

My Lai Defense Loses CIA Fight

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By ROBERT HEARD

FT. HOOD, Tex. (AP) — Defense lawyers in the court-martial of My Lai defendant S.Sgt. David Mitchell have been refused subpoenas for two Central Intelligence Agency officials, it was learned today.

The court-martial probably will resume at 8:30 a.m. tomorrow, said Capt. James Bowdish, one of Mitchell's lawyers. Official designation

of the date and hour was to be made later in the day, Bowdish said.

The defense asked last night for subpoenas for Richard Helms, CIA director, and Evan J. Parker, Bowdish said.

CAPT. MICHAEL Swan, prosecutor, turned down the requests, Bowdish said.

The defense can appeal Swan's decision to the military judge, Col. George R. Robinson, or to Maj. Gen. William Desobry, commander of the 1st Armored Division, Mitchell's unit.

The defense filed synopses of testimony expected from Helms and Parker. They hope to get Helms to testify that My Lai 4 was certified as a "free fire zone" by CIA agents. Helms can name the certifying agents, the defense says.

THEY SAY Parker can give

details on Operation Phoenix, a super-secret program that two former Army lieutenants alleged in a Maryland federal court last year was for hiring mercenaries to kill Viet Cong sympathizers regardless of age or sex.

Acceptance of the current five-man jury for Mitchell, or resumption of jury selection if it is not accepted, is the first item of business when the court reconvenes.

The judge also must rule on several defense motions, including ones on pretrial publicity and command influence, before testimony begins.

Mitchell, 30, is charged with assault with intent to commit murder. The Army accuses him of shooting at 30 South Vietnamese civilians during a sweep through My Lai 4 by an American infantry company March 16, 1968.

He has pleaded innocent.