

24 INVESTIGATED IN VIETNAM CASE

22 NOV 69

Top Army Lawyer Reports on the Inquiry Into Alleged Massacre of Villagers

By **ROBERT M. SMITH**

Special to The New York Times

WASHINGTON, Nov. 21 —

The Army's top lawyer said today that about nine persons currently in the Army and about 15 former servicemen were now under investigation in the inquiry into an alleged massacre of Vietnamese civilians by American troops last year.

Robert E. Jordan 3d, the General Counsel of the Army, at a one-hour Pentagon news conference, also said that half a dozen Army criminal investigators were working full-time on the case in this country, in addition to investigators working full-time in Vietnam.

An Army source added that there were "dozens of people" spending part of their time on the case.

Mr. Jordan said the investigators had interviewed some 75 persons so far, and that the interviews were continuing.

The investigators are talking with servicemen and former

Continued on Page 2, Column 3

Continued From Page 1, Col. 2

servicemen, he said, and—in Vietnam—with officials and people who could have been living in the area of the alleged incident.

Vietnamese civilians have told American reporters that an American infantry unit killed 567 residents of the village of Songmy during an operation in March, 1968. An American serviceman and two former servicemen have said they were eyewitnesses to such a massacre.

The Americans said that many villagers had been killed, although they did not use the figure of 567. One put the number at more than 100.

Their accounts were supported today by the statements of a fourth American, who is still in the Army.

In a telephone interview, Specialist 4 William F. Doherty of Boston said he saw the bodies of "probably more than 100" villagers when his platoon passed through the village during the operation. He said the dead included women and children.

Specialist Doherty, who is now stationed at Ford Hood, Tex., said that he had just been summoned to talk with Colonel McNally. He said the colonel was an investigating officer.

In the brief interview, Specialist Doherty said he was in the third platoon of C Company of the First Battalion, 20th Infantry, 11th Infantry Brigade—the unit allegedly involved in the incident—when it was operating in the area known as "Pinkville."

'Saw Quite a Few Dead'

"Most of what happened, happened before our platoon moved in," he said. "I saw quite a few dead," he went on. "Probably more than 100. There were women and children." He said that he also saw some shootings.

The soldier said his unit captured two weapons in the village—a .30-caliber carbine, American-made, and an M-1, I think."

Helicopter pilots were trying to find Vietcong running out of the village," he continued. "They dropped smoke [to indicate the location of those fleeing] and we'd run to where they were."

Specialist Doherty, who said he had "a bad memory," was vague about whether any Vietcong had been captured in the village.

The soldier said that the vil-

lagers shot "could have been VC."

"The captain told us in the briefing they were all either N.V.A., VC or VC sympathizers. We were told it was clear of everybody except N.V.A. or N.V.A. sympathizers." N.V.A. stands for North Vietnamese Army.

Specialist Doherty supported earlier accounts that the captain, who has been identified as Ernest Medina, had ordered the men to destroy the village and kill its occupants.

Captain Is Silent

The captain, who is now stationed at Fort Benning, Ga., has refused to respond to questions concerning the alleged incident, referring questions to his attorney. The attorney, Capt. Edwin J. Richards, told a reporter tonight, "We have nothing to say right now."

A Pentagon spokesman said he could not comment on whether Captain Medina was one of those under investigation.

"There was a lot of trouble in that area—boobytraps and so on," Specialist Doherty added. At one point, he said, "B Company had been pinned down" for a while.

Mr. Jordan said at today's news conference that the Army had not ordered any soldiers who are possible witnesses at potential courts-martial to refrain from talking to the press. It is a matter of individual decision, he said.

Specialist Doherty said he could not answer further questions because of his appointment with the investigating officer. He promised to return the call later, however.

When he failed to call back, the reporter called him and was told by the lieutenant who answered the phone:

"I can't understand you. Your syllables are all broken up."

"Can you hear me now?" the reporter shouted.

"No, I can't hear you," the lieutenant replied.

2 Soldiers Charged

Two soldiers have been charged by the Army in connection with the incident, but in neither case has a court-martial been decided upon.

Investigations are continuing in connection with a charge of murder against First Lieut. William L. Calley Jr. of Miami and a charge of assault with intent to commit murder against Staff Sgt. David Mitchell of St. Francisville, La.

Today's news conference was held after the Pentagon had

received scores of questions from newsmen concerning the alleged massacre. Mr. Jordan was made available to the press, the Army said, to explain why it could not detail the charges against Lieutenant Calley and Sergeant Mitchell.

Neither President Nixon nor Secretary of Defense Melvin Laird has commented on the reports of a massacre.

Mr. Jordan told reporters that the Army would not release its allegations against the lieutenant and the sergeant until they were in final court. To release them prematurely, he said, might be prejudicial to the accused.

"We are trying to do what is right and fair," he said.

The lawyers for both Lieutenant Calley and Sergeant Mitchell have made available the substance of the Army's allegations against their client however.

The lieutenant has been charged with the murder of "quite a few civilians"—perhaps 109, although his lawyer said the specifications were vague and might duplicate or overlap another. The sergeant has been charged with assault with intent to murder 30 civilians with his M-16 rifle.

Mr. Jordan said he expected that the charges against Lieutenant Calley would be completed within a few days. The charges will be made public then, he said.

The lawyer cautioned that his statement that about 24 people besides the sergeant and lieutenant were being investigated should not be construed to mean they would be charged with any crimes.

'Uncharted Legal Waters'

Asked whether the Army could try former servicemen for crimes they allegedly committed while in the service, Mr. Jordan said the Supreme Court "has not been favorably disposed" to the military's bringing charges against civilians, even former soldiers.

He was then asked whether the Army could try former soldiers who are accused of war crimes. "That avenue is a potential avenue against the civilians," he said, but involves "uncharted legal waters."

In response to another question, Mr. Jordan said that "in military law a guy who orders somebody to kill someone unlawfully is considered as guilty of the murder as the guy who pulls the trigger." The charges against the two would be identical, he added.

Mr. Jordan said he knew o

no other allegations charging servicemen or former servicemen with the murder of many civilians.

The lawyer took note of the fact that the alleged massacre had become a matter of international interest. "The Secretary of the Army and the Sec-

"