. HUTSON TAKEN AT FT BENNING, GEORGIA DATED 28 OCT 69 CONTINUED
INTERVIEW OF PVT MAX D. HUTSON RESUMED AT 1510 HRS, 28 OCT 69.

Q: PVT HUTSON, in addition to the questions I asked you this morning, I would like to ask you some additional questions. Will you answer these questions voluntarily, knowing that your rights to counsel are still in effect as explained to you this morning?

A: Yes, I will.

Q: Did you see MAUER and HUTTO finishing off any Vietnamese with Cal .45's?

A: No. They only used machineguns that I saw.

Q: Did you see McBREEN or SIMPSON do any shooting?

A: No. I just know that they were in the 1st squad?

Q: Where was BROOKS during this operation?

A: I can't remember where he was. There was so much confusion. Everyone was moving and yelling and shooting and afraid of getting in front of others who were shooting. I would say there is a good possibility that men from other platoons got mixed up as well as squads.

Q: Where was BUCHANAN during this operation?

A: He was just walking along with everyone else. I know he was shooting cows and pigs but I did not see him shoot any Vietnamese.

Q: Did you know GARZA, and if so, did you see him doing any shooting?

A: Yes. I knew GARZA. He was a medic. He had an M-16, but I don't think he did any shooting.

Q: In reference to the woman that you shot as she came out of the tunnel, where was the tunnel in regards to the village?

A: She came out of the tunnel at the wood line on the left side of the village as entered the village.

Q: Did you check the tunnel afterwards?

A: No. She had fallen back in and we couldn't see any more there so we left.

Q: How far was she when you first saw her?

A: About 30 feet.

Q: How old was she?

A: About middle age. It was hard to tell.

Q: Were her hands up or did she have a weapon?

A: She was climbing out so I guess she was using her hands. I did not see any weapon.

Q: How was she dressed?

A: The same as most of them dress. She was wearing black pajamas.

Q: Did anyone else fire at her at the same time?

A: No.

Q: What squads were the machineguns assigned to?

A: The 3d and 2d squads as they were on the flanks.

Q: How long were you in the village?

A: I don't know for sure. We went in shortly after 0730 and were out by lunch time.

Q: You said earlier that in addition to the woman, you shot a man. What were the circumstances surrounding this incident?

A: When I answered that question, the man I was referring to was one of the group of people that I was involved in shooting that I previously explained.

Q: Do you recall the ages of any of this group?

A: They were mostly older people, both male and female. There were maybe a couple of kids in the group.

Initials MD

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Q: Do you recall how they were dressed?

A: No. They were all dressed about the same. Shirts and pants. Men and women alike.

Q: In addition to what you added to your statement this morning, do you have anything further to add or delete?

A: Only that when we shot the group, also present was HUTTO, WRIGHT, ROSCHEVITZ, BROWN, M. C., JR., TORRES, SIMPSON, SCHIEL, CROSSLEY, MAKEY, DELGADO, LAMARTINA, and RODRIGUEZ. CALLEY was also there with his RTO. I would further like to clarify the part where I said I shot the woman and the man. I shot the woman as she came out of the tunnel, but when I referred to the man, I was talking about one of the group that I shot along with the other men I have just named.

MDR

AFFIDAVIT

I, Max D. HUTSON

HAVE READ OR HAVE HAD READ TO ME THIS STATE-

MENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 6. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

DONALD M. HILT

189th MP Co, Fort Benning, Georgia

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 29 day of October, 19 69

at Fort Benning, Georgia

ROBERT R. GRAHAM

(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

MDR

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