

(As of 11 Aug 71)

191. BYRNE ALLEGATION (VVAW-WSI)

ALLEGATION:

1. Attempted murder of an NVA officer.
2. Failure to render medical treatment.
3. Indiscriminate use of fire power.
4. Destruction of private property.

SUBJECT/SUSPECTS:

1. Mr. Byrne (see COMPLAINANT).
2. Unidentified members of the 101st Abn Div.
3. Unidentified Marines.
4. Unidentified ARVN personnel and other unidentified allied units.

COMPLAINANT: Mr. Kevin Byrne, former SGT, 42d Scout Dog Plt, 1st Bde, 101st Abn Div, Nov 68 - Nov 69.

BACKGROUND: Between 31 Jan and 2 Feb 71, at Detroit, MI, Mr. Byrne testified at the "Winter Soldier Investigation" (WSI) as a member of an organization identified as Vietnam Veterans Against the War (VVAW). Mr. Byrne alleged that sometime between May and Aug 69, in the area of Tam Ky, RVN, while on field operations with an unidentified unit of the 101st Abn Div, he and unidentified persons, after receiving sniper fire, burned a house in which an NVA officer was hidden. Upon finding the NVA officer under the debris and apparently wounded, an unidentified person fired a magazine of .45 cal. ammunition into the NVA officer. Mr. Byrne and unidentified persons then placed a fragmentation grenade underneath the still living, wounded NVA officer and left him for the night. No medical treatment was rendered. (According to Mr. Byrne's testimony, the NVA officer did apparently succeed in removing the grenade from underneath him, which exploded, and he remained in the area. There is no indication that he lived or died as a result of his wounds, and nothing else was mentioned of what became of him.) Mr. Byrne further related that as a matter of routine, he would request and receive recon by fire, based on suspicion that the area fired on by artillery contained enemy units. Also, as a matter of policy, all homes, villages, and livestock encountered in field operations were destroyed.

STATUS/PROGNOSIS: Investigation completed; insufficient evidence.

In an 8 Jul 71 CID interview, Mr. Byrne refused to answer any questions or provide any further information concerning his allegations for fear of "causing trouble for the peons instead of the generals."

WITNESSES: Not identified.

INITIATED BY WHOM: AGC; WSI material is contained in the Congressional Records of 6 and 7 Apr 71.

RESPONSE TO INITIATOR: AGC has been notified of review and evaluation.