

CID REPORT OF INVESTIGATION
(Military Police)

For use of this form, see AR 195-10; the proponent agency is the Office of the Deputy Chief of Staff for Personnel

541 BLUE BELL

PREPARING CID AGENCY Hue-Phi Bai Field Office Det E, 8th MP Op (CI) APO SF 96308	TYPE OF REPORT 1st Supplemental	REPORT NUMBER 70-CID648-54222 (71-CID052-06126)
	PERIOD COVERED 71-7-18/71-12-7	
OFFENSE 1. Murder (INSUF EVIDENCE) 2.	DATE OF REPORT 71 12 24	

SUBJECT(S) (Last name - First name - Middle name - Grade - SSAN - Organization or address and ZIP Code)

GIBBS, Theodore (NMN) Jr.; DD TC

BASIS FOR INVESTIGATION This investigation was reopened on 18 Jul 71, predicated upon correspondence from the USACIDC, directing that efforts be undertaken to locate, identify, and interview the "heavy drinker" that threatened the life of SFC Rafael A. DIAZ, prior to his death, *Continued, see attached sheet*

INVESTIGATIVE SUMMARY

Investigation disclosed that on 18 Jul 71, TC identified the "heavy drinker" as Z

On 28 Sep 71, at TC Z was interviewed, requested counsel, and declined to make any statement or answer questions.

DISTRIBUTION	COPIES	DATE OF NOTICE TO CO RESPONSIBLE FOR SUBMISSION OF DA FORM 288
CG, 101st Abn Div, ATTN: PM, APO 96383 (Info cy)	1	INVESTIGATOR (Signature) TC
* CO, 47th Inf Plt (Scout Dog), APO 96383 (Info cy)	(1)	
CG, 101st Abn Div, APO 96383 (Info cy)	1	INVESTIGATOR (Signature) TC
COMUSMACV, ATTN: MACPM, APO 96222 (Info cy)	1	
CO, 8th MP Op (CI), APO 96491	3	INVESTIGATOR (Signature) TC
CG, USARV, ATTN: AVHPM-PS-CIB, APO 96375 (Info cy)	(1)	
CINCUSARPAC, ATTN: GPPM-I, APO 96558	(1)	01
CO, USACIDC, ATTN: CIDC-RR (Repos cy)	(1)	INVESTIGATOR (Signature) TC
CO, USACIDC, ATTN: CIDC-OF, (70-658) Wash, D.C. 20315	(1)	
File	2	OIC, Hue-Phi Bai Field Office Det E, 8th MP Op (CI), APO SF 96308

FEB 23 1972

70-CID648-54222
(71-CID052-06126)

BASIS FOR INVESTIGATION (Continued)

mentioned in the statement of _____ ⁷⁰ attached as Exhibit E,
to CID ROI 70-CID648-54222, completed 28 May 71.

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3

70-CID648-54222
(71-CID052-06126)

SUBSTANTIATION

7C related that the "heavy drinker" referred to in 7C statement was 7C.

Crim Inves 7C related that he interviewed 7C on 28 Sep 71, and that 7C requested counsel, declined to answer question or make and statement. Further, on 29 Sep 71, 7C was informed by 7C, Attorney-At-Law, that he represented 7C and that 7C would not answer questions or execute any statement.

An Investigator's Statement was prepared by Crim Inves 7C regarding 7C interview of 7C information from 7C and other aspects of this investigation not elsewhere covered in this report.

EXHIBITS

1. ATTACHED

- P. Statement of ^{7C} 18 Jul 71 (cy)
 Q. Statement of Crim Inves ^{7C} 7 Dec 71 (cy)

2. NOT ATTACHED

The originals of Exhibits P and Q, are forwarded with Repository copy, this report.

WITNESSES

^{7C} 101st Abn Div, APO SF 96383 ^{b6} 2d Bde, Special Service,
^{7C} Island, NY (formerly: PFC, 47th Inf Plt (Scout Dog), APO SF 96383) ^{7C}
^{7C} Attorney-at-Law, ^{7C}
^{7C} Crim Inves ^{7C} Det E, 12th MP Gp (CI), Military Ocean Terminal
 Brooklyn, Brooklyn, NY 11250
 Crim Inves ^{7C} ^{b6} Det MP Det, Ft Lewis, WA.
 (Plat Bai FO, Det E, 8th MP Gp (CI), APO SF 96308)
 Crim Inves ^{7C} Det Bai FO, Det E, 8th MP Gp
 (CI), APO SF 96308

UNDEVELOPED LEADS

None

H

541.15L

CID REPORT OF INVESTIGATION

(Military Police)

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BLUE BELL

PREPARING CID AGENCY Hue-Phu Bai Field Office Det E, 8th MP Gp (CI) APO SF 96308	TYPE OF REPORT Completed	REPORT NUMBER 70-CID648-54222 (71-CID126-26521) (71-CID132-03352)
	PERIOD COVERED 30 Nov 70 - 28 May 71	DATE OF REPORT 2 Jun 71

OFFENSE
1. Murder (INSUF EVIDENCE)
2. *TC*

SUBJECT(S) (Last name - First name - Middle name - Grade - SSAN - Organization or address and ZIP Code)

GIBBS, Theodore (NMN); Mr; *bl* *TC*

BASIS FOR INVESTIGATION
About 0500, 30 Nov 70, *TC* 47th Inf Plt (SCOUT DOG), APO 96383 reported that an explosion had occurred in the unit area and that one EM had been injured. (PHB 2421-70)

INVESTIGATIVE SUMMARY

Investigation disclosed that about 0430, 30 Nov 70, at billets #11-337, 47th Inf Plt (SCOUT DOG), Camp Hochmuth, Phu Bai Combat Base, Republic of Vietnam (RVN), GIBBS apparently detonated an M-18-A1 Anti-Personnel Mine *TC* killing SFC Rafael A. DIAZ, who was sleeping inside of billets #11-337. DIAZ was pronounced dead at 0530, 30 Nov 70, by *TC* (MD), 85th Evac Hosp, APO 96308.

Further investigation revealed that about 1430, 23 Jan 71, at the Steam Bath, Phu Bai Combat Base, RVN, GIBBS was apprehended for the murder of DIAZ and *TC*

FEB 07 1972

NOV 8 1971

DISTRIBUTION	COPIES	DATE OF NOTICE TO CO RESPONSIBLE FOR SUBMISSION OF DA FORM 268
CG, 101st Abn Div, ATTN: PM, APO 96383 (Info cy)	1	26 Jan 71
CO, 47th Inf Plt (SCOUT DOG), APO 96383 (Info cy)	1	
SJA, 101st Abn Div, APO 96383 (Info cy)	1	
CO, USACIDA, ATTN: CIDA-F, Wash, D.C. (70-658) 20315 (Info cy)	1	
CO, 8th MP Gp (CI), APO 96491	2	
CG, USARV, ATTN: AVHPM-CID, APO 96375	(1)	

TC

TC

CID REPORT OF INVESTIGATION - ADMINISTRATIVE DATA

REPORT NUMBER

For use of this form, see AR 195-10; the proponent agency is the Office of The Provost Marshal General.

70-CID648-54222

SUBJECT(S) (Show last name and following personal data in order listed: Service number; Security clearance; DOB; POB; Sex; Race; Height; Weight; Hair color; Eye color; Build; Identifying marks; Former name, aliases, or service number; Disposition of subject; Results of repository check.)

GIBBS: ^{b6} None; ⁷⁰ Birmingham, AL; M; Negro; 68 in; 145 lbs; black hair; medium build; 2 inch scar right thigh; US 53 850 345; Formerly PVI, 47th Inf Flt (Scout Dog), APO 96383, Presumed to be residing at listed address, USAIRR-Negative.

VICTIM(S) (Show full name and following personal data in order listed: SSAN; Service number; Organization or address; Position occupied; Grade or title; Sex; Race; DOB; POB; Former military rank or service number; Location of victim.)

DIAZ, Rafael Angel (Deceased) (1); ^{b6} 47th Inf Flt (Scout Dog), APC SF 96383; Flt SGT; SFC; M; Puerto Rican; ⁷⁰ Aguas, Puerto Rico; Remains shipped to CONUS for release to next of kin.

US GOV'T (2)

AGGREGATE DOLLAR VALUE OF PROPERTY

	STOLEN	LOST	DAMAGED	RECOVERED
US GOVT				
PRIVATE				

COORDINATION

INTELLIGENCE	DATE INITIAL NOTIFICATION	NAME OF PERSON RECEIVING NOTIFICATION
JUDGE ADVOCATE	26 Jan 71	⁷⁰
PROVOST MARSHAL	DATE INITIAL NOTIFICATION	NAME OF PERSON RECEIVING NOTIFICATION
	DATE COMPLETED REPORT DISCUSSED	INSTALLATION PROVOST MARSHAL APPROVAL
OTHER	28 May 71	⁷⁰ KHU BAI COMBAT BASE, APO SF 96308

TOTAL AMOUNT OF CID FUNDS EXPENDED ON INVESTIGATION (Enter on repository and file copies only.) \$

REMARKS

REVIEW 20 SEP 81 USAIU Roy and 3

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SUBSTANTIATION

^{7C} who was sleeping in the same room to DIAZ, stated that about 0430, 30 Nov 70, he heard an explosion and then discovered that DIAZ had been injured.

^{7C} stated that about 2030, 28 Nov 70, DIAZ related to them that he had been threatened, but did not say by whom.

^{7C} stated that on 6 Jan 71, GIBBS told him that he (GIBBS) had killed DIAZ by blowing him up.

^{7C} formerly a member of the 47th Inf Plt (SCOUT DOG), stated that he did not have any part in DIAZ's murder, and that he did not hear GIBBS relate to ^{7C} that he (GIBBS) had killed DIAZ.

Crim Inves ^{7C} prepared an Investigator's Statement detailing his interview with

^{7C} formerly a member with the 47th Inf Plt (SCOUT DOG), orally stated that he was asleep when the explosion occurred and could not recall if GIBBS was in his bunk at the time to the explosion. ^{7C} further related that he had no knowledge that GIBBS had killed DIAZ.

Crim Inves ^{7C} prepared an Investigator's Statement detailing his interview with

A Certificate of Death, reflecting that DIAZ died as a result of multiple penetrating head and chest wounds, was obtained from the 85th Evac Hosp, APO 96308.

An M-57 Electrical Firing Device and approximately 50 feet of electrical cord were recovered at the scene.

A Laboratory Report of Examination, prepared by ^{7C} Fingerprint Examiner; and ^{7C}, Firearms Examiner, reflects that examination of the M-57 Electrical Firing Device did not reveal any latent prints of value for identification, and that it was in normal operating condition.

A search of GIBBS' person subsequent to his apprehension on 26 Jan 71, revealed him to be in possession of 2 suspected marijuana cigarettes.

^{7C}
GIBBS orally denied killing DIAZ, and stated ^{7C} and shown a true copy of the written statement initiated by ^{7C} ver, when reinterviewed ^{7C} GIBBS related he had nothing further to say for it was all in the statement.

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70-CID648-54222

SUBSTANTIATION

An Investigator's Statement containing the interview of GIBBS and all other investigative activity, was prepared by Crim Inves *TC*

Photographs of DIAZ's remains were obtained.

An Investigator's Statement was prepared by Crim Inves *TC*

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70-CID648-54222

EXHIBITS

1. ATTACHED

- A. Statement of *TC* 7 Dec 70 (cy)
- B. Statement of *TC* 11 Jan 71 (cy)
- C. Statement of *TC* 7 Jan 71 (cy)
- D. Statement of *TC* 22 Jan 71 (cy)
- E. Statement of *TC* 5 Mar 71 (cy)
- F. Statement of Crim Inves *TC* 8 Mar 71 (cy)
- G. Statement of Crim Inves *TC* 13 May 71 (cy) (Rec'd 28 May 71)
- H. Certificate of Death pertaining to SFC DIAZ, 30 Nov 70 (cy)
- I. Laboratory Report #FA-FP-143-70, 1 Dec 70 (cy)
- J. Laboratory Report #9-71-055, 4 Feb 71 (cy)
- K. Statement of Crim Inves *TC* 28 Jan 71 (cy)
- L. Photographs of SFC DIAZ's remains (Repository and file only)
- M. Statement of Crim Inves *TC* 27 May 71 (cy)

2. NOT ATTACHED

Retained in the Evidence Room, this office:

- N. One M-57 Electrical Firing Device.
- O. Fifty feet of electrical cord.

The originals of Exhibits A thru G and I thru M are forwarded with the Repository copy, this report.

The original of Exhibit H is retained in the files of the 85th Evac Hosp, APO 96308.

WITNESSES

SF 96383.

TC
TC

b6

7th Inf Plt (SCOUT DOG), APO

85th Evac Hosp, APO SF 96308.

7th Inf Plt (SCOUT DOG), APO SF 96383.

47th Inf Plt (SCOUT DOG), APO SF 96383.

17th Inf Plt (SCOUT DOG), APO

SF 96383.

TC

b6

47th Inf Plt (SCOUT DOG), APO SF

96383.

TC

b6

HHC, 2nd Bde, APO SF 96383.

WITNESSES (Continued)

Ben Harrison, IN.

Base, Oakland, CA. 94626.

Oakland Army Base, Oakland, CA. 94626.

Cleveland, OH. 44199.

USARV Crime Laboratory, APO SF 96491.
7th Med Lab, APO SF 96308.
Det F, 5th MP Gp (CI), Ft.

dqs Co, WAMTMS Oakland Army

ld Of, Det B, 6th MP Gp (CI),

Fld Of, Det C, 12th MP Gp (CI),

UNDEVELOPED LEADS

None

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h

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMC 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base, RVN	DATE 7 Dec 70	TIME 1000	FILE NUMBER 70-CIDDA-51222
LAST NAME, FIRST NAME, MIDDLE NAME <i>TC</i>	SOCIAL SECURITY ACCOUNT NO. <i>64</i>		GRADE SFC
ORGANIZATION OR ADDRESS 47th Inf Plt (SCOUT DOG), APO SF 96383 DEROS: --			

SWORN STATEMENT

TC, I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

About 2200, 29 Nov 70, I went to sleep in my billets, which is located at the 47th Inf Plt (SCOUT DOG), Phu Bai Combat Base, RVN, and about 0430, 30 Nov 70, I was awoken by an explosion. After I heard the explosion, I got out of bed, and turned on the light. When I turned the light on, I noticed that the end of the building had been blown out, and that SFC DIAZ, who was sleeping across the room from me, had been injured.

Q. What is your billets number?

A. *TC*

Q. What position was SFC DIAZ in, when you turned the light on?

A. He was lying face down on the floor with his feet still on his bunk.

Q. Prior to the explosion, did you hear any noises outside of your billets?

A. No, I was asleep.

Q. Immediately after the explosion, did you hear any noise or see anyone near your billets?

A. No.

Q. Were you injured in the explosion?

A. No.

Q. What time to did SFC DIAZ go to bed, on the night of 29 Nov 70?

A. About 2030.

Q. Did anyone come into your billets, after SFC DIAZ had gone to bed on the night of 29 Nov 70?

A. No.

Q. Has SFC DIAZ ever mentioned to you any threats that have been made at him?

A. No.

Q. Is there anything that you would like to add to or delete from this statement?

A. No.

//////////////////////////////////END OF STATEMENT//////////////////////////////////

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EXHIBIT <i>A</i>	INITIALS OF PERSON MAKING STATEMENT <i>TC</i>	PAGE 1 OF 2 PAGES
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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.

STATEMENT (Continued)

AFFIDAVIT

I, TC HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. 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:

TC
(Signature of Person Administering Oath)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 7th day of December, 1970 at Phu Bai Combat Base, RVN

ORGANIZATION OR ADDRESS

TC
(Signature of Person Administering Oath)

TC
(Typed Name of Person Administering Oath)

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base, RVN.	DATE 11 Jan 71	TIME 0945	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME <i>W</i>	SOCIAL SECURITY ACCOUNT NO. <i>bb</i>		GRADE SSG
ORGANIZATION OR ADDRESS 47th Inf Plt (Scout Dog), APO SF 96383			

SWORN STATEMENT

I, *W*, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.

W About 2030, 28 Nov 70, I was in *W* billets when DIAZ came into the room and started talking to us. DIAZ related to us that he had been threatened.

Q. In what way did DIAZ say he was threatened?

A. He really didn't say.

Q. Did you question him about it?

A. I didn't because I really didn't pay too much attention to it.

Q. Do you know if DIAZ ever told anyone else about him being threatened?

A. No I don't.

Q. Is there anything you wish to add or delete from this statement?

A. No *W*

////// ////////////////End of Stmt////////////////////

~~FOR OFFICIAL USE ONLY~~

EXHIBIT <i>B</i>	INITIALS OF PERSON MAKING STATEMENT <i>W</i>	PAGE 1 OF <u>2</u> PAGES
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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.

19 *X7*

STATEMENT (Continued)

AFFIDAVIT

I, TC HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. 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:

TC
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 11 day of Jan, 19 71 at Phu Bai, RVN

ORGANIZATION OR ADDRESS

TC
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

TC Crim-Inves
(Typed Name of Person Administering Oath)
Art 156 b (4) UCMJ 14

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base, RVN.	DATE 7 Jan 71	TIME 1300	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME TC	SOCIAL SECURITY ACCOUNT NO. bb		GRADE SP4
ORGANIZATION OR ADDRESS 47th Inf Plt(Scout Dog), APO SF 96383			

SWORN STATEMENT

I, TC, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

About 2030, 28 Nov 70, while I was in my billets in the company area, SFC DIAZ came into my room and started to talk to me, TC and TC. DIAZ related that he had been threatened that night.

- Q. In what way did DIAZ say he was threatened?
- A. He didn't say by whom or in what way. DIAZ refused to tell us anything, about it.
- Q. Did you question him about it?
- A. Yes, we did and he refused to talk about it or tell us who threatened him.
- Q. Did DIAZ say anything else about the threat?
- A. Nothing else.
- Q. To your knowledge, did DIAZ talk to anyone else about the threat?
- A. Not that I know of.
- Q. Have you heard anything about DIAZ being killed in the platoon area?
- A. Nothing.
- Q. Is there anything you wish to add or delete from this statement?
- A. No.

////////////////////////////////////End of Stmt////////////////////////////////////

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EXHIBIT C	INITIALS OF PERSON MAKING STATEMENT TC	PAGE 1 OF 2 PAGES
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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.

Handwritten marks: a vertical line and a signature.

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE U.S.S. SANCTUARY, DaNang, RVN.	DATE 22 Jan 71	TIME 1415	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME TC	SOCIAL SECURITY ACCOUNT NO. 66		GRADE SP4
ORGANIZATION OR ADDRESS HHC, 2nd Bde, APO SF 96383			

SWORN STATEMENT

I, TC, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

This statement is in reference to the SFC Rafael DIAZ murder in which I would like to add information to. About 1430, 12 Jan 71, I was out sitting in a jeep with TC of the 47th Inf Plt, and he told me that he was ETSing and I asked him since he was leaving, who killed DIAZ? He replied that the only person it could be was PV2 GIBBS, because DIAZ had found GIBBS in possession of marihuana several times. Wait, I will tell you how it all happened, I didn't want to tell you the truth because I didn't want to get involved but I will tell you now. About 1330, 6 Jan 71, after GIBBS, TC and TC administrative hold was lifted GIBBS told me while we were in the Snack Bar in BHU Bai along with TC that he had killed DIAZ by blowing him up. GIBBS stated that he committed the perfect crime and I asked him what did he mean by perfect crime? GIBBS replied that the day before he killed DIAZ he had laid out the Claymore mine wire, and then the following morning real early he set up the claymore mine and detonated it, killing DIAZ.

- Q. Which way did GIBBS escape?
- A. He jumped over some PSP leaving a footprint imbedded in the sand making it appear that he was leaving the scene away from the platoon area.
- Q. What part did TC and TC play in DIAZ's murder?
- A. Well, GIBBS said that he was the only one who did it.
- Q. You said that TC was present with you and GIBBS at the snack bar when GIBBS told you that he killed DIAZ, so did TC know of this prior to GIBBS telling you?
- A. Yes, TC knew about GIBBS killing DIAZ before I was told about it by GIBBS. Also, I think TC knew about it too.
- Q. Did TC know?
- A. I think so I'm not sure about his part.
- Q. Where did GIBBS get the claymore mine?
- A. He didn't say where he got it from but there are a number of places where he could have gotten it from. For instance he might have gotten from the field because they are never searched upon their return, or from the old 1/501st supply room, or from an unlocked Conex by the Co C, 159th Helipad.
- Q. Why did GIBBS kill DIAZ?
- A. TC told me that DIAZ threatened to put GIBBS in jail because DIAZ had something on GIBBS.
- Q. TC
- Q. Is there anything you wish to add or delete from this statement?
- A. No. DEC

//////////////////////////////////// End of Stmt //////////////////////////////////////
~~TOP OFFICIAL USE ONLY~~ 17

EXHIBIT D	INITIALS OF PERSON MAKING STATEMENT DEC	PAGE 1 OF 2 PAGES
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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.

STATEMENT (Continued)

AFFIDAVIT

7C

HAVE READ OR HAVE HAD READ TO ME THIS STATE-

MENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. 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.

7C

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22 day of JAN, 19 71 at DANANG, RVN.

7C

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

7C

Crim Inves

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ART 136 b. (4) UCMJ

18

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

DKS

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

70-CID648-54222

PLACE Oakland Army Base, Oakland, Calif 94626	DATE 5 Mar 71	TIME 1330	FILE NUMBER 71-CID126-26521
LE 7C	SOCIAL SECURITY ACCOUNT NO. 66		GRADE Civilian
ORGANIZATION OR ADDRESS 7C			

PART I - WAIVER CERTIFICATE

I HAVE BEEN INFORMED BY Criminal Investigator 7C
OF the United States Army Criminal Investigation Division
THAT HE WANTS TO QUESTION ME ABOUT 1. Murder 2. 7C
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 OR MY OWN CHOICE IF HE IS REASONABLY AVAILABLE.
I UNDERSTAND EVEN IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT HAVING COUNSEL PRESENT, I MAY STOP ANSWERING THEM AT ANY TIME. ALSO, I MAY REQUEST COUNSEL AT ANY TIME DURING QUESTIONING.
I (DO NOT) WANT COUNSEL. 7C
I (DO) WANT TO MAKE A STATEMENT AND ANSWER QUESTIONS. 7C
(Signature of Person to be Questioned)

INTERROGATOR: 7C WITNESS: 7C
(Signature) (Signature)

7C Oakland Field Office, 7C Hqs Co,
Det B, 6th MP Gp (CI), Oakland Army Base, WAMTMS, Oakland Army Base, Calif 94626
Calif (Typed Name and Organization) 94626 (Typed Name and Organization)

PART II - SWORN STATEMENT

I, 7C WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
Q. Before you make any statement, I would like to ask you if you understand that the word "counsel" used in the above WAIVER CERTIFICATE means lawyer or attorney or attorney-at-law, and do you understand that by stating, "I do not want counsel" you mean you do not want a lawyer or an attorney or an attorney-at-law present during your questioning, even though such an attorney would be furnished to you free of charge by the Public Defenders Office? Do you also understand that the words that I have read you from Armed Forces Police Division card # 45, were the 5th Amendment of the Constitution of the United States, and do you fully understand your rights under the 5th Amendment?
A. Yes, I understand.
Q. Did you know Pvts Theodore GIBBS and 7C 7C stationed in Viet Nam?
A. Yes, they were friends of mine in the 47th Scout Dog Platoon.
Q. Were you present in the Snack Bar, Phu Bai Combat Base, RVN, on 6 Jan 71, when GIBBS stated that he killed SFC DIAZ?
A. I went to the snack bar just about every chance I got, but I did not hear GIBBS say that he killed the 1SG (SFC DIAZ).
Q. Have you received any correspondence from GIBBS since you departed from RVN?
A. No, however I did receive a letter from a Lt Colonel, who is GIBBS defense. I don't remember his name, but in the letter I received about four days ago he requested a statement from me concerning a conversation between GIBBS and 7C 7C that I was supposed to have overheard.

EXHIBIT E	INITIALS OF PERSON MAKING STATEMENT <u>7C</u>	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF 7C CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE 7C OF 7C 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.

Handwritten signature: BCP

AFFIDAVIT

I, RC HAVE READ ~~ON~~ ~~AND~~ ~~UNDERSTAND~~ THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. 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.

RC
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6th day of March, 1971

Hqs Co, WAMTMS, Oakland Army Base
Oakland, Calif 94626

at Oakland Army Base, Oakland Calif 94626

ORGANIZATION OR ADDRESS

RC
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

RC, Crim Inves
(Type Name of Person Administering Oath)
~~FOR OFFICIAL USE ONLY~~ Article 156-(4) UCMJ
(Authority To Administer Oaths)

EXHIBIT *E*

21

INITIALS OF PERSON MAKING STATEMENT

BCP

~~FOR OFFICIAL USE ONLY~~

26

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Oakland Army Base, Oakland, CA 94626	DATE 8 Mar 71	TIME 1145	FILE NUMBER (71-CID126-26521)
LAST NAME, FIRST NAME, MIDDLE NAME <i>K</i>	SOCIAL SECURITY ACCOUNT NO. <i>66</i>		GRADE Crim Inves
ORGANIZATION OR ADDRESS Oakland Field Office, Det B, 6th MP Gp (CI), Oakland Army Base, Oakland; CA 94626			

SWORN STATEMENT

I, *K*, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

INVESTIGATORS STATEMENT

JK On 5 Mar 71, after being advised of his rights, *K* waived same, and rendered a written statement denying involvement in the murder of DIAZ. Upon completion of a hand written statement, and during the process of typing the statement, *K* requested that he be allowed to leave the office for the purpose of keeping and appointment for an employment interview. After *K* read the handwritten statement, and agreed to return on 6 Mar 71, for the purpose of signing a typed statement, he was allowed to leave the office. On 6 Mar 71, *K* returned to the office, read his statement, initialed all corrections, and signed his name after being sworn to the contents of the typed statement.

K is fully identified as: DOB: *K* B: Oakland, CA; male; cauc; 68 in; 135 lbs; brown hair; blue eyes; average build; scar, "E" shaped, back-side of left elbow, 1½ in X ½ in; formerly: SP4; 47th Inf Plt (Scout Dog), 101st Abn Div, APO SF 96383; discharged 15 Jan 71, Oakland Army Base, Oakland, CA 94626. *JK*

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EXHIBIT *F* ~~FOR OFFICIAL USE ONLY~~ INITIALS OF PERSON MAKING STATEMENT *JK* ~~ONLY~~ PAGE OF 2 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.

STATEMENT (Continued)

25
Not used. *JH*

AFFIDAVIT

I, *7c* HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. 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.

7c
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 8th day of March, 19 71 at Oakland Army Base, Oakland, CA 94626

7c
(Signature of Person Administering Oath)

23

7c
Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

EXHIBIT *B*

INITIALS OF PERSON MAKING STATEMENT *JH*

WITNESS STATEMENT

70-CID648-54222

Use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Cleveland, Ohio	DATE 13 May 71	TIME	FILE NUMBER (71-CID132-03352)
LAST NAME, FIRST NAME, MIDDLE NAME TC	SOCIAL SECURITY ACCOUNT NO. bb	GRADE Crim Inves	
ORGANIZATION OR ADDRESS Cleveland Field Office, Det C, 12th MP Gp (GI), 1240 E. 9th St, Cleveland, OH 44199			

SWORN STATEMENT

I, TC, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

About 1500 hrs, 12 May 71, at 2462 E. 41st St, Lorain, OH, TC as interviewed relative to his knowledge of the murder of SFC Rafael A. DIAZ which occurred at Phu Bai, RVN, about 30 Nov 70. TC denied any knowledge of the murder and declined to make a written statement, however, when asked specifically, "was GIBBS present in his billets at the time of the explosion?" TC replied that he could not say for certain. TC stated that he was sleeping when the explosion occurred, the sound awakened him, and he arose soon thereafter and went to the doorway of the billets where he stood for about two minutes and then went back inside the room. TC insists that he does not know whether GIBBS was present or not when he awoke but that GIBBS left the billets with him when all personnel were called to the dayroom for questioning. BAKER refuses to even volunteer an estimation as to the time that he first saw GIBBS after the explosion and states that he cannot remember seeing GIBBS enter or leave the billets at any time after he was awakened, nor can he remember if GIBBS was in the billets before he went to sleep. When asked if he had ever seen GIBBS in possession of a Claymore mine, M57 Electrical Firing Device or 50 feet of brown electrical cord, TC stated that he could not remember any specific instance but that it was possible since many members of the unit handled this type of equipment as a matter of routine. TC denied ever having received any correspondence from GIBBS. TC further stated that he served in the 47th Inf Plt (Scout Co), 101st Abn Div in Vietnam during the period Dec 69-Jan 71 and that he knew DIAZ but had no personal opinion about him since DIAZ was new in the unit. TC denied any knowledge of the relationship between GIBBS and DIAZ and when asked if GIBBS had mentioned the murder to him at any time, TC stated that he had not. When asked if he and GIBBS or anyone else used marijuana while in the unit, TC declined to answer the question. TC then declined to answer any further questions and the interview was terminated. It should be noted that the correct address of TC is E. 41st St and not E. 42d St as listed in the UDL. TC is residing at the listed address and is presently employed as a Switchman with the Baltimore & Ohio Railroad, Portsmouth, Ohio.

//////////////////////////////////END OF STATEMENT//////////////////////////////////

~~FOR OFFICIAL USE ONLY~~

EXHIBIT G	INITIALS OF PERSON MAKING STATEMENT EO	PAGE 1 OF 2 PAGES
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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.

~~FOR OFFICIAL USE ONLY~~ 26 30

STATEMENT (Continued)

70-CID648-54222
(71-CID132-03352)

//////////////////NOT USED//////////////////

AFFIDAVIT

I, TC HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. 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.

TC

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 13 day of MAY, 1971 at Columbus OH

TC

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ART 136 (6) (4) MCM 69
(Authority To Administer Oaths) 25

INITIALS OF PERSON MAKING STATEMENT

TC

PAGE 2 OF 2 PAGES

70-C10.648-54222

CERTIFICATE OF DEATH (OVERSEAS)

For use of this form, see AR 638-40; the proponent agency is Office of the Chief of Support Services.

NAME OF DECEASED (Last, First, Middle) DYAL RAFFEL		GRADE E7	BRANCH OF SERVICE S ARMY	SOCIAL SECURITY ACCT NO. 010
ORGANIZATION 47th INF 101 ABN		DATE OF BIRTH		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE
RACE		MARITAL STATUS		RELIGION
<input type="checkbox"/> CAUCASOID	<input type="checkbox"/> SINGLE	<input type="checkbox"/> DIVORCED	<input type="checkbox"/> PROTESTANT	<input type="checkbox"/> OTHER (Specify)
<input type="checkbox"/> NEGROID	<input type="checkbox"/> MARRIED	<input type="checkbox"/> SEPARATED	<input type="checkbox"/> CATHOLIC	
<input type="checkbox"/> OTHER (Specify)	<input type="checkbox"/> WIDOWED		<input type="checkbox"/> JEWISH	
NAME OF NEXT OF KIN		RELATIONSHIP TO DECEASED		
STREET ADDRESS		CITY OR TOWN AND STATE (include ZIP Code)		

MEDICAL STATEMENT

CAUSE OF DEATH (Enter only one cause per line)		INTERVAL BETWEEN ON SET AND DEATH
DISEASE OR CONDITION DIRECTLY LEADING TO DEATH ¹ Multiple penetrating head & chest wounds		
ANTECEDENT CAUSES	MORBID CONDITION, IF ANY, LEADING TO PRIMARY CAUSE	
	UNDERLYING CAUSE, IF ANY, GIVING RISE TO PRIMARY CAUSE	
OTHER SIGNIFICANT CONDITIONS ²		
MODE OF DEATH	AUTOPSY PERFORMED	MAJOR FINDINGS OF AUTOPSY
<input type="checkbox"/> NATURAL	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/> ACCIDENT		
<input type="checkbox"/> SUICIDE		
<input type="checkbox"/> HOMICIDE		
CIRCUMSTANCES SURROUNDING DEATH DUE TO EXTERNAL CAUSES		

DATE OF DEATH (Hour, day, month, year) 0530 hrs 30 NOV 70	PLACE OF DEATH EE 85th EVAC HOSP APO 96308
---	--

I HAVE VIEWED THE REMAINS OF THE DECEASED AND DEATH OCCURRED AT THE TIME INDICATED AND FROM THE CAUSES AS STATED ABOVE.

NAME OF MEDICAL OFFICER 7C		TITLE OR DEGREE MC
GRADE MAJ	SOCIAL SECURITY ACCT NO. 010	INSTALLATION OR ADDRESS 85th EVAC HOSP APO 96308
DATE 30 NOV 70	SIGNATURE 7C	

DISPOSITION OF REMAINS

NAME OF MORTICIAN PREPARING REMAINS	GRADE	LICENSE NUMBER	STATE	OTHER
INSTALLATION OR ADDRESS	DATE	SIGNATURE		
NAME OF CEMETERY OR CREMATORY	LOCATION OF CEMETERY OR CREMATORY			
TYPE OF DISPOSITION <input type="checkbox"/> BURIAL <input type="checkbox"/> CREMATION <input type="checkbox"/> REMOVAL (Specify)			DATE OF DISPOSITION	

REGISTRATION OF VITAL STATISTICS

REGISTRY (Town and Country)	DATE REGISTERED	FILE NUMBER	STATE	OTHER
NAME OF FUNERAL DIRECTOR	ADDRESS			
SIGNATURE OF AUTHORIZED INDIVIDUAL				

26

¹ State disease, injury or complication which caused death, but not mode of dying such as heart failure, etc.
² State conditions contributing to the death, but not related to the disease or condition causing death.

70 32

DEPARTMENT OF THE ARMY
CRIME LABORATORY, 8th MILITARY POLICE GROUP (CI)
APO SAN FRANCISCO 96491

REPORT OF LABORATORY EXAMINATION

LABORATORY CASE NO FA-FP-143-70

UNIT CASE NO 70-C10648-54222

DATE OF REPORT: 1 Dec 70

CONTRIBUTOR:
Officer In Charge
Hue Phu-Bai
Det E, 8th MP GP (CI)
APO SF 96308

OFFENSE:
Murder

SUBJECT:
Unknown

VICTIM:
SFC DIAZ

EVIDENCE TO BE EXAMINED:
Exhibit A - One M-57 Electrical Firing Device

Date Received:
1 Dec 70

How Received:
HAND CARRIED/KIZOREK

Received By:
HANNAH

Date Returned:

How Returned:
HAND CARRIED, KIZOREK

LABORATORY FINDINGS:

1. Examination of Exhibit A did not reveal any latent prints of value for identification.

K
b6
Fingerprint Examiner
Deros: 8 Oct 71

2. Physical examination of Exhibit A revealed it to be in normal operating condition. The electrical output of Exhibit A was determined to be 0.5 amps, which is less than rated output, however this is sufficient to detonate at least one blasting cap, which are rated at 0.4 amps each.

K
b6
Firearms Examiner
Deros: 14 Oct 71

Exhibit I

27

29

33

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai, Republic of Vietnam (RVN)	DATE 28 Jan 71	TIME 1700	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME 70	SOCIAL SECURITY ACCOUNT NO.		GRADE Crim Inves

ORGANIZATION OR ADDRESS
Hue-Phu Bai Field Office, Det E, 8th MP Gp (CI), AFO SF 96308

SWORN STATEMENT

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

INVESTIGATOR'S STATEMENT

At 0510, 30 Nov 70, notification was received from the Military Police Desk Sergeant, Phu Bai Combined Police Station, Phu Bai Combat Base, Republic of Vietnam (RVN), that an explosion had occurred in the unit area of the 47th Inf Plt (SCOUT DOG), and that one EM had been injured.

At 0530, 30 Nov 70, upon arriving at the scene of the explosion, the Military Police were requested to secure the area and not let anyone leave or enter the area. Commanding Officer, 47th Inf Plt (SCOUT DOG), was present at the scene and related that SFC Rafeal A. DIAZ had been transported to the 85th Evac Hospital, and pronounced dead upon arrival by

Preliminary investigation at the scene of the incident revealed that DIAZ was asleep in the East end of billets #11-337, and that a claymore mine had been placed on the sandbagged wall at the East end of the billets, and detonated. The explosion caused a 5'x5' hole in the end of the billets and knocked DIAZ from his bunk as he lay sleeping. who was asleep on the North side of the billets approximately 15' from DIAZ was not injured. It was apparent from the angle of the blast that the claymore mine was intended for DIAZ. There was approximately 50' of electrical cord running from the point of detonation into the door of a nearby bunker and out the other end. The electrical cord was then tied to an overhead power line with the end of the cord approximately 5' from the ground. While following the path of the electrical cord it was noted that there were no footprints along the path. The cord was also checked for cuts, splices, or any other characteristics which might furnish information as to who placed it there, but met with negative results. Almost directly underneath the hanging electrical cord, an M-57 Electrical Firing Device was laying on the ground. Although it was drizzling rain and it had been raining for several hours, prior to the incident, the firing device was very carefully removed from the scene so as not to destroy anything of evidentiary value, which might have survived the rain. A subsequent laboratory examination of the M-57 Electrical Firing Device did not reveal any latent prints of value for identification. The laboratory examination also determined that the firing device was in normal operating condition.

A complete search of the unit area located one footprint, which had made a deep impression in the ground approximately eight feet from where the M-57 Electrical Firing Device was found. The footprint was about eighteen inches from a walkway constructed of perforated steel plating (PSP). Due to the rain, any distinguishing features, which might have been left by the footprint, had been destroyed; therefore, only a measurement of the impression was taken. The impression in the ground measured 11½"x4½" at its longest and widest point. (Cont See attached sheet)

EXHIBIT X	INITIALS OF PERSON MAKING STATEMENT [Signature]	PAGES 3
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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.

INVESTIGATOR'S STATEMENT (Continued)

A thorough search of DIAZ'S personal belongings and billets did not disclose any information or investigative leads, which might lead to the identity of the person(s) responsible for his death.

After completing the preliminary investigation of the scene, members of the unit who had been directed to the unit's dayroom immediately after the explosion, were interviewed. Because of the small number of personnel assigned to the 47th Inf Plt (SCOUT DOG), less than thirty, it was possible to conduct initial inter views with the majority of the personnel during the preliminary investigation, at the scene. During the interviews, GIBBS' name was mentioned several times as possibly being involved in the murder of DIAZ, because of his open resentment for DIAZ. It was also learned that DIAZ and GIBBS had been involved in an argument on 29 Nov 70, because DIAZ had indicated that GIBBS was being reassigned to another unit. Later in the day of 30 Nov 70, during additional interviews with the entire unit, no additional information was developed.

All efforts to determine the origin of the claymore mine, M-57 Electrical Firing Device, and the electrical cord were fruitless. It was learned that the mines are stored near the perimeter of the unit allowing free access, and that there is no accountability maintained on the claymore mines.

During the period 30 Nov - 8 Dec 70, interviews were conducted with members of the units adjacent to the 47th Inf Plt (SCOUT DOG), with negative results in developing any information relative to this investigation.

On 8 Dec 70, *TC* GIBBS' room-mate at the time of the explosion, was interviewed. *TC* declined to answer any questions concerning his knowledge of DIAZ's murder, and stated that GIBBS was in his bunk asleep at the time of the explosion, but would not furnish any further details.

On 9 Dec 70, a confidential informant, who had furnished this office reliable information in the past, was contacted and requested to supply this investigator with any information that he may obtain as a result of his association with members of the 47th Inf Plt (SCOUT DOG).

During the period 10-19 Dec 70, periodic checks with the informant, and interviews with members of the 47th Inf Plt (SCOUT DOG), to include GIBBS, *TC* *TC* did not reveal any additional information which might identify the person(s) responsible for detonating the claymore mine.

On 20 Jan 71, Criminal Investigator *TC* obtained a written statement from the confidential informant in which the informant related that GIBBS, in the presence of *TC* had told him that he (GIBBS) had killed DIAZ by blowing him away.

About 1430, 23 Jan 71, at the Steam Bath, Phu Bai Combat Base, RVN, GIBBS was placed under apprehension as a suspect in the murder of DIAZ.

TC was interviewed, and *TC* during the interview he denied killing DIAZ, *TC* t 1830, 23 Jan 71, GIBBS *TC*

EXHIBIT

K

~~CONFIDENTIAL~~
INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES

33 27

30

Also during this initial interview following his apprehension, GIBBS appeared to be very depressed, and had to constantly wipe the tears from his eyes as DIAZ's murder was discussed. Interviews were also held with GIBBS on 24 and 25 Jan 71, during which he maintained that he had no knowledge of DIAZ being killed. At 0900, 26 Jan 71, GIBBS was again interviewed. During this interview, GIBBS was shown a true copy of the written statement initiated by the informant. Shortly after reading the statement, and discussing its contents, GIBBS got up from his chair and said, "I have nothing else to say, you have it all there." As GIBBS was making this statement, he was pointing to the copy of the informant's statement, which was laying on the desk. At this time the interview was terminated.

mentioned in the written statement of is further identified as 47th Inf Plt (SCOUT DOG), During interviews with , he related that he vaguely remembers DIAZ mentioning that he had been threatened, on the night of 28 Nov 70, and that he could not recall any details of the conversation mentioned in written statement. Also, in state- ment, is incorrectly spelled The correct spelling is

A review of the files of the 47th Inf Plt (SCOUT DOG), revealed that and BAKER were separated from the US Army during Jan 71. listed home address is, listed home address is,

During the conduct of this investigation, unconfirmed information was received from members of the 47th Inf Plt (SCOUT DOG), that GIBBS, and Also it is the opinion of this investigator, and majority of the members of GIBBS' unit, that GIBBS would not confide in any person, except because they were close friends of GIBBS and he (GIBBS) appeared to have disassociated himself from other members of the unit. Because of the fact that shared a room with GIBBS and as present when GIBBS stated to the confidential informant that he killed DIAZ, it is apparent that both BAKER and could have knowledge of GIBBS' action on the night of 29 Nov 70, and the early morning of 30 Nov 70.

AFFIDAVIT

I, _____ HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE _____. 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:

(Signature of Person Making Statement)
Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, 19____
at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

Exhibit K

JWV

34 38 31

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base, RVN.	DATE 71-5-27	TIME	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME 7C	SOCIAL SECURITY ACCOUNT NO. 66	GRADE Crim Inves	
ORGANIZATION OR ADDRESS Hue-Phu Bai Field Office, Det E, 8th MP GP (CI), APO SF 96308			

SWORN STATEMENT

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

INVESTIGATOR'S STATEMENT

On 23 Feb 71, at Phu Bai Combat base, Republic of Vietnam, GIBBS was brought before an Article 32 Hearing in which the Special Court Martial Convening Authority dismissed the charges against him because of insufficient evidence. At the time of the hearing the Undeveloped Leads pertaining to 7C and 7C had not been received, and upon receiving the Information Reports back from 7C no additional information of evidentiary value was obtained.

////////////////////////////////////End of Stmt////////////////////////////////////

7C

EXHIBIT M	INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF _____ 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.		

42 45

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base, RVN.	DATE 18 Jul 71	TIME 1630	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME 7C	SOCIAL SECURITY ACCOUNT NO. 66		GRADE 1LT
ORGANIZATION OR ADDRESS 2nd Bde, Special Services, 101st Abn Div, APO 96383			

SWORN STATEMENT

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q. _____, in _____ written statement he mentions that there was an individual who was a heavy drinker and who had psychiatric problems in your unit at the 47th Inf Plt (Scout Dog), 101st Abn Div, APO 96383, that had threatened to kill SFC Rafael DIAZ one day prior to his death, is this true?

A. About this man who was a heavy drinker, his name is _____ and he acted in a way that he possibly needed psychiatric care, he was a heavy drinker, and when he drank alot perhaps he could have threatened DIAZ but I never heard that he actually threatened to kill DIAZ.

Q. Did you ever order _____ to go and see a psychiatrist, and did he ever go to a psychiatrist?

A. No, I did not, and he never went to a psychiatrist, as far as I know.

Q. Did _____ know _____ by name?

A. Yes, he did.

Q. Why then did he not mentioned _____ as the person who was the heavy drinker who had threatened DIAZ the day before he died?

A. I don't know, but _____ did know _____

Q. Where is _____ now?

A. _____ was admitted to a US Naval Hospital in New York sometime back in Jan 1971, for psychoanalysis I believe.

Q. Was he sent or medivaced there?

A. No, he was on a 14 day leave to CONUS when he submitted himself for observation, and then he was admitted to the hospital.

Q. How did _____ act while in the platoon?

A. He acted fairly normal until he started drinking, and thats when he would begin to get violent.

Q. How violent?

A. Well, he would destroy things, and one time he found a carton of eggs and he threw them all over the day room.

Q. Did _____ ever get into trouble with DIAZ?

A. Not real trouble, DIAZ was the one who told him to stop messing up the day room, and DIAZ only reprimanded him verbally.

Q. _____ did _____ get along with DIAZ?

A. Well when he wasn't drunk.

Q. How about when he was drunk?

A. Not very well, in fact he didn't get along with anyone very well when he was drunk.

Q. Did _____ have any reason why he would want to kill DIAZ?

A. Not that I know of, he had never received any punishment from me or from DIAZ.

Q. On the morning of DIAZ's death, was _____ an intoxicated condition?

EXHIBIT X P	INITIALS OF PERSON MAKING STATEMENT 7C	PAGE 1 OF 2 PAGES
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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.

WITNESS STATEMENT

For use of this form, see AR 195-10 - TB PMG 3; the proponent agency is Office of the Provost Marshal General.

PLACE Phu Bai Combat Base	DATE 71-12-7	TIME	FILE NUMBER 70-CID648-54222
LAST NAME, FIRST NAME, MIDDLE NAME 7c	SOCIAL SECURITY ACCOUNT NO. 66	GRADE Crim Inves	
ORGANIZATION OR ADDRESS Hue-Phu Bai Field Office, Det E, 8th MP Co (CI), APO SF 96308			

SWORN STATEMENT

I, 7c, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

INVESTIGATOR'S STATEMENT

The Investigative Summary portion of Information Report 71-CID052-06126, dated 5 Oct 71, submitted by Det E, 12th MP Co (CI), Military Ocean Terminal, Brooklyn, New York, 11250, Crim Inves 7c stated that on 28 Sep 71, MURRAY was interviewed at his home, 7c requested counsel and declined to execute a written statement or answer questions. Further, on 29 Sep 71, 7c Attorney-at-law, 118-21 Queens Blvd, Forest Hills, NY advised that he was acting as the legal counsel for MURRAY and that MURRAY would not make a statement of answer questions.

(7c statement, in which he provided information leading to 7c identification of 7c appears as (Exhibit E) in the Exhibits attached section of ROI 70-CID648-54222, completed 2 Jun 71. The original of 7c statement was forwarded with the Repository copy of RCI 70-CID648-54222.

//////////////////////////////////////END OF STATEMENT//////////////////////////////////////

EXHIBIT Q	INITIALS OF PERSON MAKING STATEMENT BAE	PAGE 1 OF 1 PAGES
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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.

AFFIDAVIT

I, TC HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. 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.

TC
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 7th day of Dec, 1971 at PH-2nd Combat CABO, RVN

WITNESSES:

TC
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

TC
(Administering Oath)

ORGANIZATION OR ADDRESS

ART 136 (b) (4), DCMS, 1969
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE OF PAGES

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