Restricted

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
28 June 1949

UNITED STATES OF AMERICA

VS

HIROSHI ANJO, HIDEO FUJIOKA, TOMEKICHI HAMADA, OTOGORO ISHIDA, HIDEICHI KOBAYASHI, SHINPACHI KONISHI, MICHIO KUNITAKE, SADAYA MATSUDA, TAKAO MORI, SHIGEMI MORIMOTO, TSUGIO NAGATOMO, MASAMOTO NAKANO, KOJIRO OBA, TAKEKAZU OIKADA, SANJI OKIDO, BUICHI ONO, IKOMA SHIUCHI, RYUZABURO SUGIURA, IZOU TAKAHASHI, HIROAKI TAKAYAMA, CHIKARA TAKEDA, RYOICHI TATENO, KAZUYOSHI TSUNO, EITARO UCHIYAMA, YASUO WADA, YOSHIO YAMAMURA, NORIO YAMANAKA.

Review of the Staff Judge Advocate

1. The attached record of the joint and common trial of the case of Hiroshi Anjo, Hideo Fujioka, Tomekichi Hamada, Otogoro Ishida, Hideichi Kobayashi, Shinpachi Konishi, Michio Kunitake, Sadaya Matsuda, Takao Mori, Shigemi Morimoto, Tsugio Nagatomo, Masamoto Nakano, Kojiro Oba, Takekazu Oikada, Sanji Okido, Buichi Ono, Ikoma Shiuchi, Ryuzaburo Sugiura, Izou Takahashi, Hiroaki Takayama, Chikara Takeda, Ryoichi Tateno, Kazuyoshi Tsuno, Eitaro Uchiyama, Yasuo Wada, Yoshio Yamamura, Norio Yamanaka, tried at Yokohama, Japan, from 2 August 1948 to 3 January 1949, by a Military Commission appointed by paragraph 2, Special Orders No. 171, Headquarters Eighth Army, United States Army, dated 29 July 1948, as amended by paragraph 2, Special Orders No. 244, same headquarters, dated 27 October 1948, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Hiroshi Anjo
AGE: 45
RESIDENCE: Kenbutsu, Nishizaki-Mura, Awa-Gun, Chiba Pref.
MARITAL STATUS: Married
RELATIVES: Wife, child.
EDUCATION: Military Academy
VOCATION: Soldier
MILITARY CAREER: Appointed 2nd Lt in 1926; M. P. officer from 1932 to 1945; highest rank - M. P. Lt. Col.

DATE OF CONFINEMENT: 21 January 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for four (4) years
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Hideo Fujioka
AGE: 44
RESIDENCE: #1525, Yotsukaido, Chiyoda-Machi, Inba-Gun, Chiba Pref.
MARITAL STATUS: Married
RELATIVES: Wife, mother, 3 brothers, sister.
EDUCATION: Middle school, military schools
VOCATION: Soldier
MILITARY CAREER: Appointed 2nd Lt in 1925; M. P. officer from 1938 to 1945; highest rank - Lt. Col.

DATE OF CONFINEMENT: 30 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for life.
CLEMENCY RECOMMENDED BY COMMISSION: No

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NAME: Tomekichi Hamada
AGE: 31
RESIDENCE: #48, Kusutani-Cho, Hyogo-Ku, Kobe-Shi.
MARITAL STATUS: Married
RELATIVES: Mother, 4 brothers, wife, child.
EDUCATION: 8 yrs grammar school
VOCATION: Sales clerk
MILITARY CAREER: From Jan 1939 to Oct 1945.

DATE OF CONFINEMENT: 12 September 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for two (2) years
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Otogoro Ishida
AGE: 56
RESIDENCE: #1473, Tandoku, Ushida-Machi, Hiroshima-Shi, Hiroshima Pref.
MARITAL STATUS: Married
RELATIVES: Wife, stepmother, daughter, 2 sons.
EDUCATION: Graduated Military Academy, Law Faculty of Imperial University.
VOCATION: Soldier
MILITARY CAREER: Appointed 2nd Lt in 1913; M.P. officer from 1922 to 1945; highest rank - Lt General.

DATE OF CONFINEMENT: 12 December 1945
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for one (1) year
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Hideichi Kobayashi
AGE: 37
RESIDENCE: #804, Kane-Mura, Aza Kane, Ito-Gun, Wakayama Pref.
MARITAL STATUS: Married
RELATIVES: Mother, sister, 4 children
EDUCATION: Seven yrs of primary school
VOCATION: Farmer
MILITARY CAREER: From 1934 to Oct 1945; highest rank - M. P. Warrant Officer.

DATE OF CONFINEMENT: 17 July 1948
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Shinpachi Konishi
AGE: 27
RESIDENCE: #1310, Shirakawa, Kamikita-gawa-Mura, Yoshino-Gun, Nara Pref..
MARITAL STATUS: Single
RELATIVES: Father, 2 sisters, brother
EDUCATION: 8 yrs of primary school
VOCATION: None
MILITARY CAREER: From April 1943 to Dec 1944; highest rank - lance corporal

DATE OF CONFINEMENT: 16 September 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Michio Kunitake
AGE: 55
RESIDENCE: Kamiyobe, Yobe-Ku, Himeji-City
MARITAL STATUS: Married
RELATIVES: 3 brothers, 2 sisters
EDUCATION: Graduated from Military Academy and Staff College
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt Nov 1927; became Lt General Oct 1944.

DATE OF CONFINEMENT: 29 June 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for life.
CLEMENCY RECOMMENDED BY COMMISSION: No

Returned

NAME: Sadaya Matsuda
AGE: 30
RESIDENCE: 1427 Banchi, Sakihama-Cho, Aki-Gun, Kochi Pref.
MARITAL STATUS: Married
RELATIVES: Father, mother, grandmother, wife, child
EDUCATION: 8 years grammar school
VOCATION: Ship crew member
MILITARY CAREER: From 1940 to August 1945.

DATE OF CONFINEMENT; 20 July 1948
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Takao Mori
AGE: 34
RESIDENCE: 31 Banchi, 1 Chome, Hannan-Cho, Abeno-Ku, Osaka-Shi.
MARITAL STATUS: Married
RELATIVES: Wife, father, mother
EDUCATION: Vocational college - 3 yrs
VOCATION: Clerk
MILITARY CAREER: From Jan 1937 to 1939 with cavalry unit; thereafter with Kempei Tai for 6½ yrs.

DATE OF CONFINEMENT: 24 April 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for two (2) years
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Shigemi Morimoto
AGE: 32
RESIDENCE: #252, Shimozasa, Kashima-Mura, Ibo-Gun, Hyogo Pref.
MARITAL STATUS: Married
RELATIVES: Wife, 2 daughters, father, mother, brother
EDUCATION: Graduated Kansai Gakuen Commercial School
VOCATION: Insurance clerk
MILITARY CAREER: Entered Army 1939; with Kempei Tai from 1940 to 1945.

DATE OF CONFINEMENT: 29 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Tsugio Nagatomo
AGE: 55
RESIDENCE: #1783, Yagoe-Machi, Tatebaya-shi-Machi, Oora Gun, Gunma Pref.
MARITAL STATUS: Married
RELATIVES: Wife, brother
EDUCATION: Graduate of Military Academy, Tokyo Foreign Language School and Tokyo Imperial University (Law).
VOCATION: Soldier
MILITARY CAREER: Appointed 2nd lt in 1914; highest rank - Major General

DATE OF CONFINEMENT: 17 December 1945
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for life.
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Masamoto Nakano
AGE: 31
RESIDENCE: Tomiyama-Mura, Judo-Gun, Okayama Pref.
MARITAL STATUS: Married
RELATIVES: Wife, father, mother, 4 brothers, 2 sisters.
EDUCATION: Tokyo School of Foreign Languages
VOCATION: Shop Manager
MILITARY CAREER: Civilian interpreter with Japanese Army.

DATE OF CONFINEMENT: 4 June 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for two (2) years.
CLEMENCY RECOMMENDED BY COMMISSION: No

Retracted

NAME: Kojiro Oba
AGE: 46
RESIDENCE: #19, Hayato-Cho, Showa-Ku, Nagoya City.
MARITAL STATUS: Married
RELATIVES: Mother, 4 brothers, 3 sisters
EDUCATION: Graduate of Military Academy and Staff College
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt in 1924; highest rank - Colonel.

DATE OF CONFINEMENT: 8 March 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for ten (10) years
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Takekazu Oikada
AGE: 29
RESIDENCE: 1017 Banchi, Aza Kohri, Neyagawa-Machi, Kitakawauchi-Gun, Osaka Pref.
MARITAL STATUS: Single
RELATIVES: Father, mother, brother, 2 sisters
EDUCATION: Business middle school 5 years
VOCATION: None
MILITARY CAREER: Entered Army April 1941 and served till end of war.

DATE OF CONFINEMENT: 20 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Sanji Okido
AGE: 58
RESIDENCE: #5, Kamihate-Cho, Kita Shirakawa, Sakyo-Ku, Kyoto
MARITAL STATUS: Married
RELATIVES: Wife, 3 children, 2 brothers, sister
EDUCATION: 7 years Military Schools
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt in 1913; M. P. Commander from 1944 to end of war; highest rank - Lt General

DATE OF CONFINEMENT: 25 September 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for life.
CLEMENCRY RECOMMENDED BY COMMISSION: No

NAME: Buichi Ono
AGE: 43
RESIDENCE: #201, Ueno, Toyonaka City, Osaka Pref.
MARITAL STATUS: Married
RELATIVES: Wife, 2 sons, daughter
EDUCATION: Graduated Kansai University
VOCATION: Lawyer
MILITARY CAREER: Entered Army Dec 1940; discharged Oct 1945; highest rank - Captain.

DATE OF CONFINEMENT: 29 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Ikoma Shiuchi
AGE: 43
RESIDENCE: Hishi, Masutomi-Mura, Kitakoma-Gun, Yamanashi Pref.
MARITAL STATUS: Married
RELATIVES: Brother, 2 sisters, wife
EDUCATION: Middle school - 2 years
VOCATION: Coal Miner
MILITARY CAREER: Highest rank - 2nd Lt

DATE OF CONFINEMENT: 16 June 1948
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for life.
CLEMENCY RECOMMENDED BY COMMISSION: No

Retracted

NAME: Ryuzaburo Sugiura
AGE: 32
RESIDENCE: Shimo Yamamori, Mube-Mura, Ashina-Gun, Hiroshima Pref.
MARITAL STATUS: Married
RELATIVES: Wife, son, daughter, father, mother, brother, 2 sisters
EDUCATION: Middle school
VOCATION: Farmer
MILITARY CAREER: Entered Army in 1937; served with Osaka Kempei Tai from 1938 to 1945; highest rank - Warrant Officer

DATE OF CONFINEMENT: 24 April 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Izou Takahashi
AGE: 30
RESIDENCE: #120, Uchida Kasuga-Cho, Ashiya-Shi, Hyogo Pref.
MARITAL STATUS: Married
RELATIVES: Wife, child, mother, father
EDUCATION: Graduated from Gifu Commercial School
VOCATION: Railway employee
MILITARY CAREER: Conscripted in 1940.

DATE OF CONFINEMENT: 29 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Hiroaki Takayama
AGE: 38
RESIDENCE: 801-2, Kitatanabe, Higashi-sumiyoshi-Ku, Osaka-Shi.
MARITAL STATUS: Married
RELATIVES: Wife, 2 children, mother, brother, 2 sisters
EDUCATION: Business college - 2 years
VOCATION: Contact Man
MILITARY CAREER: Conscripted Oct 1938 and served till end of war.

DATE OF CONFINEMENT: 20 July 1948
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Chikara Takeda
AGE: 32
RESIDENCE: Sasaoka, Oonoson, Aida-Gun, Okayama Pref.
MARITAL STATUS: Married
RELATIVES: Wife, child, father
EDUCATION: 8 yrs primary school
VOCATION: Farmer
MILITARY CAREER: Conscripted in 1938; demobilized in 1945 as Sgt Major

DATE OF CONFINEMENT: 8 April 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Ryoichi Tateno
AGE: 32
RESIDENCE: #35 Kobana, Kawanishi-Machi, Kawabe-Gun, Hyogo Pref.
MARITAL STATUS: Married
RELATIVES: Wife, 2 children, grandmother, brother
EDUCATION: 3 years grammar school
VOCATION: Government worker
MILITARY CAREER: Entered Army 1938; discharged March 1946.

DATE OF CONFINEMENT: 3 February 1948
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

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NAME: Kazuyoshi Tsuno
AGE: 30
RESIDENCE: B-157 Banchi, Shimakawa, Yusuhara-Mura, Takaoka-Gun, Kochi Pref.
MARITAL STATUS: Married
RELATIVES: Wife, child, father, mother, sister
EDUCATION: 8 years grammar school
VOCATION: Farmer
MILITARY CAREER: Entered Army in 1940; discharged in 1945.

DATE OF CONFINEMENT: 11 April 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF ACQUITTAL: 3 January 1949

NAME: Eitaro Uchiyama
AGE: 61
RESIDENCE: #55, Zaimoku-Cho, Azabu, Minato-Ku, Tokyo.
MARITAL STATUS: Widower
RELATIVES: 2 brothers
EDUCATION: Graduated Military Academy and Staff College.
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt in 1909; highest rank - Lt General

DATE OF CONFINEMENT: 29 January 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for forty (40) years
CLEMENCRY RECOMMENDED BY COMMISSION: No

NAME: Yasuo Wada
AGE: 34
RESIDENCE: #107, Tokiwa-Cho, Takatenki-Shi, Osaka Pref.
MARITAL STATUS: Married
RELATIVES: Wife, sister
EDUCATION: Graduated Wakayama Commercial School
VOCATION: Company employee
MILITARY CAREER: Conscripted in 1934; demobilized after termination of war; highest rank - Warrant Officer

DATE OF CONFINEMENT: 29 April 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for five (5) years
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Yoshio Yamamura
AGE: 52
RESIDENCE: #1627, Shinako Motoda, Chitose-Mura, Awa-Gun, Chiba Pref.
MARITAL STATUS: Married
RELATIVES: Wife, 5 sons
EDUCATION: Graduated Military Academy
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt in 1919; M. P. officer from 1930 to 1941; Chief of Foreign Affairs Section 1944; highest rank - M. P. Colonel.

DATE OF CONFINEMENT: 23 September 1947
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for one (1) year
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Norio Yamanaka
AGE: 35
RESIDENCE: Tomiyoshi, Heyamura, Shimo-Tsuga-Gun, Tochigi Pref.
MARITAL STATUS: Married
RELATIVES: Wife, daughter, father, mother, 3 brothers, sister.
EDUCATION: Graduated Military Academy and Staff College
VOCATION: Soldier
MILITARY CAREER: Commissioned 2nd Lt in 1935; highest rank - Major.

DATE OF CONFINEMENT: 30 March 1946
DATE OF ARRAIGNMENT: 2 August 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 2 August 1948 to 3 January 1949
DATE OF SENTENCE: 3 January 1949
SENTENCE: CHL for eight (8) years
CLEMENCY RECOMMENDED BY COMMISSION: No

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2. Synopsis of Charges, Pleas, Findings and Legal Sufficiency:

Charges and Specifications:	Pleas	Findings	Legally Sustained
ANJO			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 5 June 1945, and 16 August 1945, accused, did willfully and unlawfully mistreat, abuse, and cause intense mental and physical suffering and impairment of health to approximately forty American Prisoners of War by:			
a. Denying them the status of Prisoners of War;	NG	NG On motion (R 1151)	
b. Neglecting and refusing to provide them with adequate and proper quarters;	NG	G	Yes
c. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	G	Yes
d. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	G	Yes
e. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	G	Yes
f. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them.	NG	G except the words "and torturing", inserting the word "and" before "beating"; of the excepted words NG, of the inserted word G.	Yes
Sp 2: That on or about 30 July 1945, accused, did willfully and unlawfully neglect and refuse to provide Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG	

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Sp 3: That on or about 30 July 1945, accused, did willfully and unlawfully neglect and refuse to provide Ensign Norman B. Bitzegaio, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG
Sp 4: That between 5 June 1945 and 16 August 1945, accused, did willfully and unlawfully cause the deaths of five unidentified American Prisoners of War by:	NG	NG
a. Neglecting and refusing to provide them with adequate and proper quarters;	NG	NG
b. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	NG
c. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	NG
d. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	NG
e. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them.	NG	NG
Sp 5: That between 5 June 1945 and 16 August 1945, accused, did willfully and unlawfully advise, authorize, incite, and permit his subordinates to kill approximately forty five American Prisoners of War, and did fail and neglect to take any measures to restrain and prevent his subordinates from killing them, in consequence of which the said Prisoners of War were killed at various times and places as follows:	NG	NG
a. Between 5 June 1945 and 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG

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b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	NG
c. On or about 20 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five (5) other unidentified American Prisoners of War by shooting them;	NG	NG
d. On or about 31 July 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them;	NG	NG
e. On or about 3 August 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	NG
f. On or about 5 August 1945 at the Jonan Rifle Range, adjacent to the Fifteenth Area Imperial Japanese Army Headquarters, at Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	NG

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g. On or about 15 August 1945, at the Sanadayama Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	NG	
FUJIOKA			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 5 June 1945 and 16 August 1945, accused, did willfully and unlawfully mistreat, abuse, and cause approximately forty American Prisoners of War intense mental and physical suffering and impairment of health by:			
a. Ordering his subordinates to withhold medicines, medical attention and hospitalization required by the said Prisoners of War;	NG	G	Yes
b. Ordering and permitting his subordinates to beat and torture them; and,	NG	NG	
c. Neglecting and refusing to prevent his subordinates from mistreating, beating and torturing them.	NG	G except the words "and torturing", inserting the word "and" before beating; of the excepted words NG, of the inserted word "and" G.	Yes
Sp 2: That on or about 30 July 1945, accused, did willfully and unlawfully withhold from and did neglect and refuse to provide to Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG	

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Sp 3: That on or about 30 July 1945, accused, did willfully and unlawfully withhold from and did neglect and refuse to provide to Ensign Norman B. Betzegaio, a wounded American Prisoner of War, adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG	
Sp 4: That between 5 June 1945 and 16 August 1945, accused, did willfully and unlawfully contribute to the deaths of five unidentified American Prisoners of War by:	NG	NG	
a. Ordering his subordinates to withhold from and neglecting and refusing to provide to the said Prisoners of War medicines, medical attention, and hospitalization required by them;	NG	NG	
b. Ordering and permitting his subordinates to beat and torture them; and,	NG	NG	
c. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them.	NG	NG	
Sp 5: That between 5 June 1945 and about 30 June 1945, accused, did willfully and unlawfully cause the death of an unidentified American Prisoner of War by ordering and permitting his subordinates to poison him.	NG	G	Yes
Sp 6: That on or about 5 July 1945, accused, did willfully and unlawfully cause the deaths of five unidentified American Prisoners of War by:	NG	G	Yes
a. Shooting one (1) of them; and,	NG	G	Yes
b. Ordering and permitting his subordinates to shoot four (4) of them.	NG	G	Yes
Sp 7: That on or about 20 July 1945, accused, did willfully and unlawfully cause the deaths of Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff	NG	G	Yes

Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five other unidentified American Prisoners of War by:			
a. Shooting one (1) of them; and	NG	G	Yes
b. Ordering and permitting his subordinates to shoot fourteen (14) of them.	NG	G	Yes
Sp 8: That on or about 31 July 1945, accused, did willfully and unlawfully cause the deaths of Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by ordering and permitting his subordinates to poison them.	NG	G	Yes
Sp 9: That on or about 3 August 1945, accused, did willfully and unlawfully cause the deaths of three unidentified American Prisoners of War by ordering, directing, and permitting his subordinates to poison them.	NG	G	Yes
Sp 10: That on or about 5 August 1945, accused, did willfully and unlawfully cause the deaths of First Lieutenant Louis W. Lohnen, Staff Sergeant Robert L. Pellicot, and twelve unidentified American Prisoners of War by:	NG	G	Yes
a. Shooting two (2) of them; and,	NG	G	Yes
b. Ordering and permitting his subordinates to shoot twelve (12) of them.	NG	G	Yes
Sp 11: That on or about 15 August 1945, accused, did willfully and unlawfully cause the deaths of First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other, unidentified American Prisoner of War by ordering and permitting his subordinates to shoot three (3) of them and to behead two (2) of them.	NG	G except the words "shoot three and figure (3) of them and behead two (2) of", substituting therefor the word "kill"; of the excepted words NG. and of the substituted word G.	Yes

HAMADA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp: That on or about 15 August 1945, accused, did willfully and unlawfully kill two (2) unidentified American Prisoners of War by decapitating them.	NG	G except the words "willfully and unlawfully kill", substituting therefor the words "participate in the unlawful killing of"; of the excepted words NG; of the substituted words G.	Yes

ISHIDA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That between 5 June 1945, and 16 August 1945, accused, did willfully and unlawfully advise, authorize, incite, order, and permit his subordinates to kill Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Second Lieutenant James R. Price, Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, First Lieutenant Louis W. Lohnen, Staff Sergeant Robert L. Pellicot, First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, First Lieutenant Donald J. Schiltz, Staff Sergeant Russell W. Strong, and twenty-eight other unidentified American Prisoners of War, and did neglect and fail to take any measures to restrain and prevent his subordinates from killing the said Prisoners of War, in consequence of which the said Prisoners of War were killed at divers times and places as follows:	NG	NG	
a. Between 5 June 1945, and about 30 June 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters	NG	NG On motion (R 1151)	

Restricted

killed an unidentified American Prisoner of War by poisoning him;

b. That on or about 5 July 1945, at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them; NG NG

c. That on or about 20 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five (5) other unidentified American Prisoners of War by shooting them; NG NG

d. On or about 30 July 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them; NG NG

e. On or about 3 August 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them; NG NG

f. That on or about 5 August 1945, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pollicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and, NG NG

Reversed

g. That on or about 15 August 1945, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	NG	
KOBAYASHI			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That on or about 20 July, 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	
KONISHI			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That on or about 20 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	
KUNITAKE			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 27 April 1945 and 16 August 1945, accused, did, through his own acts and the acts of his subordinates willfully and unlawfully mistreat, abuse, and cause intense mental and physical suffering and impairment of health to fifty-three American Prisoners of War, by:	NG	G	Yes
a. Denying them the status of Prisoners of War;	NG	G	Yes

Reversed

b. Neglecting and refusing to provide them with adequate and proper quarters;	NG	G	Yes
c. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	G	Yes
d. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	G	Yes
e. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	G	Yes
f. Neglecting and refusing to protect them from mistreatment, beating, and torture by military personnel and personnel of the Central District Military Police.	NG	G except the words "and torture" and of the excepted words NG.	Yes
Sp 2: That on or about 30 July 1945, accused, did, through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said American Prisoner of War died on or about 30 July 1945.	NG	NG	
Sp 3: That on or about 30 July 1945, accused, did, through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide Ensign Norman B. Bitzegaio, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said American Prisoner of War died on or about 30 July 1945.	NG	NG	
Sp 4: That between 27 April 1945 and 16 August 1945, accused, did, through his own acts and the acts of his subordinates, willfully and unlawfully cause the deaths of five unidentified American Prisoners of War, then detained in the Central District Military Police detention house and one unidentified American Prisoner of War then detained in the guardhouse of the Twenty Second Infantry Regiment, by:	NG	NG	

a. Neglecting and refusing to provide them with adequate and proper quarters;	NG	NG	
b. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	NG	
c. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	NG	
d. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	NG	
e. Neglecting and refusing to protect them from mistreatment, beating, and torture by military personnel and personnel of the Central District Military Police.	NG	NG	
Sp 5: That between 27 April 1945 and 16 August 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully advise, authorize, incite, order, and permit his subordinates, the Commander of the Central District Military Police and the subordinates of the said Military Police Commander, to kill approximately fifty seven American Prisoners of War, and did fail and neglect to take any measures to prevent the killing of the said Prisoners of War, in consequence of which approximately forty five American Prisoners of War were killed at divers times and places as follows:	NG	G	Yes
a. Between 5 June 1945 and 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	G	Yes
b. On or about 5 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	G	Yes

c. On or about 20 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle F. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five (5) other unidentified American Prisoners of War by shooting them;	NG	G	Yes
d. On or about 31 July 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them;	NG	G	Yes
e. On or about 3 August 1945, personnel of the Central District Military Police Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	G	Yes
f. On or about 5 August 1945, at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	G	Yes
g. On or about 15 August personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G	Yes

Restricted

MATSUDA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp 1: That on or about 20 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	
Sp 2: That on or about 5 August 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	

MORI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 6 June 1945, and about 30 June 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by poisoning him.	NG	G except the words "willfully and unlawfully kill", substituting therefor the words "participate in the unlawful killing of"; of the excepted words NG; of the substituted words G.	Yes
Sp 2: That on or about 20 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	
Sp 3: That on or about 5 August 1945, accused, did willfully and unlawfully kill two (2) unidentified American Prisoners of War by shooting them.	NG	NG	

MORIMOTO

Charge: Accused, at the times and places set forth in the specifications hereto attached did violate the Laws and Customs of War.	NG	NG	
Sp 1: That on or about 5 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	

Restricted

Retained

Sp 2: That on or about 20 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	
Sp 3: That on or about 3 August 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by poisoning him.	NG	NG	
NAGATOMO			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 5 June 1945 and 16 August 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully mistreat, abuse, and cause approximately forty American Prisoners of War intense mental and physical suffering and impairment of health by:			
a. Neglecting and refusing to provide them with adequate and proper quarters;	NG	G	Yes
b. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	G	Yes
c. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	G	Yes
d. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	G	Yes
e. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them.	NG	G except the words "and torturing", inserting the word "and" before beating; of the excepted words NG, of the inserted word G.	Yes
Sp 2: That on or about 30 July 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide	NG	NG	

Retained

Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, with adequate medicines and medical attention in consequence of which the said Prisoner of War died on or about 30 July 1945.

Sp 3: That on or about 30 July 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide Ensign Norman B. Bitzegaio, a wounded American Prisoner of War, with adequate medicines and medical attention in consequence of which the said Prisoner of War died on or about 30 July 1945. NG NG

Sp 4: That between 5 June 1945 and 16 August 1945, accused, having the physical custody of approximately forty American Prisoners of War, did through his own acts and the acts of his subordinates willfully and unlawfully cause the deaths of five unidentified American Prisoners of War by: NG NG

a. Neglecting and refusing to provide them with adequate and proper quarters; NG NG

b. Neglecting and refusing to provide them with adequate and proper food and drinking water; NG NG

c. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities; NG NG

d. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; NG NG

e. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them. NG NG

Sp 5: That between 5 June 1945 and 16 August 1945, accused, having physical custody of approximately forty American Prisoners of War, did through his own acts and the acts of his subordinates, willfully and unlawfully authorize, incite, order, and permit his subordinates to kill all captured American airmen hold by the Fifteenth Area Imperial Japanese Army and the Central District Military Police, and did fail and neglect to take NG G

Revised

any measures to prevent his subordinates from killing the said Prisoners of War, in consequence of which approximately forty five American Prisoners of War were killed at divers times and places as follows:

a. Between 5 June 1945 and 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	G	Yes
b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	G	Yes
c. On or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five (5) other unidentified American Prisoners of War by shooting them;	NG	G	Yes
d. On or about 31 July 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War by poisoning them;	NG	G	Yes
e. On or about 3 August 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	G	Yes

f./ On or about 5 August 1945 at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	G	Yes
g. On or about 15 August 1945 at the Sanadayama Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police killed four (4) named and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G	Yes
NAKANO			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp: That on numerous occasions between 1 March 1945 and 16 August 1945, accused, did willfully and unlawfully mistreat and abuse numerous unidentified American and Allied Prisoners of War, by beating and torturing them.	NG	G except the words "and Allied" and "and torturing"; of the excepted words NG.	Yes
OBA			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp: That between 27 April 1945, and 16 August 1945, accused, then and there being the Senior Officer of the Headquarters Staff of the Fifteenth Area Imperial Japanese Army, which organization had custody of and jurisdiction over approximately fifty-seven (57) American Prisoners of War, did through his own acts and the acts of his subordinates, willfully and unlawfully advise, incite, authorize, permit, and aid the personnel of the Central District Military Police to kill the said Prisoners of War, and did fail and neglect to take any measures to prevent the killing of the said Prisoners of War, in consequence of which approximately forty-five (45) of the said Prisoners of War were killed at divers times and places as follows:	NG	G except the words "authorize, permit, forty-five and figure (45)", substituting therefor the word "thirty-nine and the figure (39)"; of the excepted words NG, of the substituted word and figure G.	Yes

Restricted

a. Between 5 June 1945, and 30 June 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG On motion (R 1151)	
b. On or about 5 July 1945, at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) American Prisoners of War by shooting them;	NG	G As qualified above	Yes
c. On or about 20 July 1945, personnel of the Central District Military Police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Erle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five (5) other unidentified American Prisoners of War by shooting them;	NG	G As qualified above	Yes
d. On or about 30 July 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them;	NG	NG On motion (R 1151)	
e. On or about 3 August 1945, at the Central Military Police District Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	NG On motion (R 1151)	
f. On or about 5 August 1945, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	G As qualified above	Yes

g. On or about 15 August 1945, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, Second Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G As qualified above	Yes
OKIDO			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp: That between 5 June 1945 and 16 August 1945, accused, did willfully and unlawfully advise, authorize, incite, order and permit his subordinates to kill seventeen (17) named and twenty-eight (28) other unidentified American Prisoners of War, and did neglect and fail to take any measures to restrain and prevent his subordinates from killing the said Prisoners of War, in consequence of which the said Prisoners of War were killed at divers times and places as follows:	NG	G except the words "authorize", "order", "twenty-eight" and figure "(28)", substituting therefor the word "twenty-seven and figure (27)", of the excepted words and figure NG, and of the substituted word and figure G.	Yes
a. Between 5 June 1945 and about 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG On motion. (R 1151)	
b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	G As qualified above	Yes
c. On or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed ten named and	NG	G As qualified above	Yes

Restricted

five (5) other unidentified American Prisoners of War by shooting them;			
d. On or about 31 July 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them;	NG	G As qualified above	Yes
e. On or about 3 August 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	G As qualified above	Yes
f. On or about 5 August 1945 at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and	NG	G As qualified above	Yes
g. On or about 15 August 1945, at the Sanadayama Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G As qualified above	Yes
<u>OIKADA</u>			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That on or about 20 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	

Redacted

ONO

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG
Sp: That between about 1 June 1945 and about 30 June 1945, accused, did willfully and unlawfully advise, counsel, and incite the Chief of Staff of the Imperial Japanese Fifteenth Area Army and the Commander of the Central District Military Police to kill all American airmen captured and detained by said Army and Military Police Organizations without a legal trial, in consequence of which approximately forty five (45) American Prisoners of War were killed at divers times and places as follows:	NG	NG
a. Between about 1 June 1945 and about 30 June 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG
b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	NG
c. On or about 20 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed ten (10) named and five (5) other unidentified American Prisoners of War by shooting them;	NG	NG
d. On or about 31 July 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War by poisoning them;	NG	NG

Retained

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e. On or about 3 August 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	NG	
f. On or about 5 August 1945 at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pollicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	NG	
g. On or about 15 August 1945 at the Sanadayma Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) and beheading two (2) of them.	NG	NG	
SHIUCHI			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 5 June 1945 and 16 August 1945, accused, then and there being the Chief of the Foreign Affairs Division of the Police Affairs Section of the Central District Military Police, which organization had physical custody of approximately forty (40) American Prisoners of War, did willfully and unlawfully mistreat, abuse, and cause them intense mental and physical suffering and impairment of health by:			
a. Ordering his subordinates to withhold medicines, medical attention and hospitalization required by the said Prisoners of War;	NG	G	Yes

Restricted

Restricted

b. Ordering and permitting his subordinates to beat and torture them; and,	NG	NG	
c. Neglecting and refusing to prevent his subordinates from mistreating, beating and torturing them.	NG	G except the words "and torturing" inserting the word "and" before beating; of the excepted words NG, of the inserted word "and" G.	Yes
Sp 2: That on or about 30 July 1945, accused, did willfully and unlawfully withhold from and did neglect and refuse to provide to Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG	
Sp 3: That on or about 30 July 1945, accused, did willfully and unlawfully withhold from and did neglect and refuse to provide to Ensign Norman B. Betzegaio, a wounded American Prisoner of War, adequate medicines and medical attention, in consequence of which the said Prisoner of War died on or about 30 July 1945.	NG	NG	
Sp 4: That between 5 June 1945 and 16 August 1945, accused, then and there being the Chief of the Foreign Affairs Division of the Police Affairs Section of the Central District Military Police Headquarters, which organization had physical custody of approximately forty (40) American Prisoners of War, did willfully and unlawfully contribute to the deaths of five (5) unidentified American Prisoners of War by:	NG	NG	
a. Ordering his subordinates to withhold from and neglecting and refusing to provide to the said Prisoners of War medicines, medical attention, and hospitalization required by them;	NG	NG	
b. Ordering and permitting his subordinates to beat and torture them; and,	NG	NG	
c. Neglecting and refusing to prevent his subordinates from mistreating, beating, and torturing them.	NG	NG	

Sp 5: That between 5 June 1945 and about 30 June 1945, accused, did willfully and unlawfully cause the death of an unidentified American Prisoner of War by ordering and permitting his subordinates to poison him.	NG	G except the words "willfully and" and "ordering and" and of the excepted words NG.	Yes
Sp 6: That on or about 5 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	G	Yes
Sp 7: That on or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	G	Yes
Sp 8: That on or about 31 July 1945, accused, did willfully and unlawfully cause the deaths of Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by ordering and permitting his subordinates to poison them.	NG	G	Yes
Sp 9: That on or about 3 August 1945, accused, did willfully and unlawfully cause the deaths of three (3) unidentified American Prisoners of War by ordering, directing, and permitting his subordinates to poison them.	NG	G	Yes
Sp 10: That on or about 5 August 1945 at the Jonan Rifle Range, accused, did willfully and unlawfully kill two unidentified American Prisoners of War by shooting them.	NG	G	Yes
Sp 11: That on or about 15 August 1945, accused, did willfully and unlawfully cause the deaths of First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by ordering and permitting his subordinates to shoot three (3) of them and to behead two (2) of them.	NG	G; except the words "shoot three and figure (3) of them and to behead two and figure (2) of" substituting therefor the word "kill"; of the excepted words NG; of the substituted word G.	Yes
SUGIURA			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	

Sp 1: That on or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 2: That on or about 15 August 1945 at the Sanadayama Military Cemetery, Osaka, Honshu, Japan, accused, did willfully and unlawfully cause the deaths of five (5) unidentified American Prisoners of War by ordering, permitting, and directing his military subordinates to decapitate two (2) of them and shoot three (3) of them.	NG	NG
TAKAHASHI		
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG
Sp 1: That on or about 3 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 2: That on or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 3: That on or about 5 August 1945 at Osaka, Honshu, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by poisoning him.	NG	NG
TAKAYAMA		
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG
Sp: That on or about 15 August 1945, at Osaka, Honshu, Japan, accused, did willfully and unlawfully order and permit his subordinate, Tomekichi Hamada, to participate in the execution of the American Prisoners of War	NG	NG

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remaining in the detention cells of the Central District Military Police Headquarters, in consequence of which order the said Tomekichi Hamada did kill two unidentified American Prisoners of War by decapitating them.

TAKEDA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG
Sp 1: That on or about 5 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 2: That on or about 20 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 3: That on or about 5 August 1945, at the Jonan Rifle Range, accused, did willfully and unlawfully kill two (2) unidentified American Prisoners of War by shooting them.	NG	NG
Sp 4: That on or about 15 August 1945, at the Sanadayama Military Cemetery, near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG

TATENO

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG
Sp 1: That on or about 20 July 1945, at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG
Sp 2: That on or about 5 August 1945, at the Jonan Rifle Range,	NG	NG

accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.

TSUNO

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That on or about 20 July 1945 at the Shinodayama Manoeuver Grounds near Osaka, Honshu, Japan, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	NG	

UCHIYAMA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 27 April 1945 and 16 August 1945, accused, did through his own acts and the acts of his subordinates willfully and unlawfully mistreat, abuse, and cause intense mental and physical suffering and impairment of health to fifty-three (53) American Prisoners of War, by:			
a. Denying them the status of Prisoners of War;	NG	G	Yes
b. Neglecting and refusing to provide them with adequate and proper quarters;	NG	G	Yes
c. Neglecting and refusing to provide them with adequate and proper food and drinking water;	NG	G	Yes
d. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities;	NG	G	Yes
e. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and,	NG	G	Yes
f. Neglecting and refusing to protect them from mistreatment, beating, and torture by military personnel and personnel of the Central District Military Police.	NG	G except the words "and Torture"; and of the excepted words NG.	Yes

Sp 2: That on or about 30 July 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide Second Lieutenant Harry W. Norton, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said American Prisoner of War died on or about 30 July 1945. NG NG

Sp 3: That on or about 30 July 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully neglect and refuse to provide Ensign Norman B Bitzegaio, a wounded American Prisoner of War, with adequate medicines and medical attention, in consequence of which the said American Prisoner of War died on or about 30 July 1945. NG NG

Sp 4: That between 27 April 1945, and 16 August 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully cause the deaths of five (5) unidentified American Prisoners of War, then detained in the Central District Military Police detention house and one (1) unidentified American Prisoner of War then detained in the guardhouse of the Twenty Second Infantry Regiment, by: NG NG

a. Neglecting and refusing to provide them with adequate and proper quarters; NG NG

b. Neglecting and refusing to provide them with adequate and proper food and drinking water; NG NG

c. Neglecting and refusing to provide them with adequate and proper sanitary and hygienic facilities; NG NG

d. Neglecting and refusing to provide them with adequate and proper medicines and medical attention; and, NG NG

e. Neglecting and refusing to protect them from mistreatment, beating, and torture by military personnel and personnel of the Central District Military Police. NG NG

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Sp 5: That between 27 April 1945, and 16 August 1945, accused, did through his own acts and the acts of his subordinates, willfully and unlawfully advise, incite, authorize, order, permit, and assist the personnel of the Central District Military Police to kill American Prisoners of War captured within the said area, and did fail and neglect to take any measures to restrain and prevent the personnel of the Central District Military Police from killing said American Prisoners of War, in consequence of which approximately forty-five (45) American Prisoners of War were killed at divers times and places as follows:	NG	G	Yes
a. Between 5 June 1945 and about 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	G	Yes
b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	G	Yes
c. On or about 20 July 1945 at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police killed ten (10) named and five (5) other unidentified American Prisoners of War by shooting them;	NG	G	Yes
d. On or about 31 July 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell L. Strong, American Prisoners of War by poisoning them;	NG	G	Yes

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e. On or about 3 August 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	G	Yes
f. On or about 5 August 1945 at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	G	Yes
g. On or about 15 August 1945 at the Sanadayama Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G	Yes
WADA			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: That between 5 June 1945 and about 30 June 1945, accused did willfully and unlawfully cause the death of an unidentified American Prisoner of War by ordering, directing, and permitting his subordinates to administer poison to the said Prisoner of War.	NG	G except the words "willfully and" and of the excepted words NG.	Yes
Sp 2: That on or about 5 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting him.	NG	G except the words "willfully and unlawfully kill", substituting therefor the words "participate in the unlawful killing of"; and of the excepted words NG, of the substituted words G.	Yes

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Sp 3: That on or about 20 July 1945, accused, did willfully and unlawfully kill an unidentified American Prisoner of War by shooting Him.	NG	G except the words "willfully and", and of the excepted words NG.	Yes
Sp 4: On or about 31 July 1945, accused, did willfully and unlawfully cause the deaths of Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War by ordering, directing, and permitting his subordinates to administer poison to them.	NG	G except the words "willfully and", and of the excepted words NG.	Yes
Sp 5: That on or about 5 August 1945, accused, did willfully and unlawfully kill two (2) unidentified American Prisoners of War by shooting them.	NG	G except the words "willfully and unlawfully kill"; substituting therefor the words "participate in the unlawful killing of"; and of the excepted words NG, of the substituted words G.	Yes

YAMAMURA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	NG	
Sp: That between 5 June 1945, and 16 August 1945, accused, did willfully and unlawfully advise, authorize, incite, and permit the Commander of the Central District Military Police at Osaka, Honshu, Japan, to kill seventeen named and twenty-eight other unidentified American Prisoners of War, and did neglect and fail to take any measures to prevent the killing of the said Prisoners of War, in consequence of which the said Prisoners of War were killed at divers times and places as follows:	NG	NG	
a. Between 5 June 1945, and about 30 June 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG On motion (R 1151)	

b. On or about 5 July 1945 at the Shinodayama Military Maneuver Grounds near Osaka, Japan, personnel of the Central District Military Police killed five (5) unidentified American Prisoners of War by shooting them;	NG	NG
c. On or about 20 July 1945, at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police killed ten named and five unidentified American Prisoners of War by shooting them;	NG	NG
d. On or about 30 July 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War, by poisoning them;	NG	NG
e. On or about 3 August 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	NG
f. On or about 5 August 1945, at the Jonan Rifle Range, personnel of the Central District Military Police killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	NG
g. On or about 15 August 1945, at the Sanadayama Military Cemetery, Osaka, Honshu, Japan, personnel of the Central District Military Police killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	NG

YAMANAKA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp: That between 27 April 1945 and 16 August 1945, accused, did through his own acts and the acts of his subordinates willfully and unlawfully advise, incite, authorize, permit, and aid personnel of the Central District Military Police to kill approximately fifty-seven (57) American Prisoners of War and did fail and neglect to take any measures to prevent the killing of the said Prisoners of War, in consequence of which approximately forty-five (45) of the said Prisoners of War were killed at divers times and places as follows:	NG	G except the words "and the acts of his subordinates", "authorize, permit" and "forty-five and the figure (45)"; substituting therefor the words and figure "(39)"; of the excepted words NG, of the substituted word and figure G.	Yes
a. Between 5 June 1945 and 30 June 1945 at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed an unidentified American Prisoner of War by poisoning him;	NG	NG On motion (R 1151)	
b. On or about 5 July 1945, at the Shinodayama Military Maneuver Grounds near Osaka, Honshu, Japan, personnel of the Central District Military Police Headquarters killed five (5) unidentified American Prisoners of War by shooting them;	NG	G As qualified above	Yes
c. On or about 20 July 1945, at the Shinodayama Military Maneuver Grounds, near Osaka, Honshu, Japan, personnel of the Central District Military Police Headquarters killed ten named and five other unidentified American Prisoners of War by shooting them;	NG	G As qualified above	Yes
d. On or about 30 July 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the	NG	G On motion (R 1151)	Yes

said Headquarters killed Second Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American Prisoners of War by poisoning them;			
e. On or about 3 August 1945, at the Central District Military Police Headquarters, at Osaka, Honshu, Japan, personnel of the said Headquarters killed three (3) unidentified American Prisoners of War by poisoning them;	NG	NG On motion (R 1151)	
f. On or about 5 August 1945, at the Jonan Rifle Range, personnel of the Central District Military Police Headquarters killed First Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot, and twelve (12) other unidentified American Prisoners of War by shooting them; and,	NG	G As qualified above	Yes
g. On or about 15 August 1945, at the Sanadayama Military Cemetery at Osaka, Honshu, Japan, personnel of the Central District Military Police Headquarters killed First Lieutenant Harold T. Cobb, Second Lieutenant Joe S. McSpadden, Captain Jack K. Ort, First Lieutenant Donald J. Schiltz, and one (1) other unidentified American Prisoner of War by shooting three (3) of them and beheading two (2) of them.	NG	G As qualified above	Yes

As to the Additional Charge and Specification:

OKIDO, ISHIDA, UCHIYAMA, KUNITAKE, NAGATOMO, YAMAMURA, OBA, ANJO, FUJIOKA, YAMANAKA, WADA

Charge: Accused, with their then known titles, at the times and places set forth in the specification hereto attached, did violate the Laws and Customs of War.	NG	G	No
Sp: That from and after 1 May 1945, accused, acting together and with others in pursuance of a common intent and design did conspire to prevent the Government of the United States of	NG	G	No

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America from obtaining information as to the capture, status, conditions of confinement, death, and place of burial of approximately fifty three (53) American Prisoners of War, and in furtherance thereof did at divers times and places withhold, conceal, and suppress such information from the Japanese Government and from the Government of the United States of America, and did fabricate and transmit to the Japanese Government and to the American Occupation Authorities false and misleading information concerning the aforesaid matters.

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3. Summary of the Evidence.

a. For the Prosecution:

Certain of the accused will be dealt with in groups because of a similarity in the charges.

As to Specification 1: Uchiyama, Kunitake, Nagatomo and Anjo: (This charges mistreatment and abuse of American Prisoners of War).

As to Sub-Specification a: Uchiyama and Kunitake: (Anjo was acquitted on motion of this sub-specification, R-1151. Nagatomo was not so charged. This sub-specification charges denial of prisoners of war status).

Exhibit 3 contains certain military tribunal regulations governing captured enemy airmen. Army Secret Order #2190, dated 28 July 1942, provides that those who do not violate international laws will be handled as prisoners of war. Those who violate them will be disposed of (shodan) as felonious war criminals. Army commanders will send those suspected of being war criminals to military tribunals. Tribunals will apply special courts-martial regulations (p 2). Airmen who commit the following acts will be subject to military punishment:

(a) attacks aimed at civilians.
(b) attacking private property which has no military significance.
(c) attacking objectives which have no military significance, except in unavoidable cases.
(d) any atrocious, brutal acts against humanity.

The military punishment shall be death. A minimum of ten years of imprisonment may be substituted. Execution will be by firing squad. Exemption from military punishment may be granted. Effective date of law, 13 August 1942 (p 4). It was stipulated that Army Secret Order #1289 (p 11), dated 21 February 1944, means that before a Military Discipline Conference could try a captured airman, permission had to be secured from central authorities in Tokyo, which included the War Ministry and certain other government bureaus (R 75). Regulations issued pursuant to the foregoing, which were in the custody of the Second Army General Headquarters, were destroyed after the surrender. Similar regulations issued by the First Army General Headquarters were copied. The Second Army General Headquarters Military Tribunal regulations were distributed in July 1945 (p 12). These regulations provided for the establishment of military tribunals in the First General Army and in the area armies under the jurisdiction of the First General Army Commander (see also Ex 6, p 7). Commanders of the respective armies will be the presiding officers. A tribunal shall consist of judges, prosecutors, secretaries, guards and interpreters. The judges shall include two line officers and one judicial branch officer (p 15). Area army military tribunals shall follow Secret Order #1289 (supra) and receive instructions from the First General Army Commander in disposing of cases (p 16). A military discipline tribunal was established in the Fifteenth Area Army as of 11 February 1945. Cases shall be "specified" by the general commander of defense (p 18). Army Secret Asia General Order #9087, dated 8 September 1944, provided that it is the duty of each army to collect information from captured air crew members. The capture of airmen and severe punishment imposed upon them will not be made public (Ex 4).

Exhibit 5 shows the chain of command in handling captured airmen. The Fifteenth Area Army was the next lower echelon of the Second General Army, which, in turn, came under Imperial General Headquarters (p 3). Uchiyama was commander of the Fifteenth Area Army from 7 April 1945. Kunitake was chief of staff (p 28). This chain of command also appears in Exhibit 6 (p 2). Uchiyama commanded until 18 August 1945 (p 5). Kunitake served until the surrender (Ex 7, p 5).

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In the beginning of 1945, the General Defense Command sent the Central District Army (later reorganized as the Fifteenth Area Army and the Central Army District) a notification issued by the chief of staff. It provided in part that captured airmen shall be treated as "captured enemy airmen" and not as prisoners of war until they are sent to the prisoner of war internment camp. They were to be blindfolded and not allowed to be with other such prisoners in order to prevent conversation. Pursuant thereto, regulations were issued by the Central District Army (Ex 57, p 2). Security Memorandum #505, issued 20 September 1944 by the Eastern Army concerning captured airmen (Ex 58), is nearly identical with the notification received from the General Defense Command (Ex 57 p 4, Ex 71 part 1 p 2). A captive airman was confined in a unit guardhouse whereas a prisoner of war was interned in a prisoner of war camp (R-414). The memorandum issued by the Eastern Army (Ex 58) provided that captured airmen shall not be "referred" to as prisoners of war until they were transferred to prisoner of war internment camps. They shall be confined in individual cells and blindfolded immediately upon capture. They shall be imprisoned either in the local unit's guardroom, the nearest Kempei Tai guardhouse, or an army prison. They shall receive the same rations as prisoners of war (p 9). At the end of 1944 or the beginning of 1945, the Central District Army issued regulations pertaining to captured airmen based upon the General Defense Command's notification (Ex 59 p 2). These provided in part that captured airmen will not be called prisoners of war but would be called "captured enemy air crew members" until a decision was reached by a military commission (Ex 59 p 3).

As to the remaining sub-specifications: All except two of the named prisoners (Moser and Stewart) are included in Exhibit 1, a report by the legal section, GHQ, of American airmen known to have been captured and transferred to the Osaka military police headquarters for confinement by that unit or by one of several other units. Many other prisoners are included besides those actually named in the specification. Moser was a missing air crew member (Ex 29 p 17).

Evidence of mistreatment as charged is found in the following: Exhibits 8 to 20, 28, 31, 33, 38, 39, 54 (part 3), 55 (p 7), 61 (p 4), 80 (part 1 pp 46 and 48), 91, 96; R-571 to 580; R-820 to 830.

The Americans were not discriminated against as to food and shelter (Ex 10 p 2). As the Osaka Kempei Tai detention house became overcrowded, Dr. Yoshida (of the Central District Kempei Tai) said that there were no more supplies available, so the sick and wounded were not given any medical treatment after the early part of June 1945 (Ex 38 pp 2 and 3). The airmen got the same food as the Japanese prisoners (R-580). There were no vermin or fleas in the cells. There were lice but these were common in the Japanese Army. In June and July 1945, there was a shortage of such things as soap, medicines, disinfectants, drugs and chemicals (R-831, 832).

As to Exhibit 17, the witness testified, on cross examination, that in the course of his interrogation on 29 July by a Major Patterson (subsequent to making his statement, Ex 17), he told Major Patterson: "The prosecutor told me that I must have struck Americans and he threatened me by telling me that he had evidence to prove, although I never did anything of the sort. The prosecutor forced me, so I was obliged to say I beat the American fliers." (R-139). "The prosecutor asked me many questions which I could not answer and forced me to answer the questions. I was forced to say things which I did not know; things which I stated before the prosecutor is not true." (R-140). As to Exhibit 18, the witness testified, on cross examination, that the regulations (for the Osaka Kempei Tai guardhouse) required that the guardhouse be cleaned out twice a day and when the guardhouse became dirty to excess "then we cleaned it out more than twice." The rules given to the guards made no distinction between the captured fliers and the other prisoners. The guards treated all prisoners alike (R-143). The fliers requested more rice on one or two occasions. The rice balls given to the American prisoners were the same size as those given to the other prisoners. He never witnessed nor heard of any physical mistreatment of prisoners while he was on duty

(R-144). As to Exhibit 19, the witness testified that while on duty as NCO of the guard (at the Osaka Kempei Tai guardhouse) he never saw nor heard of Japanese mistreating captured fliers. All prisoners were given the same kind and quantity of food (R-176). When he was on duty, the fliers were given water when they requested it. The detention house had new walls and floors. There was a large corridor down the middle. Each room had a window. It was cleaner than the other detention houses that he knew of. The number of blankets in the detention house was so small that he didn't think the fliers got any (R-177). The fliers were handled by the Foreign National's Section of the Central District Military Police (R-178). As to Exhibit 20, the witness, formerly with the Foreign National's Section of the Central District Kempei Tai, testified that he saw Shimizu (accused Nakano) on one occasion strike a flier with his hands (R-183). He believes that the Foreign National's Section, under Colonel Fujioka and Major Shiuchi, had as its duties only the interrogation of the airmen and not the provision of food or other necessities (R-184). Because of the air raids, he did not believe there was sufficient food at the time. He saw Shimizu interrogating the flier in June 1945 (R-185). Headquarters personnel received a heaping bowl of rice, none showed signs of malnutrition. Kempei Tai personnel received supplementary food (R-187). As to Exhibit 33, the witness, formerly assigned to the Central District Kempei Tai, testified that captive fliers complained about mistreatment by some people and about lack of food in the detention barracks (R-284).

The Medical Section Chief of the Fifteenth Area Army Headquarters and the Central District Army Medical Department (concurrently) from April 1945 to October 1945, testified in part that he did not know that airmen were detained in the 22nd and 23rd Infantry units (R-152). Regulations issued by the central authorities in Tokyo required that prisoners of war be handled in the same way as the Japanese; that in case of injury, first aid be given and that the patient be hospitalized if necessary. He never received any notification to the contrary. He never received any reports through the Osaka division of medical treatment or hospitalization of captured airmen. The Osaka Kempei Tai medical department received their orders directly from the Tokyo Kempei Tai medical department. The Kempei Tai received its medical supplies from the army medical supply depot in Osaka or from the military hospital. His approval was necessary for the issuance of supplies to the Kempei Tai. The supplies were based upon the number of Kempei Tai personnel. The quantity available to treat burned enemy airmen were small. The Central District Kempei Tai did not have a hospital. They did have facilities for examination and rest (R-154). During May, June and July, army hospital facilities were sufficient to provide hospitalization for 12 to 14 airmen. Neither the 22nd, 23rd nor Kempei Tai units ever requested hospitalization for sick or injured airmen. If medical officers of these units had rendered medical attention or hospitalization to injured airmen, reports would have been sent to his department (R-155). He affixed his seal to all reports and requests to his office. Ordinarily one would not expect approximately 14 severely burned men at one time (R-157). He does not know what drugs were used for the treatment of burns. Any unit would have a great deal or many different types of medicine. Normally each unit would have a resting place for patients. In June, July and August 1945, medical supplies and other hospital paraphernalia were critically short. Where a large quantity was requested, it had to be lessened. Army medical supplies were generally of a certain type; other medicines would be procured individually (R-158). His subordinates handled requests for medical supplies (R-159). The Osaka hospital was the only military hospital in Osaka during the last two months of the war. There were civilian hospitals. The branch hospital at Otemae was burned that summer (R-160). There were thousands of casualties in June, July and August 1945. He did not remember any emergency hospitals in Osaka. If civilian hospitals were overcrowded with casualties, the army would take them in (R-161). Military casualties in a given air raid amounted to hundreds (R-162). In those days there was room for 12 or 13 airmen in the army hospital. It was possible to put in a few over the limited number (R-163). Requests for medical supplies from the Kempei Tai medical section were based upon the number of personnel and prisoners (R-164). His section determined the amount of supplies to be given to subordinate units of the

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army. The division medical chief inspected conditions of patients and the witness sometimes conducted inspections. He never went to the place where the fliers were confined, neither did his subordinates. The medical section should have supervised the medical and sanitation facilities in the Kempei Tai detention barracks and the 22nd and 23rd units (R-165). There were many important things for them to do and thus they were kept from supervising the barracks. He did not know that the Osaka Kempei Tai was detaining and handling captured enemy airmen during the war. He never inspected the 22nd or 23rd units nor conversed with the medical department chiefs thereof. He believes his department was not informed of the handling of airmen by army headquarters because it was kept secret (R-166). No military personnel were ever denied hospitalization due to lack of facilities or overcrowded conditions. Only during an emergency could civilians be admitted into a military hospital, with the approval of the hospital chief. Reports thereof would reach him. He could not recall any such reports in May, June or July 1945 (R-167). There were four hospitals under the Osaka Division and also branch hospitals (R-168). Mercurochrome, zinc chloride and olive oil, and boric acid ointment were used for severe burns (R-169). He did not remember any regulation requiring that hospitalized airmen be segregated (R-170). There were no medical officers on the staff of the Fifteenth Area Army (R-171). The senior medical officer of the 22nd Infantry stated that his medical department received no instructions about treatment or hospitalization of airmen interned by his unit. "We, therefore, assumed that we were in no way responsible for the air crew members." He treated them on several occasions at the request of the duty officer since there were no instructions about treating airmen "unless specially requested, I did not inspect the guardroom." No one could enter the guardroom or speak to the airmen without authorization. There were few personnel assigned to his medical department and since their duties kept them busy, there was no opportunity to treat the airmen except in the evening (Ex 23). With reference to Exhibit 24, the witness (formerly of the 22nd Infantry) testified that captive airmen were issued more blankets than Japanese prisoners. The Americans were allowed to rest, walk or sit freely; this was denied to the Japanese prisoners (R-213). They were given the same food as the Japanese. Shaving and bathing were not permitted because of lack of fuel and water due to the air raids. There was one airman in each cell (R-214). The cells were originally constructed to confine soldiers of the unit who had committed offenses. The average lengths of confinement for the Japanese were five days. From March until July 1945, only one Japanese was confined. There were few bombings of Osaka in May, June and July 1945 (R-215). There were electric lights in the cell corridor. The airmen and Japanese prisoners occupied the same type of cells. The Japanese did not have lights in their cells. The guardhouse was constructed according to standard practice. Japanese prisoners were not allowed to talk to each other (R-217). He did not know why the airmen could not have bathed in cold water from May to August 1945 (R-218). A former member of the Osaka Division Medical Department stated that there were three divisional district hospitals with a total capacity of 2200 patients. There was an enormous number of patients. He believes there were almost 2000 patients hospitalized in Osaka (Ex 26). The same witness testified that between May 1945 and the end of the war, he did not receive any reports that division personnel could not be hospitalized due to lack of space (R-224). The number of patients was enormous considering the hospital facilities (R-225).

The medical officer of the Central District Kempei Tai, who attempted suicide and subsequently died as a result (Ex 28 part 5), gave several statements to interrogators before and after the attempt. In a purported "will", he stated, "I was a fool. I never realized the magnitude of the crime I had committed. But I am now fully aware of my responsibility for the negligence in the medical treatment of American air crew members. I occasionally lied while being interrogated." (Ex 28 part 1). He jumped off the roof of a hospital after seeing some of his old friends there and thinking of the happy times he used to have at the hospital (Ex 28 part 2). Concerning the prisoners (including Japanese and Korean) within the Kempei Tai, Lieutenant Colonel Fujioka or Major Shiuchi gave the orders and formulated policy regarding their treatment. He could enter the cell block and correct

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deficiencies, but had to make a report to Fujioka. Fujioka instructed that the prisoners be given adequate medical aid, for which the medical officer (Yoshida) was responsible. He was the only medical officer in the Osaka Kempei Tai district, which covered four prefectures and the metropolitan areas of Osaka and Kobe. He tried to give the prisoners the same care as the soldiers. He gave the prisoners a physical check when they came in and visited the cell block twice a week. If a prisoner was badly injured, he tried to treat him every day. "We had no hospital facilities" so were forced to keep the sick and injured with the other prisoners. Medical supplies were very inadequate; no extra supplies were provided for the prisoners. He was forced to bring supplies from his home. Sometimes he tried to buy some on the open market. His general issue of supplies came from the Osaka Kanoaka Army Hospital. He received no shipments after May. Sick airmen died from burns and another from a leg injury. The leg needed amputating but the flier died before it could be performed. If he had had sufficient supplies he could have savedthree of these men (Ex 28 part 3). In Exhibit 28, part 4, Yoshida stated that he treated Kempei Tai personnel and members of their families (p 1). Colonel Fujioka told him not to send any fliers to the hospital regardless of their condition. Three of the airmen who died could have been saved if they had been hospitalized and properly treated. The Red Cross hospital was 1000 meters from Kempei Tai headquarters. There were a lot of hospitals in Osaka. He did not know how many were damaged. About the middle of June, Major Shiuchi told him that word had been received that the American fliers would be executed and that he shouldn't treat them thereafter as it would not be necessary. This order of Shiuchi's made him feel very bad but he knew it was useless to protest to him. He did what he could to help the fliers. If Fujioka and Shiuchi had permitted him, he could have saved much suffering by the airmen. He never went to the 22nd Infantry unit to treat fliers (p 2). Colonel Anjo told him that the Kempei Tai had no responsibility for medical treatment of airmen held by the 22nd and 23rd units (p 3). The first fliers captured were put in the 22nd and 23rd unit cells. In late May or early June, new cells were built in the Kempei Tai headquarters and fliers were detained there. About 30 came in June. About 18 airmen must have been detained in the 22nd and 23rd units (p 4). As to his confession in the "will", Yoshida stated: "I wrote this because I wish I could have done more for the prisoners of war. But I was the only doctor in the Kempei Tai headquarters and I had a large area to cover and had to be in too many different places. Under those circumstances I could not properly treat the fliers and due to this fact a lot of them died and I felt responsible for those deaths. As to visiting the Kempei cells, I didn't have scheduled trips of inspection because I was not permitted to go to the cells unless sent for by members of the Foreign Affairs Section. It is my opinion now that the fliers would have had better care if the authorities had built a POW stockade just for POW's only and had provided a staff of personnel sufficient to look after them. If this had been done I think everything would have been much better for the POW's. I went to the Kempei Tai cells when I was requested to go by the Foreign Affairs Section. If they didn't tell me to go, I couldn't enter the cells." (p 8). The food given to the airmen was not sufficient. They lost considerable weight. The Kempei Tai received about twice as much food as the airmen (p 10). He sent three reports a month to Major Morisue, the ranking medical officer in Tokyo Kempei Tai Headquarters. They did not mention treatment of the fliers since Lieutenant Colonel Fujioka told him not to report such matters, as they were top secret. Morisue visited Osaka Kempei Tai Headquarters about 20 July 1945. Yoshida told him all the details about the airmen, including Fujioka's refusal to permit hospitalization, and the inadequate supplies. Morisue also spoke to General Nagatomo (p 14). He received one shipment of supplies in April 1945. No supplies were received thereafter. They would not furnish medicines nor supplies for prisoners. His requests for supplies were submitted through Osaka Division Headquarters to the Osaka Army Hospital (p 15). Yoshida further stated: "Now I wish that I had treated the American fliers better than I did, but I was in such circumstances that I couldn't do anything to help them." (p 16).

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General Defense Command regulations issued at the end of 1944 provided that wounded air crew members were to be given medical treatment. While the Central District Kempei Tai was conducting investigations of captured airmen, Major Yamanaka directed that they be detained in the guardhouses of the 22nd and 23rd units. All airmen captured in May and the early part of June 1945 were so detained. Thereafter these units refused to accept anymore airmen due to overcrowding and lack of interpreters. Though the Kempei Tai protested that they had no facilities for confinement of the airmen, most of the airmen captured in June and all those captured in July and August were detained in the Kempei Tai guardhouses (Ex 59 p 4). After each air-raid, reports giving particulars of captured airmen and their injuries, if any, were made to Central District Army headquarters. These reports were usually shown to Colonel Oba and Lieutenant General Kunitake and sometimes to the army commander. The particulars were incorporated in reports which were sent to higher headquarters after being approved by Colonel Oba, the Chief of Staff and the army commander. Supplemental intelligence reports of captured airmen were circulated among all staff members and also read by the Chief of Staff and army commander. About 39 captured airmen were handled by the Central District Kempei Tai from March to July 1945 (Ex 59 p 5). The Kempei Tai frequently complained to the army that their guardhouse was too cramped (Ex 59 p 6). Major Shiuchi said that army headquarters know the condition of the Kempei Tai guardhouse but delayed disposition of the crewmen. Shiuchi complained to Colonel Oba or Major Yamanaka several times but could not get a definite reply. No one in the army operations department was concerned about the airmen, because of their other pressing duties relating to defense against aerial attack (Ex 59 p 7). The staff officer at Central District Army headquarters, in charge of Kempei Tai matters (among others), stated that he never heard of any requests by the Kempei Tai for medical supplies and hospitalization of sick or injured airmen; only complaints concerning cramped conditions of the guardhouse. The Kempei Tai could not hospitalize any airmen without the authorization of army headquarters (Ex 59 p 9). The same witness testified that he did not take any action when Shiuchi told him of the intolerable conditions of the cells in the Kempei Tai guardhouse. Major Yamanaka had charge of the disposition of captive fliers (R-423). There was nothing in the General Defense Command regulations providing that captured airmen should be treated, fed, or cared for differently than other prisoners of war, except that they be segregated and not allowed to converse (R-431). About 11 February 1945, the Central Army was reorganized and in its place was created the Fifteenth Area Army (operational) and the Central District Army (administrative). The commanding general of the Fifteenth Area Army concurrently commanded the Central District Army. These armies had a common staff and headquarters (R-439). Whenever airmen were captured, the Kempei Tai reported to Central District Army headquarters by telephone. Central District Army headquarters also received investigation reports on airmen in both verbal and written form. These reports were passed on to the other staff officers (Ex 60 p 7).

The Osaka Division headquarters ordered the confinement of captured airmen by the 22nd and 23rd Infantry units because it was requested to do so by the Fifteenth Area Army (Ex 66 p 4). The same witness testified that he believed that rations were based upon strength reports, which did not include prisoners (R-500). The commanding officer of the 23rd Infantry unit stated that he instructed that confined airmen be treated with due consideration. Three guardhouses were used to detain airmen. Each guardhouse was 14' by 12' and contained two airmen. Five blankets were used as bedding. Each guardhouse had one window, 4' by 3' but the rooms were in semi-darkness. The toilet was located in the corner. Disposal was from the outside. Water was brought to the prisoners every morning (Ex 67 p 4). The medical officer examined the airmen when requested by the Kempei Tai interpreter. (There were no interpreters in the 23rd unit.) When the airmen first arrived, they were not included in the ration strength because their number was not previously known. They were included in a requisition made at the end of the month. "Air personnel were prisoners of army headquarters and the Kempei Tai dealt with these POW's under the command of the Army" (Ex 67 p 5). At the end of May 1945,

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Lieutenant General Uchiyama inspected the 22nd and 23rd units. He did not make a special inspection of the guardhouses in the 23rd unit. In the latter part of July, while at Sano, he learned about the transfer of the airmen by the Kempei Tai. The Kempei Tai was in charge of the transfer, according to army instructions. Both he and the 22nd unit commander received orders from army headquarters to confine the airmen (Ex 67 p 6). The same witness testified that he learned from a report that captive airmen had gained weight during confinement in his unit (R-516). One of the airmen was treated by a Japanese medical officer, who applied bandages and adhesive tape, although adhesive tape was scarce and instructions prohibited its use. Such treatment was in line with the army's policy (R-517). In an account of the treatment of captured airmen, submitted by the Japanese Prisoner of War Information Bureau, with reference to those interned at the Tokyo Prisoner of War Internment Camp, it is stated that except for being segregated from the other prisoners, they received the same treatment (Ex 80 part 1 pp 45, 46).

The accused Uchiyama stated, in Exhibit 82, that he assumed concurrent command of the Fifteenth Area Army and the Central District Army on 27 April 1945. He commanded the Fifteenth Area Army until 15 October 1945 (p 2) and the Central District Army until 30 November 1945. During the war, the next higher headquarters above the Fifteenth Area Army was the Second General Army headquarters (p 3). A military tribunal had already been established when he was placed in command of the Fifteenth Area Army. The tribunal was formed pursuant to regulations governing punishment of airmen who participated in illegal raids. The area army commander was president of the tribunal (p 20). The president decided whether a case should be referred to the tribunal. He also had authority to send captured airmen to prisoner of war internment camps in the event that investigation absolved them (p 21). Regulations did not allow the Kempei Tai to execute fliers without trial by a military tribunal. The Central District Kempei Tai could not send fliers to prisoner of war internment camps or any other place without the approval of the army commander. In April 1945, before he assumed command, in compliance with superior orders, the Chief of Staff issued a memorandum requesting that the Central District Kempei Tai gather combat intelligence from captured fliers. The Central District Kempei Tai were responsible for the care of fliers in their custody (p 23). He never heard of any fliers being interned by the 22nd or 23rd units. He never had an opportunity to inspect detention barracks housing airmen because of his operational duties, nor was he aware that any had been captured (p 25). The Osaka division commander would not have to report to army headquarters regarding internment of fliers in response to requests from the Kempei Tai without army headquarters permission, if there were few of them and the period short. The Kempei Tai would be responsible for the care and confinement of any fliers interned by divisional district units between May and July (p 26). If atrocities or other incidents occurred while airmen were held by other units at the request of the Kempei Tai, such matters would have been a problem between the Kempei Tai and the interning unit, and army headquarters would have no responsibility. Responsibility would depend upon the agreement drawn up by the units concerned. Occasionally agreements concerning supply, medical care, etc. were drawn up when the Kempei Tai asked other units to intern captured airmen. However, in such cases the airmen were attached to the Kempei Tai. Army headquarters had no responsibility until the fliers were sent by the Kempei Tai to army headquarters. The Kempei Tai was not in the organic chain of command of the army commander. Army headquarters was responsible for the care and custody of airmen interned by the 22nd and 23rd units pursuant to army orders. This applies within the scope of the matters which the army instructs the units to take charge of (p 28). June was the peak month for the capture of fliers. At that time the army commanding general made frequent trips to conduct training in combat tactics for the decisive battle on the homeland. The staff was also busy with its multitudinous duties in connection therewith. It took about two months to prepare the trial of Nelson and Augunas. They were tried on 18 July 1945 (p 30). During that time the Judicial Affairs Department was not so busy that it could not take on other cases. The report prepared 19 December 1945 for submission to the First Demobilization Ministry, which states to the contrary, is based upon assumptions (p 31). It is not true that Army and Kempei Tai

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headquarters were so busy that they could not handle the trials of captured airmen (p 32). He (Uchiyama) could not interfere with the custody of the fliers while they were being investigated by the Kempei Tai as the latter was not in his chain of command. He had no authority to give orders to the Kempei Tai. He had no control over fliers interned by divisional district units pursuant to Kempei Tai orders (p 33). As president of the military tribunal he could do nothing about Kempei Tai investigations until they were completed, and he had received the case. The Kempei Tai derived its authority (not responsibility) to conduct investigations from the memorandum (Army Classified Order #2190, dated 28 July 1942) issued by order of the Vice Minister of War, which states: "The regulations governing special courts-martial which are to be found in the court martial regulations shall be applicable to military tribunals." His interpretation is that the Kempei's authority (not responsibility) to apprehend and investigate persons suspected of crimes sprang from this. The Judicial Affairs Department of army headquarters was not supposed to conduct initial investigations (pp 34, 35). When he assumed command, his Chief of Staff did not explain the procedure for the handling of prisoners; he stated only that two fliers had been captured and that they were under Kempei Tai control. He did not receive any investigation reports on captured airmen from the middle of May 1945 to the surrender. As area army commander, it was not necessary for him to bother about such details. He never received a single report from the Kempei Tai (p 37). He did not hear that the army had asked the Kempei Tai not to send any cases to the tribunal because of pressure of other matters. What he heard was to the contrary (p 38). He never asked the Kempei Tai officer attached to his headquarters (Major Hirano) why he did not receive investigation reports concerning other fliers. He met Nagatomo less than five times between May and July 1945. Nagatomo usually conferred with his Chief of Staff, from whom he received reports. He never asked Nagatomo about the condition of the fliers who were being investigated by his subordinates (p 39). He met Okido once during the war, about July 1945, while on a trip to Shikoku to direct operational preparations. Okido did not mention fliers. He never contacted Okido's headquarters during the war demanding that the handling of fliers be expedited. He did not know the investigations were delayed (p 40). The statement by Chief of Staff Kunitake that, in view of the length of time taken by the Kempei Tai to investigate two fliers, and in view of its other duties, it is doubtful if they could investigate 46 men in two months, is reasonable, although he did not know the actual conditions within the Central District Kempei Tai. He never received reports of the capture of fliers. Combat intelligence reports obtained from fliers were passed on to him by his staff officers (p 41). He did not remember receiving any army or Kempei Tai reports on fliers who sustained injuries during capture. He did not remember any instructions from his headquarters concerning medical treatment for captured fliers (p 42). The Central District Kempei Tai medical officer was not under the supervision of army headquarters since the former was not organic to the army. This was the general rule as to units within army's operational zone in the absence of special instructions. Medical supplies were not issued to the Central District Kempei Tai by the army medical department. Permission of army headquarters was not required to hospitalize a patient; that was a matter between the army hospital and the respective units (p 43). He never spoke to his medical officer about the captured fliers (p 44). After he assumed command on 27 April 1945, he concentrated on operational matters. As to military administration, he indicated what he wanted to departmental chiefs and left those matters to them, occasionally asking for essential reports or giving necessary leadership and guidance (p 55).

The accused Kunitake stated in Exhibit 81 that during the war he did not know that airmen were interned by the 22nd and 23rd units of the Central District Army. Major General Nagatomo, commandant of the Central District Kempei Tai, visited him at army headquarters the end of June or early July 1945 to discuss interned airmen (p 2). As far as he knows the Kempei Tai were responsible for the guarding and care of the airmen held by the aforesaid units. He did not visit or inspect the 22nd and 23rd units in 1945; nor did he speak to the Chief of Staff of the Osaka Division in 1945 (p 9).

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The accused Nagatomo stated in Exhibit 85 that he assumed command of the Central District Kempei Tai on 1 April 1945 and retained it until 3 September 1945. Army Secret Asia General Order #9087, issued by Tokyo authorities 8 September 1944, dealt with the investigation of captured airmen (p 2). It stated that army commanders were responsible for obtaining intelligence reports from captured enemy airmen. On 2 February 1945, army headquarters at Osaka issued an order instructing all civilians, government organizations and military units to turn over captured airmen to the nearest Kempei Tai unit. It further directed that local Kempei units obtain certain information from the airmen and forward it to Army headquarters. It was further ordered that captured airmen be detained in unit detention barracks (p 3). He demanded that his subordinates report everything to him, no matter how trivial. However, he did not have direct control over Shiuchi (his Foreign National Affairs Officer), because Shiuchi and his men had received direct orders from Army headquarters (p 4). Shiuchi's men sent reports on captured airmen direct to Army headquarters. After completing investigation of the airmen, Shiuchi gave him the details (p 5). In July or August, consolidated reports on captured airmen were sent to Army headquarters and Kempei Tai headquarters (p 6). Originally the Kempei Tai was responsible only for questioning the airmen. They were interned at the 22nd and 23rd units which assumed responsibility for their care and protection (p 7). In early June, Anjo, his Administrative Section Chief, reported that these units had refused to accept anymore airmen because of lack of interpreters and employment facilities. The army commander also refused to accept the airmen because of lack of facilities. Anjo, with the army's approval, authorized Shiuchi to place the airmen in the Kempei Tai detention cell. Airmen captured prior to the first part of June 1945 were placed under control of independent units; thereafter captured airmen were interned in a Kempei Tai detention camp. This camp was a former army warehouse converted for interning anti-army elements. The cells were about 14½ yards by 10½ yards (p 8). He thinks about 50 airmen were interned in the Kempei Tai guardhouse from June until the surrender. He never visited the place where the airmen were examined nor did he inspect conditions at the guardhouse where the airmen were interned. The other commanders were similarly indifferent to these matters and left them to their subordinates. He never received any report from his subordinate about mistreatment of the airmen in the guardhouse or in the investigation room. He never heard that the army refused to hospitalize the airmen or give them the necessary medical treatment. Yoshida (Kempei Tai medical officer) reported to him several times that he had treated the airmen with special medicines obtained from the army and made a record thereof in the log book (p 25). Anjo had the duty of supervising interned airmen. Major Shiuchi, in charge of the counter-espionage section, had charge of obtaining intelligence from captured airmen. He was responsible to Lieutenant Colonel Fujioka, chief of the Police Affairs Section (p 26). As chief of the General Affairs Section, Lieutenant Colonel Anjo was in charge of the grounds and buildings. He (Nagatomo) was responsible through Anjo for guarding and general care of interned airmen. Medical officer Yoshida received his orders directly from Lieutenant Colonel Anjo. Fujioka had to obtain Anjo's approval before he could "handle" the airmen. In many cases, Anjo unconditionally accepted practically all of Fujioka's opinions and did not interfere because they were former classmates and were very close to each other (p 27). Nagatomo approved Anjo's permission to Shiuchi to intern airmen in the Kempei Tai guardhouse. Anjo became responsible for handling all matters concerning the airmen from the time they were placed under his supervision (p 28).

The accused Anjo stated in Exhibit 55 that he was assigned to the Central District Kempei Tai on 1 April 1945 with the rank of lieutenant colonel and was next in rank to the unit commander, Major General Nagatomo. He was senior officer and also chief of the General Affairs Section. Among other matters he had charge of medical and general affairs and discipline (p 2). It was difficult for him to carry out the commander's intentions because the latter had a policy of giving orders to his (Anjo's) subordinates without going through him. However, whenever a mistake was made, Nagatomo was apt to hold him responsible. He was

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responsible for all property including repair, maintenance and sanitation of grounds and buildings, and construction of new buildings, when necessary. He had to see that all medical sub-section personnel, including the medical officer, executed their duties properly (p 3). Captured airmen were under the jurisdiction of the army; it was not the duty of the Kempei Tai to intern them. Accordingly the first airman brought to Kempei Tai headquarters was simply questioned as to his name, rank, unit and base. This information was reported to army headquarters. The army directed the airmen be interned at the guardhouses of the 22nd and 23rd Infantry units. The Kempei were requested by the Army to assist in the interrogation of the airmen while they were confined. Kempei Tai personnel often visited the Army detention barracks for this purpose and on some occasions the airmen were brought to Kempei Tai headquarters for interrogation. They were always returned to the Army unit when the day's interrogation was over (p 4). The Kempei Tai frequently interrogated airmen but only at the request of the Army. About 28 airmen were captured on 5 June 1945. A few of these were taken to the 22nd and 23rd units. Thereafter, because of the shortage of detention cells, the Army units refused to accept more airmen. Thereupon Fujioka, in charge of escorting the prisoners, interned them at the Kempei Tai detention barrack. There had been only two detention cells. A detention barrack was constructed containing 14 cells. This was completed in June. The cells were about 3 by 4 meters; seven on each side of a corridor. Fujioka used it for the airmen with Anjo's approval (p 5). They were compelled to share their rations with the airmen. Since the 22nd and 23rd units were supposed to furnish rations for the prisoners, they then agreed to draw rations for the airmen based upon Kempei Tai reports. Rations were provided regularly although there were complications between the Kempei Tai and the units. The army imposed the duty of investigation as well as internment of the prisoners upon the Kempei Tai (p 6) which was busy with its other duties. Reports of interrogations were sent to the army (p 7). Anjo further states: "I do not deny responsibility for the treatment of the airmen received during their internment in the detention barracks of the Osaka Kempei Tai headquarters." As to quarters, sanitation and food: for Latrine facilities there were several tin or wooden containers in the hallway. Under the conditions at that time he could do no more and could not use any materials aside from those given to him. Since he knew that requests to the unit commander would be unavailing he did not desire to approach him on the matter. Food given to the airmen was extremely inadequate. Food conditions in Japan were very critical at the time. The daily ration for soldiers was 550 grams and officers and non-commissioned officers who lived outside the barracks received 330 grams. Prisoners of war and detainees received 330 grams. Due to inflamed sentiment against the enemy and insufficient rations, some soldiers may have eaten the airmen's food. The airmen were not allowed to bathe, shave or wash clothes while interned at the Kempei Tai because the water system had been destroyed by bombing, hence there was only sufficient water for Kempei Tai personnel. Bathing was almost out of the question for the ordinary Japanese people (p 13). The airmen did not receive adequate medical treatment. There was only one medical officer at Kempei Tai headquarters. With two medical orderlies and insufficient medicine, instruments and facilities, he was taking care of about 1,000 Kempei Tai personnel. There was an army hospital where the airmen could have been hospitalized if the medical officer so desired. He does not know why he neglected to do so. If he (Anjo) had been more assiduous in carrying out his duties and had inspected the detention cells often he might have known their need for hospitalization or medical treatment. Consequently he might have been able to hospitalize them or give them better medical treatment. He heard that Fujioka had told the medical officer that the airmen must never be hospitalized or given medical treatment. Fujioka had no authority to give such orders and if he had known this at the time he might have reversed the order. Interrogations were carried out under Fujioka's directions but he (Anjo) is responsible for whatever was done regardless of when they were done. Hence he is responsible for any mistreatment the airmen may have received during interrogations. Beating and torture during interrogations by the Kempei Tai were common practice. During his long service in the Kempei Tai he had experienced such practices many times and had

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tacitly recognized them. Therefore he could not prevent such actions "sternly" when they were committed. He was never informed about beatings and tortures within the detention barracks. If such acts did take place he is responsible because it was his duty upon seeing such conditions to take immediate corrective measures (p 14).

The chain of command in the handling of prisoners of war ran from GHQ of the Imperial Army through the Second General Army and thence to the Fifteenth Area Army and its respective subordinate echelons (Ex 5 p 3; Ex 6 p 2). Among the latter were the Central District Kempei Tai headquarters and a part of the Kempei Tai under its command, the Osaka Division and the 22nd and 23rd Infantry (Ex 5 p 27; Ex 65 p 1). The Fifteenth Area Army headquarters, which was the supreme headquarters in the Osaka-Kyoto districts, was the absolute authority regarding the management and disposal of American flight personnel in the vicinity of Osaka. The Kempei units under the command of the army received orders from the army headquarters (Ex 64, part 1 p 2; Ex 66 p 3; Ex 67 pp 3, 5; Ex 71 part 1 p 3; Ex 93 p 3; R-495)

The army Chief of Staff had command over the army staff section, the adjutant section and was responsible for all administrative duties within the army headquarters. He also acted as assistant to the army commander (R-530). The Chief of Staff would have the duty to submit regular reports to higher headquarters reflecting conditions within the command (R-531, 960). If the army commander had captured fliers in his custody the Chief of Staff would have the duty to satisfy himself that the commander's duties and responsibilities toward the fliers were being properly carried out (R-531). It is the responsibility of the Chief of Staff to express his opinion as assistant or advisor to the commanding general (R-539).

If it should come to the attention of the area army commander that one of the units in which airmen were being detained did not have adequate facilities and that the fliers were not receiving adequate medical treatment, the army commander would have the duty to discover the cause. If the detaining unit commander was neglecting his duties the army commander would reprimand him. If that did not bring about a change the army commander would then change the detaining unit. Once a Kempei Tai commander received custody of captive airmen he became responsible for their food, housing and medical attention, etc. though the army commander is not thereby divested of his original basic responsibilities (R-547; 959; 976-979; 996-999; Ex 93 p 3). If the army commander had received no reports for several months concerning the physical condition of captured airmen this fact alone should be sufficient to require him to investigate (R-999).

As to Specifications 2, 3 and 4: Uchiyama, Kunitake, Nagatomo and Anjo: Not guilty.

As to Specification 5: Anjo: Not guilty.

As to Specification 5: Uchiyama, Kunitake and Nagatomo: This specification charges the accused with advising, authorizing, inciting, ordering and permitting their subordinates and others under their control to execute about 45 American prisoners of war at or near Osaka, Japan, during the period from June 1945 to August 1945.

In April or early May 1945, Tamura, Chief of the Prisoner of War Information Bureau, after a meeting of bureau chiefs at the War Ministry in April or early May 1945, jokingly asked the accused Okido if there were not some simple way of disposing of captured airmen. Okido replied: "I don't suppose there is." (Ex 88 part 1, p 5). Tamura stated that he and Okido discussed the large number of captured airmen held by the military police. He further told Okido that this caused much trouble for the Information Bureau and required complete, speedy and fair courts-martial. He then suggested that the military police submit a "request

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or opinion" to proper authorities on these matters. Okido stated that all they could do was investigate them and turn them over for disposal by courts-martial. Okido stated that he would request the chief of the Bureau of Legal Affairs to clarify their status immediately (Ex 80 part 1, p 48).

Ishida (who was acquitted of the main charge), the accused Okido's Chief of Staff, stated in Exhibit 87 part 3: "In the latter part of April 1945 when Major General Tamura called upon the commandant (Okido) at MP general headquarters he had a dispute with the latter concerning the handling of fliers. Subsequently I heard nothing in particular about the matter from the commandant or the section chief until the early part of June 1945 when the commandant suddenly called me to his office and expressed the following views:

a. 'It appears that difficulty is being experienced because available facilities are too limited to cope with the sudden increase in the number of flight personnel held by the military police. In view of the fact that more and more increases must be expected we cannot allow the situation to stand. We must make some sort of disposition (shochi) immediately. Army headquarters are altogether too lax. They are virtually letting matters take their own course.

b. 'With the intensification of the air raids the people at large are suffering terribly and shrines and the Imperial Palace are being bombed. These flight personnel should be brought before military tribunals and severely dealt with (shodan) but nothing whatever has been done about them. The ones who are not needed here should be sent to PW internment camps but no such action has been taken. This is a serious problem. If they are going to leave the matter as it stands, no method of disposition (shochi) other than severe disposition (shobun) is feasible.

c. 'The commanders of all military police units will be given orders in keeping with the above and instructed to get in touch with and expedite the matter through the chiefs of staff of the armies concerned.'

"From the outset the commandant had assumed an excited, impatient and high pressure attitude, talking as if he were censuring me. He firmly believed in time of emergency, emergency measures should be adopted. Despite his inexperience in military police work he was supremely confident of his own ability, constantly addressing such abusive remarks to me as 'We'll never get through this crisis if we depend on your antiquated military police ideas (p 2). Your slow-but-sure methods will never accomplish anything spectacular. Your approach is too routine.' In like manner he imposed his unconventional methods everywhere.

"As he had until recently been chief of staff at an army headquarters and was well informed concerning internal conditions there, he possessed a corresponding sense of superiority. Despite the fact that the matter in question was under the jurisdiction of the army headquarters and that a clear line was drawn between the latter's functions and the duties of military police general headquarters, a line not to be lightly overstepped for inappropriate meddling, he was led by this misplaced sense of superiority to cross the line with even a trace of smugness and bear down on me with supreme confidence. Commandant Okido believed in a Hitler type of dictatorship. He was generally feared at headquarters, almost none daring to oppose him since he ruled with a firm and autocratic hand, enforcing his personal policies for the guidance of subordinates in a high pressure, decisive manner. 'Act decisively and aggressively' he would say, 'move boldly with confidence; I'll take the whole responsibility for anything I tell you. It is better to be bold and aggressive and err on the side of extremes than to be conservative and avoid mistakes. Use emergency measures in an emergency. Make the impossible possible. Adopt the principle of prompt action; do today's work today. Laws are what destroy nations.' (p 3).

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"I immediately and forcefully presented the following reasons for opposing him, strongly recommending that he abandon his plan: (1) The treatment of flight personnel, which is governed by international law is the responsibility of the belligerent nations. Therefore as I have frequently explained before they should be handled with the utmost discretion and kindness. An illegal and unprincipled act such as severe disposition (shobun) must never be resorted to. The words of the commandant carried great weight; if what you have said was to reach your subordinates even in the form of a joke inestimable damage might result. (2) The sole responsibility for the handling of flight personnel rests with the commanding officer of the army area. Military police general headquarters is not acquainted with the facts nor the manner in which army headquarters are dealing with the problem. It is improper meddling to ask a military tribunal for severe disposition (shodan). At a time when popular indignation against flight personnel is mounting we must do nothing to encourage that indignation or give rise to misunderstandings. As the people in local areas know that military police general headquarters is ordinarily very close to the War Ministry, a word from it might be interpreted as an expression of the desire of the War Ministry and made the occasion for reckless acts (p 4). (3) This plan is more harmful than beneficial in every respect and should be given up completely. (4) If you must give your opinion I think it more safe and proper that you talk to the Minister of War, the person charged with the direction of the army commanders, so that there will be no conflict or inconsistency with previous directions. Naturally you must not mention severe disposition (shobun) or severe disposition (shodan) by a military tribunal.

"The commandant assumed a displeased look as I talked appearing completely unwilling to accept my suggestions. Finally he said angrily: 'The routine approach again! That's out! We can never get through this tremendous crisis with that kind of thinking. If we don't use emergency measures to cope with emergencies we'll lose the war. If we take the matter to the War Ministry there is no telling when it will be attended to.'

"My second expression of opposition: There isn't that much need for speed. It is more important to do the right thing; to dispose (shochi) of them in a discreet and considerate manner in order to avoid the possibility of error. The commandant scowled at me and I could tell that he was not going to agree so I said as emphatically as I could, 'Are you sure you are complying with the wishes of the Minister of War?' Flushing deeply, the commandant suddenly rose from his chair and shouted 'I can't be saying that every little matter is or isn't the wish of the Minister! It is a matter of discretion! Take hold of yourself and act! ' (p 5)

"Thus, not only did the commandant refuse my advice completely but he used his rank to crush my opposition and put me in my place. I became very angry but as there was nothing further for me to do I returned to my office, saying 'I can't agree, no matter what you say. I am thoroughly against it.' Yamamura, saying 'The commandant ordered that this be sent to the unit commandants', came in with a paper which proved to be the draft of an official document for the purpose of transmitting orders to the same effect as the commandant's recent remarks to me. I glanced through it and handed it back. It was a list of items in telegraphi style, which included such statements as: 'The only way to dispose (shochi) of them is through severe disposition (shobun). All MP unit commandants will communicate with the Chiefs of Staff of the several armies and expedite these matters.' I restrained my personal feelings and decided that, 'The only thing to do now is to try to keep the orders from going out. Even if I can't actually stop them I will have attained the same results, practically speaking, if I make them as ineffective as possible.' On the basis of this decision my first step was to hold up the document by telling the section chief (Yamamura) not to submit the draft to the commandant, since I knew that if it were to be submitted he would immediately approve it and have it forwarded. The section chief agreed to do as I asked."(p 6).

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Ishida realized that since the commandant was an impatient man, there was great danger that if he hesitated Okido would force him into producing a document to his liking. Ishida decided to try to eliminate all the illegal and irrational aspects of the commandant's plan and to prepare a moderate draft containing only legal and reasonable provisions. He further decided to render the communication harmless and ineffectual by couching it in the form of a private letter and not making it appear to emanate from the commandant either in form or content (p 7). Thereafter Ishida and the section chief drew up a draft of a letter in accordance with his plan (p 8). Ishida submitted the draft to his section chief Yamamura who in turn submitted it to the commandant, Okidó. The latter kept it for about a week, made some revisions and eventually, upon the orders of Okido, the following letter or circular was sent to Kempei Tai district commanders over the signature of Yamamura, Chief of External and Foreign Affairs, (who was acquitted of the main charge):

"I am confident that the several units are handling interned flight personnel in an appropriate manner. Recently however, with the increasing intensity of the air raids, their numbers have increased abruptly. It is most regrettable that the army, which is extremely slow in disposing of them (shochi) is unable to adapt itself to this situation. As a result some units are experiencing difficulty in handling them because of limited internment facilities.

"Of course, this department is not in charge of the problem and is totally unaware of conditions at army headquarters. However, the raids of late have been extremely severe; even shrines and the Imperial Palace have been bombed.

"The damages suffered by the innocent general public are tremendous. Consequently it is believed that flight personnel should be severely dealt with (shochi) by military tribunals. However those who need not be punished should be transferred to PW camps immediately. In short, the difficulties experienced by the military police units in handling flight personnel would automatically be solved if the disposition (shochi) which should properly be made by the army headquarters progressed promptly and accurately.

"If indifference and negligence prevail at army headquarters it is extremely regrettable. If, in addition, the military tribunals operate so slowly that no headway is made I believe that it will be necessary to take suitable measures to expedite disposition (shochi). In short, I consider it essential that in view of the present need for prompt and severe disposition (shochi) the individual units make the facts concerning their actual situations known to the army Chiefs of Staff. Needless to say, this is a problem to be disposed of (shochi) through the exercise of the independent judgment of the army headquarters, which bear full responsibility in the matter. Particular care should be exercised in order to avoid a demanding attitude; the important thing is to describe actual unit problems.

"For caution's sake, I shall add here that these suggestions do not emanate from higher authority." (pp 9, 10). Ishida felt that on the one hand there were sections reproving rashness and demanding prudence, while on the other hand there were outcrops of a bold positive policy expressed in vigorous words which he felt were provocative and dangerous. However, the lukewarm tone of the communication was a consolation. He felt that the ambiguous passages would naturally be interpreted in a legal sense and not in an illegal sense, because of the fact that an illegal interpretation always requires a special, definite basis, completely lacking in the present case. It seemed unlikely that any high ranking MP officer who had studied the law and spent many years upholding it would, failing to make this distinction, communicate with the army on the basis of an illegal interpretation. The specific request in the statement that caution be exercised was further grounds for reassurance.

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Ishida further stated "Sounding out Eastern District unit commander Otani shortly afterward, I gathered from his remark, 'In the past our unit has repeatedly asked army headquarters to take over flight personnel promptly. The letter will not require any particular disposition (shochi) on our part' that his opinion coincided with mine. The results showed, however, that my estimate was wide of the mark in some cases; as I had predicted at the outset in enumerating my reasons for opposing the commandant, undesirable developments occurred. I feel the commandant's arbitrariness today more keenly than ever." (p 11).

Yamamura corroborated the foregoing and stated in Exhibit 86 part 1, "I believe it was in early June of 1945, between 1000 to 1500 hours when Lieutenant General Okido summoned me by a buzzer to the Commandant's office. As I faced the Commander, Lieutenant General Okido suddenly gave me the following order: 'The fact that a large number of American air crew members are interned at the Kempei Tai has caused us a great deal of trouble. It seems the army is not making any effort to take action for this quick disposition (shochi). Does the Army have any desire to deal (shobun) severely with these airmen? In regard to this you are to notify all Kempei Tai commanders to contact the army about taking quick disposition (shochi) of the air crew members.' When Lieutenant General Okido gave the order his attitude and tone would have given one who had heard him the impression that he intended to deal (shobun) severely with the air crew members. I immediately protested, saying, 'It is not right' and was about to speak further when Lieutenant General Okido interrupted me saying violently, 'It is the habit of you Kempei to quibble over matters. It is an order and if I tell you to do it, do it.' Thus severely reprimanded I left the Commander's office, returned to my room, and unwillingly began to make a draft." In Exhibit 86 part 2, Yamamura further stated that after receiving the order from Lieutenant General Okido, he returned to his office where he prepared a draft to be handled as an official letter incorporating Okido's words and basing its theme on his (Yamamura's) belief that the treatment of captured fliers should conform to international law. Yamamura had grave misgivings of the results which might issue from the circulating of the document so he asked Lieutenant General Ishida, Chief of Staff of Kempei GHQ, to make a statement of opinion to Okido "advising the latter to kill the document." Ishida stated that he was in accord with Yamamura's opinion and agreed to try to persuade Okido to abandon his intention of sending the letter. Ishida and Yamamura further agreed that should the document have to be sent out in spite of everything, it was imperative that its contents be absolutely lawful; that it was to be made clear that the authority and responsibility for the treatment of captured fliers lie with the commanding general of the army exercising jurisdiction; and further that the names of the Kempei commandant and the chief of staff of Kempei GHQ, who were empowered to issue orders and directives, must not be used as the originating signatures. The necessary changes having been made, Yamamura took the draft to Okido who instructed him to prepare another draft as a private message and make it more detailed.

In Exhibit 86 part 3, Yamamura stated that he prepared a new draft and after showing it to Lieutenant General Ishida it was submitted to Lieutenant General Okido. About a week later Okido handed him a final draft which he ordered him to send to all Kempei Tai commanders. This final draft had considerable additions which were made by Okido and Ishida (p 3).

The letter stated in part, "At present the Kempei Tai in various places are interning captured airmen entrusted to them by the army commands above them, and we presume you are doing your best in the supervision and handling of airmen. Nevertheless since the Kempei Tai are interning considerable numbers of captured airmen and because the army commands are not taking over custody of the airmen at all and are leaving them as they are, facilities have become crowded and insufficient and considerable inconvenience have been encountered in the handling of airmen. Furthermore, since further difficulties are being caused by the increase of captured airmen as the air raids grow increasingly intense we fear that mishandling might result.

"The situation can be remedied by taking measures to have the respective army commands take over the custody and control of captured airmen at the appropriate time or by taking measures to transfer them to PW internment camps. Of course, we feel that the airmen who are responsible for brutal atrocities should be judged strictly by military court and punished (shobun). If the army command over you delays military trial, means must be taken to expedite military trial. However, you must bear in mind that the authority and responsibility in regard to handling of PsW rests with the army commander over you; accordingly you are especially requested to practice care so that no unauthorized act will be committed by the Kempei (p 4). Accordingly it is felt that you should contact and confer with the chief of staff of the army over you. Of course, we feel that, in conferring with the chief of staff, it is important that no restraints be placed upon his judgement. We affirm that the foregoing is not by instructions from higher authorities."

Yamamura stated that he read the letter and felt that no mistake would arise in the handling of captured airmen. He prepared some carbon copies of the letter and with Ishida's approval sent them out to the respective Kempei Tai commanders on or about 10 June 1945. He did not remember whether he put "confidential" or "top secret" on the envelopes. About a week after the letters were sent, answers were received from three or four units (p 5). The replies expressed agreement with the purport of the letter and stated that contact would be made or had been made with the respective army Chiefs of Staff about the matters. On the day the letters were sent out, Yamamura happened to speak to Colonel Otani. During the conversation Otani stated that with respect to the Eastern District Army Kempei Tai there would be no need for concern over the control of captured airmen because the army was shortly going to build an internment camp for them. Otani stated that he therefore felt that there was no need for him to contact the army chief of staff. He asked Yamamura what he thought and Yamamura stated that he agreed and further told Otani to handle the airmen with care (p 6).

Major General Nagatomo, commander of the Central District Kempei Tai having its headquarters at Osaka, stated in Exhibit 85 that he received the letter between the end of June and the beginning of July 1945. It was classified as "very secret" (p 9) and requested that he immediately contact the army Chief of Staff under highest secrecy "and with this understanding (the word instruction may have been used here) solemnly dispose as you see fit of the B-29 airmen on the spot. As this proposal is entirely my own and has nothing to do with my superior it is requested that you maintain absolute secrecy and reveal it to no one." Nagatomo stated that he interpreted the phrase "solemnly dispose" to mean "supreme punishment--death sentence." Nagatomo wondered why such an important matter was transmitted by a letter signed by the section chief and why the wording was so vague. He also wondered why the Kempei Tai headquarters meddled in a matter over which it had no authority. He finally concluded that the government office charged with responsibility for the treatment of the airmen was employing the Kempei Tai as a means to communicate its policy concerning the treatment of the airmen to the various armies. He therefore decided, "I (Central District Kempei Tai commander) as a faithful transmission organ of their intentions should quietly show the document as it is to the Central District Army Chief of Staff and follow his instructions. (p 10). If I should voice my opinions I might easily be misunderstood. I therefore decided to say only what was absolutely necessary." He showed the letter to Lieutenant Colonel Fujioka. Fujioka simply stated that he understood. Nagatomo likewise showed the letter to Major Shiuchi who said that he interpreted the letter "to mean that they should be killed" (p 11). Two or three days later Nagatomo called on Kunitake, his Army Chief of Staff. Kunitake read the letter over and remarked, "If that's the case we will have to keep the place of capture and the number of airmen captured a secret in the future." Nagatomo stated that from these remarks he discerned a feeling that the airmen should be severely punished, running deep in his (Kunitake's) head from that time (p 12). The Chief of Staff asked the Judicial Officer if there was any necessity to try the airmen by courts-martial in the future. The Judicial Officer stated that the investigations were taking too much time "so we would like the Kempei Tai to execute them

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without hesitation." Nagatomo realized that Fujioka's report of a few days before that "the army should execute the B-29 airmen without delay" represented the will of the Army (p 13). Nagatomo stated that he believed that if the executions of the airmen were entrusted to units other than the Kempei Tai extremely cruel methods would be employed. He therefore asked the Chief of Staff to let him "choose what methods should be taken in severely punishing the airmen." The Chief of Staff gave his approval. Nagatomo did not submit a report to Tokyo Kempei headquarters at this time because the letter had not indicated that a formal report should be submitted (p 14). After returning to his office he told Fujioka about his meeting with the Chief of Staff. Fujioka said that he would draft a plan of execution and submit it to Nagatomo. A day or two later Fujioka submitted the plan to Nagatomo (p 15). Nagatomo stated that he was afraid that the execution would be unnecessarily delayed if he read the plan and made corrections so he therefore told Fujioka that he did not want to see the plan but he would take responsibility. He then signed the plan of execution. In the early part of July 1945 Fujioka said that an execution would take place the following day and that the men would be shot with pistols at Shinodayama. Fujioka stated that unless they used pistols they might scare the public (p 16). On the afternoon of the following day Fujioka reported to Nagatomo that the first execution at Shinodayama had taken place without mishap. Thereafter Fujioka reported to Nagatomo that the second execution at Shinodayama had taken place. Later on Fujioka told Nagatomo that the third execution would take place at the Jonan firing range (p 17). After this execution Fujioka again reported the details to Nagatomo.

On 13 or 14 August 1945 he heard from Colonel Yamanaka, commander of the Kyoto District Kempei Tai, that there had been a telegram from the Department of Home Affairs to the effect that a conference was being held concerning unconditional surrender. Thereafter Nagatomo saw a copy of the telegram which was from the Vice Minister of Home Affairs. It stated that a cabinet meeting concerning unconditional surrender was being held and further requested that the matter be kept secret to prevent public unrest (p 18). Nagatomo showed a copy of the telegram to Uchiyama, Kunitake and both assistant Chiefs of Staff. He also relayed the gist of the telegram to the District Kempei Tai commanders. Fujioka reported that there were several B-29 airmen still remaining. "I (Nagatomo) was shocked and slightly raising my voice ordered, 'Are they still there? Dispose of them immediately.' Just before noon on 15 August Fujioka came to my room and reported that all the airmen had been executed. I take responsibility for ordering the execution of the remaining airmen (p 19). Although I learned that a conference was in progress for unconditional surrender, I believed that the army would carry on a fight to the finish." Believing it necessary to be entirely free of those persons who would hinder the fighting in the decisive battle, he gave the order of execution. Warrant officers and those of lesser grade who were assigned to the performance of the executions had no foreknowledge of the surrender. He feels that the poisoning of the airmen by his subordinates are his responsibility. As to the first poisoning, according to Fujioka he could not bear to prolong the suffering of one of the airmen who was in a dying condition (p 20). However, according to Nagatomo's recollection, Fujioka did not report to him prior to the poisoning but after it had taken place told Nagatomo that as one of the airmen was in a dying condition he had given him some potassium cyanide in black tea and had him drink it in order to stop the pain. Nagatomo stated that the incident was so sudden he was shocked and said nothing to Fujioka, merely closing his eyes and remaining silent. Neither did he chastise or reprimand Fujioka to be more careful in the future. Nagatomo stated that after the war he learned from Fujioka that the three executions had been reported to army headquarters. On 12 July 1945 in Kyoto, Nagatomo reported the executions of the airmen to Okido, Kempei commander (p 21). Okido was inspecting the Kyoto District at the time. Nagatomo stated that the airmen were executed in accordance with the spirit of the letter he received. Without being surprised Okido stated, "Is that so? It is all right to kill them. However, it will surely be embarrassing if this problem comes up after the Kempei Tai has killed them." When Nagatomo stated that the execution had

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already taken place Okido replied, "It couldn't be helped." (p 22). According to his recollection Nagatomo believes that Okido came to Osaka after the third execution which took place at the Jonan firing range. Okido now maintains that Nagatomo misinterpreted the letter from Kempei headquarters. When Okido visited Central District Kempei Tai headquarters he appeared satisfied that the letter resulted in the execution of the airmen. Okido is generally regarded as a person of a positive nature and one who determinedly carries out that which he is set upon doing. "For that reason, if the action taken by me was not in compliance with his desires or will, he would have spoken words to the extent that I would remember them forever. During his stay in Osaka, he (Okido) was in good humor, lucid, friendly and courteous." (p 24).

After first denying that he knew anything about the executions or the letter (Ex 81) the accused Kunitake stated in Exhibit 84 that he decided to make the following corrections of his previous statement:

> "As Colonel Oba stated, after he had finished making his report on operational studies made during June 1945 in Kyoto, the subject of airmen was brought up. It was at this time that Lieutenant General Uchiyama expressed his desire that the airmen, other than those whose cases were being prepared for arraignment, be disposed (shochi) by a simple method without trying them by military tribunal. On other occasions too he expressed to me his intention to execute (shodan) them without recourse to military trial. Therefore I gathered that such was the intention of the Army Commander. When Major General Nagatomo called on me in late June or early July and told me that since a letter, too, had been received from the Tokyo Kempei General Headquarters, he was going to dispose of (shochi) the airmen in an appropriate manner. I assented because I gathered this was the intention of the army commander. I reported this to the army commander on the same day." (p 2).

The accused Uchiyama stated in Exhibit 82 that while he was in command of the Fifteenth Area Army about 50 airmen were captured (p 5). All except two of the captured fliers died of illness or injury or were executed by the Central District Kempei Tai without trial. The first executions took place in July 1945 (p 6). Executions were held both at Shinodayama and at the Jonon firing range (p 7). While army commander he never received any orders, instructions or memoranda pertaining to captured fliers. He never discussed fliers with War Minister Anami or the Vice Minister of War (p 11), nor with Lieutenant General Tamura. He never discussed captured fliers with other Area Army Commanders (p 12). He supposed that the Kempei Tai executed the fliers pursuant to instructions from Kempei Tai headquarters. He heard this from Kunitake after the war (p 13). He also heard that the Kempei Tai commander was to contact the army chief of staff regarding the disposition (shochi) of the fliers. After the end of the war he heard that Nagatomo got in touch with Kunitake after receiving instructions from Kempei Tai GHQ (p 14). Nagatomo did not say anything about executing the fliers. He heard about the Kempei Tai's contention that Nagatomo called on Kunitake and obtained approval for executions of the airmen. In November 1945 he heard from Colonel Oba, senior staff officer, that Major Shiuchi discussed execution of fliers with him in early July 1945. Shiuchi stated that all had violated military regulations (p 15). Oba was informed by a judge advocate that if they violated military regulations they should be tried by a tribunal. It seems that Oba for his part stated that if the Central District Kempei Tai said that they would follow regulations and execute the fliers in accordance with instructions, the army, which had no command relationship, could do nothing (p 16). Yamanaka (intelligence officer) could make arrangements for the use of manouver areas and firing ranges by

other units, including the Kempei Tai, for executing airmen (p 27). Yamanaka should have reported such a request to the chief of staff. He never heard that such a report was made (p 18). He never heard about executions of fliers by the Kempei Tai until after the war (p 19). He knew of no regulations allowing the Kempei Tai to execute fliers without a trial (p 21). By order of the Vice Minister of War and the assistant chief of the general staff, it was required to obtain approval of central authorities before capital punishment of captured airmen could be demanded before a military tribunal (p 31). About July 1945 he met Okido while on a trip through Shikoku. They did not discuss fliers (p 40). The executions conducted by the Kempei Tai were not approved by his army headquarters nor did he have the authority to give them permission (p 55).

The accused Uchiyama stated in Exhibit 83: "(1) That I induced Major General Nagatomo to have the air crew members executed by the Kempei Tai. (2) That I induced Lieutenant General Kunitake to conceal the matter and that thereafter I took part in concealing the facts. (3) I apologize for making false statements when I was investigated in February. I did it because I was unable to bear the anguish in naming my subordinates and others not in my command in my statement."

The accused Takao Mori, former sergeant major attached to the Foreign Affairs section of the Central District Kempei Tai, stated in Exhibit 38 that he could read, write and speak English. He had interrogated Nelson, Augunas and other captured airmen and prepared reports thereof (p 1). About the middle of June 1945, Major Shiuchi told him that a staff officer of the army had stated that it was too much trouble to try airmen and that it had been decided by the army to execute all the other fliers without a formal trial. Shiuchi said he was told that much time and trouble was required in negotiating with the Hiroshima and Tokyo headquarters concerning trials, that communications were congested due to air raids, and that since all fliers would without doubt be given the death sentence if tried by a military court, it had been decided by the Central District Army to execute them without bothering about a formal trial. In June 1945 he was told by a prosecutor at Central District Army headquarters that they were preparing the case against Nelson and Augunas but it was very much of a nuisance. The prosecutor also stated that they were very busy at army headquarters and would not have time to bother with the trials of the other fliers (p 2).

As to Specification 5(a); (Between 5 June 1945 and about 30 June 1945 at the Central District Military Police headquarters, Osaka, personnel of the said headquarters killed an unidentified American prisoner by poisoning him). The accused Takao Mori stated that in June 1945 one of the fliers was reported to be seriously ill. Dr. Yoshida examined him and diagnosed his illness as a kind of contagious disease. It was feared that an epidemic might get started. Since this flier was scheduled to be executed sooner or later anyhow, Major Shiuchi ordered Warrant Officer Wada to kill him immediately. It was decided that it would be impossible to carry out the execution secretly by shooting so Wada was ordered to do it by poison. Mori was ordered to act as interpreter. He was further ordered to get a cup of tea and take it to the chemical section. Mori and Wada went into the interrogation room and soon the airman was brought in on a stretcher. He asked for a drink of water and at that moment the sergeant from the chemical section came into the room with the cup of tea and gave it to the airman. He drank the tea and in about half an hour was dead (p 3). The foregoing is corroborated in Exhibit 31 page 2.

The accused Yasuo Wada stated in Exhibit 39 that he was a warrant officer assigned to the Foreign Nationals section of the Central District Kempei Tai under Lieutenant Colonel Fujioka and Major Shiuchi (p 2). In the middle of June 1945 Fujioka whispered to him and Shiuchi that he had just been ordered by the army to execute all the airmen who had been questioned. He warned them to keep it a secret. Fujioka said that he was under orders to have them executed in absolute secrecy (p 12). A few days later, probably the beginning of July, he heard

that an airman was complaining of a severe stomach ache. The medical officer diagnosed the complaint as severe diarrhea or dysentery. The medical officer told him that hospitalization was necessary. Wada asked Major Shiuchi for permission. Shiuchi went to Lieutenant Colonel Fujioka who told Wada to poison him. Wada further stated, "I tried all I could to object but Lieutenant Colonel Fujioka cut me short by saying 'you do as I say!'" In a further attempt to avert the execution Wada suggested that they contact the military tribunal or the operations department (p 13) to check on the execution order. "Lieutenant Colonel Fujioka shouted at me angrily 'didn't I tell you the order to kill the airmen came from the army? Do as I ordered.' Since it was a direct order I could not help but obey it, and asked 'what poison shall I use?' Lieutenant Colonel Fujioka said 'potassium cyanide or arsenic should be best because they cause death quickly without suffering. Go see if the scientific research sub-section has some. To make sure, find out what is the fatal dose.'" Fujioka told him to mix it in black tea and give it to the airman at once otherwise the secret might leak out. Wada obtained the potassium cyanide and went to the execution room selected by Fujioka. He handed the potassium cyanide to Master Sergeant Mori and ordered him to make some tea and mix the poison in it (p 14). Mori said something to the airman in English and handed the tea to him. The airman died a few minutes after he drank it (p 15). In a previous statement (Ex 101) Wada stated that the poisoning took place about the middle of June 1945. "They told me to kill him with a pistol but I objected saying that a pistol would make too much noise. I advised waiting, hoping perhaps to avoid the job. Lieutenant Colonel Fujioka thought awhile and then ordered me to poison the man." (p 1).

As to Specification 5 (b): (About 5 July 1945 at the Shinodayama maneuver grounds near Osaka personnel of the Central District military police killed five unidentified American prisoners of war by shooting them).

The accused Wada stated in Exhibit 39 that in the early part of July 1945 Shiuchi told him that "by orders from above the airmen will be executed by firing squad soon." Fujioka chose a lonely place in the Shinodayama military training grounds as the most suitable location. Wada was ordered to prepare the graves; Shiuchi told him to carry out the execution and witness it. Wada tried to avoid the executions by telling Shiuchi that the Kempei Tai should refuse to carry it out and should leave it to the army. The army might then proceed with a trial by military tribunal. Shiuchi said that since the Kempei Tai had been ordered to execute the men it must be done. One or two days later Fujioka and Shiuchi told him that all personnel of the foreign national section were to go to Shinodayama the following day to dig a trench for the execution, and that Major Yamanaka of the army operations department had ordered Shiuchi to execute the airmen in absolute secrecy. The morning following preparation of the grave, five airmen were selected by Shiuchi and taken from the Kempei Tai detention barracks with Fujioka's permission. They were taken to the execution site on a truck. All personnel of the foreign national's section who were going to the execution were told by Fujioka that orders came from the Fifteenth Area Army and Kempei headquarters to execute all the airmen and to keep it a top secret. "5 airmen will be executed today" (pp 17, 18). Lieutenant Colonel Fujioka ordered Major Shiuchi, Master Sergeant Morimoto, Sergeant Takahashi, Master Sergeant Takeda and himself to be the firing squad and Master Sergeant Mori to act as interpreter. The airmen, blindfolded and tied with ropes, were made to kneel down in a row in front of the graves. Major Shiuchi, Master Sergeant Morimoto, Sergeant Takahashi and Wada were chosen as executioners. They were given United States Army calibre .45 automatic pistols, loaded them at Major Shiuchi's command and lined up a few feet in front of the airmen. Fujioka read the death sentence by order of the Fifteenth Area commander for the crime of indiscriminate bombing. Master Sergeant Mori translated then Fujioka ordered them to fire. The executioners aimed and fired at the airmen's breasts. The airmen lay dead on the ground after the firing. Fujioka ordered them to bury the airmen so that the graves would not be detected. (p 19; Ex 38 p 3; Ex 40).

As to Specification 5 (c): (About 20 July 1945 at the Shinodayama maneuver ground near Osaka, personnel of the Central District military police killed Sergeant Lawrence W. Beecroft, Sergeant James M. Fitzgerald, Staff Sergeant Earle P. Flanagan, Captain Richard H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield, Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent, First Lieutenant Harrison K. Wittee, and five other unidentified American prisoners by shooting them.)

Wada states in Exhibit 39 that about ten days after the first execution, he was ordered by Major Shiuchi to prepare for the execution of about 15 airmen. About 19 July 1945 Wada assembled several foreign nationals section personnel (p 20), went to the Shinodayama army parade grounds and dug graves adjacent to the ones used in the first executions. The following morning the foreign nationals section personnel were assembled. They were given the execution orders from Lieutenant Colonel Fujioka and were ordered by Major Shiuchi to make preparations. Two airmen from the Kempei Tai detention barracks and 13 airmen from the 22nd and 23rd units were taken by truck to the execution site. The airmen, blindfolded and bound, were seated in front of the graves. The firing squad was chosen by Shiuchi in the presence of Fujioka, "the men chosen for the firing squad whom I remember clearly were Master Sergeant Hamamoto, Master Sergeant Sugiura, Master Sergeant Takeda, Sergeant Oikada, Leading Private Konishi and myself, there may have been others but I can't recall them." They were given United States Army calibre .45 pistols. At Shiuchi's command they loaded and locked pistols and moved in front of the graves. Fujioka read the death sentence by order of the Fifteenth Area Army Commander for the crime of indiscriminate bombing. Master Sergeant Mori translated (p 21). Fujioka ordered them to fire at the airmen's foreheads. Then Fujioka gave the order to fire. Fujioka and Shiuchi were members of the firing squad. The airmen were immediately buried and the graves carefully hidden. Fujioka again reminded them to keep it a top secret (p 22). See also Exhibit 32 pp 1 and 2; Exhibit 38 p 4.

As to Specifications 5(b) and 5(c): Exhibit 29, a report by a Graves Registration Unit which conducted disinterment operations, states in part that disinterment operations in the Shinodayama military maneuver area were begun 15 April 1946 and completed 18 April 1946. Two common graves were found, side by side within three feet of each other. Fifteen bodies were disinterred from the first grave and five bodies were found in the second grave. Former Kempei Tai personnel have stated that a group of five airmen were executed about the fourth or fifth of July 1945 and another group of from 14 to 17 fliers were executed about 19 or 20 July 1949. Dates not positive (p 5). The following bodies from grave number 1 were identified: Sergeant Lawrence W. Beecroft, Sergeant James N. Fitzgerald, Staff Sergeant Earle P. Flanagan, Captain Robert H. Hamilton, Sergeant Harvey B. Kennedy, Jr., Staff Sergeant George C. Reed, Corporal Clarence E. Scritchfield (uncertain), Staff Sergeant Logan M. Sparks, Staff Sergeant John R. Vincent and First Lieutenant Harrison K. Wittee. Five bodies were unidentified. Five unidentified bodies were removed from grave number 2, one of which might have been that of Scritchfield (pp 10, 11, 12, 13, 19). Some had their hands tied behind their backs; some had blindfolds; some had holes in their skulls. (Ex 30 p 7 etc).

As to Specification 5 (d): (About 31 July 1945 at the Central District military police headquarters, Osaka personnel of the said headquarters killed 2nd Lieutenant James R. Price and Staff Sergeant Russell J. Strong, American prisoners of war, by poisoning them).

Wada states in Exhibit 39 that the second execution by poisoning took place about 31 July 1945. He heard that two of the airmen were suffering from diarrhoea. He reported this to Shiuchi who in turn reported to Fujioka. Shiuchi later told Wada that Fujioka had ordered that the two airmen be killed with poison. Shiuchi ordered Wada to mix the poison with stomach medicine. Wada delayed as he

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did not want to poison the men. Before noon he met Major Shiuchi who shouted at him "haven't you done it yet? Hurry up!" Shiuchi was in a very bad mood. Therefore he reluctantly ordered a Kempei Tai interpreter (perhaps PFC Onishi) to prepare the investigation room for the execution. Wada then got the poison and stomach medicine (p 15). He handed the poison mixed in the stomach medicine to the Kempei interpreter who said something in English and handed it to them. The airmen drank the poison and died a few minutes later (p 16). The accused Shiuchi stated that their bodies were taken to the Sanadayama Army cemetery and buried by Mori, Morimoto, Matsuda and himself (Ex 54 part 3 p 3). The accused Sadaya Matsuda (who was acquitted) corroborated the date and further stated that a naval flier and a P-51 pilot had died of injuries. He was ordered to bury them at Sanadayama, together with the bodies of the two other fliers who Morimoto told him had suffered from a contagious disease and had been poisoned. The four bodies were buried in a common grave (Ex 31 p 2).

The report of disinterment (Ex 29 pp 8, 9, 19) states that four bodies were removed from grave number 2 at Sanadayama military cemetery. Staff Sergeant Russell W. Strong and 2nd Lieutenant James R. Price are considered to have been sufficiently identified. Another body was identified as Ensign Norman B. Bitzegaio, a navy pilot (p 17). The fourth body could not be identified.

As to Specification 5(e): (About 3 August 1945 at the Central District military police headquarters, Osaka, personnel of the said headquarters killed three unidentified American prisoners by poisoning them).

The accused Wada in Exhibit 39 states that the third poisoning took place about 3 August 1945. He received word that an airman had died of illness and that three others were sick. He reported this to Shiuchi who, in turn, reported this to Fujioka. "Upon returning, Major Shiuchi ordered me 'since the section chief (meaning Lieutenant Colonel Fujioka) has ordered the poisoning of the three airmen, whose illness have become serious, with potassium cyanide as was done previously it will be carried out at once. Load the dead airmen on the truck. Load the other three sick airmen on the truck too. Make it appear as if they are being taken to the hospital and poison them on the way to the grave yard.' As I was very busy with my work at that time I did not participate in this poisoning." (p 16). He saw PFC Onishi (the interpreter) hand the poison to the three airmen after which they were laid down. The bodies of the four airmen were buried together in the Sanadayama cemetery (p 17). Matsuda stated in Exhibit 31 that a third poisoning occurred in the early part of August 1945. As one of the fliers had died in his cell they placed his body on a truck. They were ordered to poison three other fliers who had diphtheria. These were also put on the truck. Major Shiuchi who was standing near the truck told the fliers that they were being sent to the hospital as they had contracted a contagious disease. Onishi acted as interpreter. Then Shiuchi said he was going to give them some medicine and gave three packets of potassium cyanide to Onishi who gave each a packet and a cup of water. After the airmen drank the poison they were made to lie down on the truck. Several minutes later they died. Thereupon they drove to Sanadayama (p 3), where they buried the bodies in a common grave beside the one grave in which they had buried the two airmen previously poisoned (see Specification 5 (d)) together with the two others who had died of injuries. The foregoing is corroborated in Exhibit 102, a statement by the accused Shiuchi. The report of disinterment (Ex 29) states that four bodies were removed from grave number 1 in Sanadayama military cemetery. Two were identified and two were unidentified (pp 7, 8, 18).

As to Specification 5(f): (About 5 August 1945 at the Jonan Firing Range, Osaka, personnel of the Central District military police killed 1st Lieutenant Louis W. Lehnen, Staff Sergeant Robert L. Pellicot and 12 other unidentified American prisoners by shooting them).

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The accused Wada stated in Exhibit 39 that in early August 1945, Major Shiuchi said that he had been ordered by Lieutenant Colonel Fujioka to execute the remaining airmen. Shiuchi further stated that since the trip to Shinodayama took too much time it had been decided to perform the execution at the army firing range. Shiuchi and Wada went to the Jonan Firing Range where Shiuchi chose a suitable place. Shiuchi reported this to Fujioka who approved (p 22). Fujioka told Shiuchi to leave four airmen for the purpose of obtaining information and execute the rest. Thereafter Shiuchi brought a list of 14 airmen designated by Fujioka for execution. The following day, Shiuchi selected a firing squad in the presence of Fujioka. They were given United States Army calibre .45 automatic pistols and loaded and locked them at Shiuchi's command. He remembered the following in the firing squad: Warrant Officer Hamamoto, Master Sergeant Takeda, Master Sergeant Tateno, and himself. After seven or eight airmen were seated in front of the grave, Shiuchi lined the squad up several feet in front of the airmen. Fujioka read the death sentence by order of the Fifteenth Area Army Commander for the crime of indiscriminate bombing. After Master Sergeant Mori translated, Fujioka gave the order to fire (p 23). Each man shot an airman in the forehead, as ordered. The remaining six or seven airmen were executed in the same manner. All were then buried, so that the graves would not be found. Shiuchi reported all three executions (Specifications 5(b),(c),(f)) to the army (p 24). The foregoing is corroborated by the accused Takao Mori in Exhibit 38.

Jiro Hamamoto stated in Exhibit 95 that on the morning of the execution day he went to the firing range with Wada, Sugiura, Mori, Morimoto, Tateno, Takeda, Takahashi, Oikada, Tsuno, Matsuda, Konishi, Onishi and Nagao to dig a pit. In the afternoon they rode back to the range with the airmen (p 2). Everybody from the Foreign Nationals section was present at the execution. There were more then 10 airmen all together. The executioners were Fujioka, Shiuchi, Wada, Hamamoto, Sugiura, Tateno, Morimoto, Takeda, Takahashi, and others. The executioners aiming at the back of the airmen's heads fired from a distance of about 1 meter at the command of Fujioka (p 3).

The report of disinterment (Ex 29) states that 14 bodies were recovered from a common grave at the Osaka firing range. The bodies of Staff Sergeant Robert L. Pellicot and 1st Lieutenant Louis W. Lehmen were identified. The remaining 12 bodies were unidentified (pp 7, 8, 18). Some of the fliers had holes in their skulls; some had been blindfolded; others had their hands tied behind them (Ex 30, p 19 etc).

As to Specification 5(g): (About 15 August 1945 at the Sanadayama military cemetery at Osaka personnel of the Central District military police killed 1st Lieutenant Harold T. Cobb, 2nd Lieutenant Joe S. McSpadden, Captain Jack K. Ort, 1st Lieutenant Donald J. Schiltz, and one other unidentified American Prisoner of War by shooting three and beheading two).

The accused Takao Mori stated in Exhibit 38 (p 4) that on the 15th of August the personnel of the Foreign Affairs section were assembled and told that it would be necessary to execute the five remaining fliers and to destroy all records and articles evidencing their capture. Warrant Officer Hamamoto was placed in charge of execution details. When the truck arrived with the fliers at the Sanadayama cemetery the grave had already been prepared by them and some Kempei Tai personnel were burning papers and fliers' articles. Mori led the fliers to the edge of the grave where they were executed immediately. He saw Sergeant Major Hamada decapitate two; the remaining three were shot.

Jiro Hamamoto stated in Exhibit 95 that he participated in an execution of airmen after the Emperor's broadcast. He heard on 14 August that Japan had lost the war. The broadcast was to be made at noon (p 3). Before that time he went to the office of the Foreign Nationals section. Upon entering Major Shiuchi told him to help Warrant Officer Sugiura prepare to execute the remaining airmen. Shiuchi told him to hurry as the Allied Forces were off the coast of

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Wakayama. He listened to the Emperor's broadcast with Sugiura. The broadcast informed the people of Japan's acceptance of the Potsdam Declaration (p 4). They arrived at Sanadayama military cemetery at 1300 hours. A pit had already been dug. Among those present were Sugiura, Mori, Morimoto, Takeda, Hamada, Matsuda and himself. He saw Hamada behead one of the airmen. Since it was after the Emperor's broadcast and since the Allied Forces were expected to land at any time everyone was in an excited mood and anxious to finish the executions as soon as possible. Many persons asked to be allowed to kill an airman (p 5). He was one of them. The requests arose from the feeling of spiritual confusion resulting from the realization that they had been defeated. Because of these circumstances these executions were neither formal nor orderly as were those carried out at the Jonan firing range. They were not performed in accordance with the orders of a leader (p 6). They were ordered to maintain strict secrecy about the executions (p 7). The accused Matsumoto Nakano stated in Exhibit 52 that he also attended the execution on orders of Major Shiuchi. He heard the name of "Lieutenant Schultz" but he could not remember any other. He saw Hamada behead two of the airmen. Hamamoto shot the other three airmen (p 3).

The accused Hiroshi Anjo stated in Exhibit 55 that about 11 or 12 August 1945 the senior officers of the Osaka Kempei Tai sensed that negotiations for surrender were being conducted and knew that the war was about to end. When the Emperor made his broadcast at noon on 15 August 1945 he was not greatly surprised. One day during the period from 12 to 16 August 1945, Fujioka asked Nagatomo what to do with the remaining airmen. Nagatomo replied in effect "you do it because you're in charge" (p 11). He did not know the details of the execution (p 12). Wada stated in Exhibit 39 that he heard from Warrant Officer Hamamoto that the executions were carried out in the morning. Rumors of surrender negotiations were heard from about 11 August. He was not surprised when he heard the Emperor's broadcast announcing the surrender (p 25). In Exhibit 101, a previous affidavit, Wada stated that the execution took place on 15 August 1945 between 1600 and 1700 hours. He heard about the hour from others in the barracks. He had returned to Kempei Tai headquarters between 1600 and 1700 hours. Members of the Foreign Nationals section told him they had just returned from the last execution (p 1). The firing squad was commanded by either Warrant Officer Hamamoto or Warrant Officer Sugiura. He believed that Lieutenant Colonel Fujioka ordered the last execution because during the morning of 15 August 1945 Fujioka said that it would be necessary to get rid of the remaining fliers held by the Kempei Tai (p 2).

As to Specification 5, in general: Exhibit 103 quotes Chapter 4, Article 57 of the Japanese military laws regarding disobedience of superior orders: "anyone who objects to and disobeys orders of superiors is to be punished as follows: (1) in cases of before an enemy--he shall be punished by death or imprisonment for life or over ten years. (2) in cases of military operations or in territories under martial rule--he shall be punished by an imprisonment between one and seven years. (3) in case of other circumstances--he shall be punished by an imprisonment of less than two years."

Exhibit 113 contains several tactical mission reports of the 21st Bomber Command. A mission flown on 5 May 1945 had as its target the Hero naval aircraft factory at Kure. This was 72% damaged by high explosives. The Hero engine and turbine factory was also damaged (p 1). A mission flown 1 June 1945 had as its target the water front at Osaka, including port factories, warehousing and storage dumps, metal industries and shipbuilding. 3.15 sq miles were damaged by 2700 tons of incendiary bombs and 81 tons of high explosives (p 2). A mission flown 5 June 1945 had as its target some steel mills, a rubber factory, a railroad station and part of the commercial area at Kobe. This was 28% damaged or destroyed by 3000 tons of incendiary bombs and 70 tons of high explosives (p 3). A mission flown on 6 June 1945 had as its target an important arsenal at Osaka. About 750 tons of high explosive bombs were dropped with no appreciable damage (p 4). A mission flown 24 July 1945 had as its target the Sumitomo metal industries

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in Osaka. About 488 tons of high explosive bombs were dropped and the target was about 77.5% destroyed or damaged (p 5).

As to Specification 1 (Fujioka and Shiuchi): (This specification charges the accused, respectively chiefs of the Police Affairs Section and Foreign Affairs Section of the Central District Kempei Tai, with mistreating and abusing American prisoners of war during the period from 5 June 1945 to 16 August 1945).

(See digest of evidence under Specification 1, Uchiyama, Kunitake, Nagatomo and Anjo).

As to Specification 1(a): (Ordering subordinates to withhold medicines, medical attention and hospitalization).

Fujioka stated in Exhibit 53 that he served as chief of the Police Affairs section of the Central District (Osaka) Kempei Tai from 1 August 1944 until the end of the war. As Police Affairs section chief he had charge of the Foreign National section. The handling of air crew members was not the work of the Kempei Tai. Shiuchi and his subordinates, with the approval of the unit commander, were doing the work of the army (p 2). Reports of captured air crew members were made to the army by Shiuchi immediately upon their arrival at the unit headquarters (p 5). By chance he learned that air crew members were being given insufficient care and some complained about painful wounds. He felt that the air crew members were dying one after the other. Shiuchi told him that the army hospital would not accept the wounded airmen. Shiuchi further stated "we cannot do anything for the wounded air crew members and besides they will die anyway regardless of the medical treatment we give them." Shiuchi was "disinclined in giving them care." In the early part of June 1945, Shiuchi reported that an airman was dying. Shiuchi then stated that regardless of how much treatment they gave him he will die and therefore did not favor giving him medical treatment. Fujioka advised him to do his best for the airman. Shiuchi accepted this and returned to his place of duty for the purpose of giving the patient medical treatment. In the end the airman died. Shiuchi did not report all deaths of airmen in the detention compound (p 7). Fujioka had little interest in treating wounded air crew members. He was not responsible for this. Shiuchi was recognized as a man of ability. Furthermore he was self confident and resented any handling of Foreign National affairs contrary to his opinion. Because of this and since he was inexperienced in Foreign Nationals affairs, Fujioka did not persist in carrying out his intentions or interfere in foreign national affairs (p 8).

The accused Shiuchi stated in Exhibit 54 (part 1) that he became a fugitive from about 8 November 1945 and lived in Hokkaido under an alias until he was arrested on 10 June 1948 (p 2). Lieutenant Colonel Fujioka, as chief of the Police Affairs section of the Central District Kempei Tai had charge of the Foreign Nationals sub-section which he (Shiuchi) commanded (p 4). He further stated in part 3 that he told Morimoto to hospitalize a seriously injured airman but Morimoto said that this was impossible as the hospital had been bombed. Fujioka also ordered hospitalization not knowing that the hospital had been bombed. He did not make any effort to hospitalize airmen because that was not his duty. The Foreign Nationals sub-section was not responsible for detention barrack matters It was the responsibility of Lieutenant Colonel Anjo (chief of the General Affairs section) and his subordinates (p 4). Hospitalization of sick or wounded airmen was a problem during the war. "I feel ashamed that I am unable to give a satisfactory explanation as to why the airmen were brought to the unit headquarters in serious condition, why they were not hospitalized immediately after being brought in, or why, after their capture, they were not transferred from the detention barrack to a hospital when it was learned that they were in serious condition." Wounded airmen were given first aid treatment in the medical office. They did not take any special steps to hospitalize the airmen. However, they did the best they could under the circumstances. He once told staff officer Yamanaka that the army

had not designated any hospitals to accommodate the airmen and that the situation was intolerable. Yamanaka attached little importance to this and did not take any steps to remedy the situation. Since army headquarters refused to give any instructions regarding facilities for hospitalizing the airmen "we were not responsible for putting them into hospitals and giving them medical treatment." When they reported capture of airmen to army headquarters, their condition at time of capture was also reported (p 5).

As to Specification 1(b): Not guilty.

As to Specification 1(c): (Neglecting and refusing to prevent subordinates from mistreating and beating prisoners).

Fujioka stated that he had cautioned Shiuchi against the use of third degree methods on the airmen and since he did not see nor hear of such a thing he believes such methods were not used. If they were used by his subordinates, he is responsible. (Ex 53 p 7). Shiuchi stated that he always cautioned his subordinates not to mistreat the airmen. He once saw a civilian interpreter named Shimizu mistreating an airman in July. He ordered him to stop (Ex 54 part 3 p 6).

As to Specifications 2, 3 and 4: Not guilty.

As to Specifications 5 - 11, inclusive: See summary of evidence under Specifications 5(a) to (g) inclusive, Uchiyama, Kunitake and Nagatomo.

As to Specification 5: Fujioka admitted that in the middle of June, he gave permission to Shiuchi to poison an airman on the verge of death, after first securing the approval of Nagatomo (Ex 53 p 10). Shiuchi stated that Fujioka ordered Wada to poison the airman. Shiuchi knew that nothing could make Fujioka change his mind so he did not say anything (Ex 54 part 3 p 2).

As to Specification 6: (This corresponds to Specification 5(b) above; it also charges the accused each shot one of the victims). Fujioka stated in Exhibit 53 that in the early part of June 1945, Shiuchi said to him "how about executing the air crew members at this time." Fujioka told him they could not do such a thing. Two or three days later Shiuchi told him the army wanted the airmen executed. About 10 June 1945 Shiuchi said the same thing and asked for his opinion (p 9). Fujioka reported this to the unit commander (Nagatomo) who silently approved. In the middle of June 1945, Nagatomo showed him the letter from Kempei Tai GHQ (p 11). Nagatomo said that he was going to see the army chief of staff. Thereafter Nagatomo said that the chief of staff had approved and told Fujioka to proceed with the executions. Five airmen were to be executed. Shiuchi favored beheading and poisoning but Fujioka told him to have the men shot. Fujioka drafted written death sentences and instructed Shiuchi to have them translated and read before the execution (p 12). Fujioka noticed that the plan of execution included beheading and poisoning and made Shiuchi revise it (p 13). Nagatomo and Anjo approved the plan; also the army. It was necessary to keep the executions secret as there was danger that the United States might use poison gas "in retaliation for this crime against humanity" (p 14). The five executioners, Fujioka, Shiuchi, Wada, Morimoto and Takahashi formed a firing line. He (Fujioka) gave the order to fire; those who did not die instantly were shot two or three times. He instructed Shiuchi to remove the bonds and blindfolds, so some were removed (p 16).

Shiuchi heard about the top secret letter from Kempei Tai GHQ in the middle or latter part of June 1945 (Ex 54 part 1 p 8). He interpreted the action ordered as "to execute them." Fujioka ordered him (also Wada) to select the execution site. Later Major Yamanaka of army headquarters said to him "haven't you killed the airmen yet? Don't you realize food is precious at the present time. Kill them at once." Shiuchi wanted to avoid being implicated in the matter and pleaded lack of fuel. Yamanaka said he would supply fuel. Colonel Oba said they

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would not do anything to charge the Kempei Tai with responsibility. Fujioka rejected beheading and poisoning (p 10). Shiuchi knew that Wada, Morimoto, Takeda and himself were to be executioners and that Fujioka would be in command. Fujioka gave instructions on the use of American revolvers (Ex 54 part 2 p 2). Fujioka gave the order to fire (Ibid p 3).

As to Specification 7: (This corresponds to Specification 5(c) above. In addition to the charges that the accused each shot one of the victims).

Fujioka stated in Exhibit 53 that it was decided to execute 15 airmen in the second execution. There would be eight executioners (p 17). He and Shiuchi were among the executioners. Fujioka gave the order to fire. Each executioner shot first one and then another victim in the back of the head. One of the executioners had only one victim since there were 15 airmen (p 18). Shiuchi stated that the execution took place about 15 or 16 July at the Shinodayama training ground (Ex 54 part 2 p 3). 15 airmen were executed. He and Fujioka were among the executioners. He killed one of the airmen. Some fired twice (Ibid p 4).

As to Specification 8: (This corresponds to Specification 5(d) above). Fujioka stated in Exhibit 53 that sometime after the first poisoning Shiuchi told him that he "had them take the chemical with the same purpose as the previous case." He did not specify place or persons (p 18). Fujioka simply thought of him as a hopeless fellow. Since the unit commander and the senior officer had approved it and since he felt diffident towards Shiuchi, he did not make further inquiries. He nonchalantly told the unit commander that Shiuchi made them take poison. He is aware of the responsibility of a supervisor. Since each poisoning was not an execution, the death sentence was not read (p 19). Shiuchi stated that Wada reported to him that two airmen were suffering from dysentery. Fujioka ordered Shiuchi to tell Wada to poison them because they would be executed sooner or later. Shiuchi passed the order to Wada. Wada remained silent. Two airmen were poisoned. They were buried in the Sanadayama army cemetery (Ex 54 part 3 p 3). According to a statement of Kenzo Nagao, Fujioka and Shiuchi admitted responsibility for the poisoning of fliers and further admitted that such poisonings were illegal (Ex 106).

As to Specification 9: (This corresponds to Specification 5(e) above).

Fujioka stated in Exhibit 53 that he knew nothing of the third poisoning although he realized the responsibility of a supervisor (p 19). Neither Nagatomo, Anjo nor he ordered the executions although they "approved a part of it. I am ashamed of myself and I particularly feel responsible for the occurrence for these incidents because I failed in my duty to stop Shiuchi's proposal, thinking that everything would be alright if I reported the matter to the senior officers" (p 28). Shiuchi stated that Wada reported to him in July 1945 that an airman had died of malnutrition and that three others in the same room were very weak and ill. He reported this to Fujioka who said that undoubtedly they would be ordered executed and if they died of malnutrition they might be accused of mistreatment. He therefore ordered Shiuchi to have them poisoned. Shiuchi told this to the members of his section and ordered them to make the necessary preparations. Shiuchi told Onishi (the interpreter) to tell the airmen they were being taken to a hospital because they were sick. He saw Onishi, Takahashi and Morimoto give the poison to the airmen. They were buried in the Sanadayama cemetery (Ex 54 part 3 pp 3, 4). The foregoing was reiterated in Exhibit 102.

As to Specification 10: (This specification corresponds to Specification 5(f) above; see digest of evidence thereunder. The specification also charges that the accused each killed two American prisoners by shooting). Fujioka and Shiuchi were in the firing squad (Ex 39 p 24). Fujioka stated that he told Nagatomo that the third execution would be held at the Jonan firing range.

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Fourteen airmen would be executed. Nagatomo approved. Fujioka and Shiuchi each shot two airmen. Fujioka gave the order to fire (Ex 53 pp 19, 20); corroborated by Shiuchi in Exhibit 54 part 2 p 7.

As to Specification 11: (This corresponds to Specification 5(g), Uchiyama, Kunitake and Nagatomo. See digest of evidence thereunder).

Fujioka stated in Exhibit 53 that on 13 August 1945 he heard from the Kyoto Kempei Tai commander that Japan had decided to surrender. However, he believed that the army would fight to the last. There were rumors of peace and war from 13 August to 15 August. About 0900 hours on 15 August 1945, Shiuchi told him that the remaining airmen would be executed. At that time due to the confusion and disappointment, he (Fujioka) was not concerned and gave his approval without question. When it was almost noon Shiuchi reported completion of the execution. After hearing the Emperor's broadcast they believed the decision to surrender (p 21). Shiuchi stated that about 0900 hours on 15 August, Fujioka told him that Japan would surrender and that this would be proclaimed at 1200 hours. He was called by Fujioka about 1100 hours. Fujioka told him to dispose of the remaining airmen. Shiuchi passed the order to Sugiura (Ex 54 part 2 p 9). The accused Takao Mori stated that five airmen were executed on 15 August 1945 (Ex 38 p 4). Jiro Hamamoto stated in Exhibit 95 that the execution took place after the Emperor's broadcast on 15 August 1945, he heard that Japan had lost the war on 14 August (pp 3, 5). This is corroborated by Matsuda (Ex 31 p 5) and Takashima (Ex 37 p 3).

Fujioka further stated in Exhibit 53 that the army headquarters order and approval was the basic cause of the execution and the Kempei Tai GHQ letter was the incentive. Nagatomo issued the order and the execution was carried out. Persons below the rank of warrant officer who were connected with the execution acted according to orders, not voluntarily. He (Fujioka) feels his responsibility for the executions. Apart from the legal aspect of the case he did not think he could escape responsibility for the execution regardless of the motive. He thinks he should be given the severest punishment (pp 28, 29). Shiuchi stated that he delayed preparations for the executions until the section chief exerted pressure upon him. After he was urged by Major Yamanaka and Lieutenant Colonel Oba of army headquarters, he thought the executions were unavoidable because the Kempei Tai headquarters, the Central District army headquarters, and the unit commandant were entirely in accord on the matter. He senses that his flight was instigated by Fujioka and the others to ensnare him (Ex 54 part 3 pp 9, 10).

As to Ishida and Yamamura: Not guilty of the main charge.

As to the Specification, Oba and Yamanaka: (This specification as restricted by the findings charges the accused with advising, inciting and aiding personnel of the Central District Kempei Tai to execute the airmen, except those poisoned).

As to Sub-Specifications (a), (d) and (e): Not guilty on motion (R-1151).

As to Sub-Specifications (b), (c), (f) and (g): See summary of evidence under Specifications 5(b), (c), (f) and (g), Uchiyama, Kunitake and Nagatomo, and under Specifications 6, 7, 10 and 11, Fujioka and Shiuchi.

Oba stated in Exhibit 69 that he was senior staff officer of the Fifteenth Area Army and Central District Army from 6 April 1945 until the surrender. As senior staff officer he was in charge of operations (p 2). Due to the cramped condition of the place of confinement and for other reasons, the Tokyo Kempei Tai GHQ directed (shishi) Nagatomo to consult with the chief of staff, obtain his approval and execute the airmen. Nagatomo received permission from Kunitake. As senior staff officer, he (Oba) therefore ordered Yamanaka to arrange for a place

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of execution and fuel for transportation. Other reasons for his (Oba's) order were that Shiuchi told him that there was positive proof of indiscriminate bombing by all air crew members and because Captain Ono of the Army Judicial Department told him that if the proof were beyond a doubt, it would be all right to execute them without trial since they would be sentenced to death anyway (p 4). He told Uchiyama and Kunitake that Captain Ono complained of the excessive time spent on the investigation of the two airmen. Uchiyama said that his method should be considered to execute the airmen without trial if the Kempei Tai produced sufficient evidence. Kunitake stated that since indiscriminate bombing was usually obvious, it would be all right. In early July 1945 Shiuchi told him that the airmen held by the Kempei Tai would be executed (p 7). Oba said "what, haven't you done it yet?" This was not said in the sense of prompting the execution but was in the "teasing" sense implying that the Kempei Tai, despite public opinion which demanded the execution, faithfully continued to follow regulations. He advised Shiuchi to keep the matter secret. If the matter should become an issue, he would like to assume responsibility. He told Shiuchi to arrange the details with Yamanaka (p 8). He desires that Yamanaka be absolved from this responsibility (p 9).

Yamanaka stated in Exhibit 68 that he was staff officer concurrently of the Fifteenth Area Army and the Central District Army (p 2). Early in July 1945, Major Shiuchi told him that he had talked with Oba and it had been decided to execute the airmen. The matter was to be kept secret. He made arrangements for use of the Shinodayama maneuver area (p 6), also for fuel (p 7). He participated in the conspiracy to conceal the executions (p 10, etc.).

As to Specification, Okido: (This specification as restricted by the findings charges the accused with advising, inciting and permitting his subordinates to kill the airmen).

As to Sub-Specification (a): Not guilty on motion (R-1151).

As to Sub-Specifications (b)-(g), inclusive: See summary of evidence under Specifications 5(b) to (g), Uchiyama, Kunitake and Nagatomo and Specifications 6 to 11, Fujioka and Shiuchi.

The accused Okido stated in Exhibit 88 part 1 that he was commandant of the Kempei Tai from October 1944 to August 1945. He had a conference with War Minister Anami in late July 1945 (p 3). He reported to Anami that some captured fliers were executed by the Osaka Kempei Tai without formal trial. The Army was also involved. He temporarily put a stop to it (p 4).

In April or May 1945 at the War Ministry, Tamura, chief of the Prisoner of War Information Bureau requested that Okido try captured airmen as speedily as possible and then jokingly asked if there was some simple way of disposing of them. Okido answered in the negative (p 5). On the same day at a meeting of section chiefs at Kempei Tai headquarters, Okido mentioned Tamura's question. He did not believe anyone favored Tamura's idea (p 7). In early June 1945, he had two or three conferences with Ishida and Yamamura concerning a circular on the treatment of fliers. In September 1945, he heard about atrocities committed before and after the war by the Osaka Kempei Tai (p 8). Some of these were committed even after he inspected the unit and prohibited such action, severely reprimanding them. He did not tell Nagatomo it will be all right to execute them providing the Kempei Tai did not do it (p 9). He was motivated to send the circular because of the crowded condition of the Kempei Tai headquarters compound, the army's delay in deciding the status of the airmen, and the fact that the Kempei Tai was busy with its other duties (p 16). Therefore Okido desired speedy disposition of the fliers and also he sensed a tendency in army headquarters, especially among the Judicial officers, to disapprove of trials by military tribunals. He felt that there were other expedient methods, such as reductions of sentences, postponing sentence, utilizing them in factories and simplifying administrative procedure.

Restricted

Other reasons were difficulties in preventing atrocities during air raids (p 17) and the necessity for preparing defenses against invasion. He suggested that the respective Kempei Tai commanders notify the Army chiefs of staff of conditions in their units and methods of remedying same (p 18). Yamamura and Ishida opposed parts of the original draft so he omitted them. He approved the circular and ordered its distribution. There were probably no replies to the circular (p 19). Yamamura and Ishida believed that it would be dangerous to send the circular. Ishida also mentioned that disposition of the fliers was an Army matter and that if it were necessary to send the circular he should have the War Ministry issue a directive. Okido doubted that the War Ministry would consent to issue such a directive and considered this inappropriate (part 2 p 4). He felt that the effect of the draft, as revised by Ishida, was weak. He therefore kept it and later made several additions and revisions. The letter was written in the form of a private message from Yamamura in view of Ishida's argument that it would be improper for Kempei Tai headquarters to meddle in an Army matter. The letter was written in such a manner as to leave its adoption or rejection to the discretion of the unit commander (part 2 p 5).

He (Okido) requested that the aroused state of the people be taken into consideration (part 3 p 2). If the Army headquarters had provided for suitable disposition (shori) of the airmen and not neglected them the incident would not have taken place. He believes that one of the causes of the incident is that he was inexperienced with the Kempei Tai and did not have a full comprehension of the Kempei spirit. He is very sorry if the trouble was caused by the letter he insisted on sending through his lack of prudence and against Ishida's kindly advice. When he sent the letter he never thought such an incident would take place. Nagatomo is either guilty of chicanery or he read the letter subconsciously or forceably misinterpreted it. He deeply regrets his lack of sagacity which made him send the letter without foreseeing all the possibilities and without heeding Ishida's kindly advice. If he had investigated when he first heard of the atrocities he feels that he could have prevented subsequent atrocities. However, his other duties were too pressing (part 3 p 3). Another reason was that he was tender-hearted to all his subordinates and was unable to carry out the investigation. Nagatomo and his subordinates were working day and night, risking their lives. It would also have hindered them in executing their duties. He feels strongly responsible for the first incident he heard about. He did not inform Ishida about it because in reflecting upon his advice he became ashamed of his impudence (part 3 p 4).

Ishida stated in Exhibit 87 part 2 p 7 concerning the sending of the secret letter that Okido "completely oppressed my opposition and earnest request with his absolute power and high-handedness and grieved me to the limit." Yamamura stated in Exhibit 89 that he and Ishida considered the letter more in the form of advice than as a direct order, also they did not want the Army to think that they were interfering with their affairs (p 2). He did not think the letter could have been interpreted as an order to execute the airmen after obtaining the approval of the Army (p 3).

As to Specification 1, Wada: (Between 5 June and 30 June 1945 at the Central District military police headquarters, accused caused the death of an American prisoner of war by ordering and directing his subordinates to poison him).

See digest of evidence under Specification 5(a), Uchiyama, Kunitake and Nagatomo and Specification 5, Fujioka and Shiuchi.

Wada stated in Exhibit 39 that Fujioka ordered him to poison the airmen. He objected all he could but Fujioka cut him short by saying "you do as I say!" (p 13). Fujioka later said "didn't I tell you to kill the airmen was an order from the Army? Do as I told you." Fujioka told him to use potassium cyanide or arsenic. Wada gave the poison to Master Sergeant Mori and ordered him to mis the poison in some tea (p 14). Wada then told him to give the poisoned tea to

the airman who died a few minutes after he drank it (p 15).

As to Specification 2, Wada: (As restricted by the finding, charges that the accused about 5 July 1945 at the Shinodayama military maneuver grounds, Osaka, did participate in the unlawful killing of an American prisoner by shooting him).

See digest of evidence under Specification 5(b), Uchiyama, Kunitake and Nagatomo, and Specification 6, Fujioka and Shiuchi.

Wada stated in Exhibit 39 that five airmen were to be executed at Shinodayama in the early part of July 1945. Lieutenant Colonel Fujioka said that the Army had ordered all of the airmen to be executed and the executions to be kept secret (p 18). Fujioka ordered him to be one of the firing squad. He shot one of the airmen (p 19).

As to Specification 3, Wada: (About 20 July 1945 at the Shinodayama military maneuver grounds, Osaka, did unlawfully kill an unidentified American prisoner by shooting him. The word "willfully" was deleted in the findings).

See digest of evidence under Specification 5(c), Uchiyama, Kunitake and Nagatomo.

Wada stated in Exhibit 39 that about 10 days after the above execution, Major Shiuchi ordered him to prepare for the execution of about 15 airmen (p 20). They were executed on 20 July 1945. Wada was one of the executioners (p 21). Fujioka gave the order to fire (p 22).

As to Specification 4, Wada: (About 31 July 1945 at the Central District military police headquarters, Osaka, accused unlawfully caused the deaths of 2nd Lieutenant James R. Price and Staff Sergeant Russell W. Strong, American prisoners of war, by ordering, directing, etc. his subordinates to poison them. The word "willfully" was deleted in the findings).

See digest of evidence under Specification 5(d), Uchiyama, Kunitake and Nagatomo and Specification 8, Fujioka and Shiuchi.

Wada stated in Exhibit 39 that the poisoning took place about 31 July 1945. He reported to Shiuchi that two airmen were suffering from diarrhea. Shiuchi reported to Fujioka. Later Shiuchi told Wada that Fujioka had ordered that they be poisoned and ordered Wada to poison them with potassium cyanide after first mixing it with medicine. Wada "stalled around". Shiuchi ordered "haven't you done it yet? Hurry up!" Therefore, Wada reluctantly ordered a Kempei interpreter to prepare the investigation room for the execution (p 15). He handed the poison to the interpreter who handed it to the airmen. They died a few minutes later (p 16). See also Exhibit 101 p 1.

As to Specification 5, Wada: (About 5 August 1945 at the Jonan rifle range, Osaka, accused did participate in the unlawful killing of two unidentified American prisoners by shooting them -- as restricted by findings).

See digest of evidence under Specification 5(f), Uchiyama, Kunitake and Nagatomo and Specification 10, Fujioka and Shiuchi.

The accused Wada stated in Exhibit 39 that in early August 1945, Shiuchi told him that Fujioka had ordered the remaining airmen to be executed (p 22). Fujioka designated 14 airmen for execution. Wada was in the execution squad. Fujioka gave the order to fire (p 23). Each executioner shot two airmen (p 24). His (Wada's) actions were the final cause of the deaths; he instructed his subordinates to poison the airmen and he personally shot others to death. It

might have been better if he refused to carry out the orders. If he had done so he could not have saved their lives (p 29). If there had been a policy to handle the airmen as prisoners of war he would not have killed a single airman (p 30). He harbored no personal hatred or vengeance against the airmen (p 31). What he did was abhorrent to him and against his will. It was done because of absolute orders (p 32).

As to Specification 1, Mori: (Between 6 June 1945 and 30 June 1945 at the Central District military police headquarters, Osaka, accused did participate in the unlawful killing of an unidentified American prisoner by poisoning--as restricted by findings).

The accused Mori in Exhibit 38 relates how Shiuchi ordered Wada to poison the airman. Mori was ordered to act as interpreter. He was ordered to take a cup of tea to the chemical section. The flier asked for a drink of water and the sergeant from the chemical section then gave the tea to the airman. He died in about half an hour (p 3).

As to Specifications 2 and 3, Mori: Not guilty.

As to the Specification, Hamada: (About 15 August 1945 at the Sanadayama military cemetery, Osaka, accused did participate in the unlawful killing of two unidentified American prisoners by decapitating them--as restricted by findings).

See digest of evidence under Specification 5(g), Uchiyama, Kunitake and Nagatomo and Specification 11, Fujioka and Shiuchi.

The accused Matsuda (who was acquitted) stated that about 1400 hours on 15 August 1945 Shiuchi gave the order to execute the remaining fliers. Sugiura (also acquitted) assumed command. Matsuda saw Hamada behead a flier with a single stroke of his sword. He also saw a second flier beheaded with a single stroke of the sword (Ex 31 p 5). This is corroborated by Takashima (acquitted) in Exhibit 37, p 3, except that he saw Hamada behead only one airman. The accused Mori stated that he saw Hamada behead two of the airmen (Ex 38 p 4). Jiro Hamamoto saw Hamada behead one of the airmen. "Hamada wanted to do this because he had brought his own sword with him. Since it was after the Emperor's broadcast and it was after the news had been received that the Allied Forces would land at any time, every one at that time was in an excited mood and was anxious to finish the executions as quickly as possible. There were many persons at the executions who asked to be allowed to kill an airman. These requests were not due to curiosity about killing but arose from the feeling of spiritual confusion resulting from the realization that we had been defeated. Because of these circumstances, these executions were neither formal nor orderly. In other words, they were not performed one by one in accordance with the orders of a leader." (Ex. 95 pp 5, 6).

Hamada stated in Exhibit 48 that he was a Kempei Tai master sergeant under Captain Takayama (acquitted) who, in turn, was under Major Shiuchi. On 15 August 1945 at 1130 hours, Takayama told him that Shiuchi had ordered two men to act as executioners. Takayama sent him and Takashima. Hamada asked Takayama if the execution was to be by pistol or sword and Takayama replied it didn't matter. Hamada took his sword. They heard the Emperor's broadcast which they interpreted as a surrender but they thought it was a trick. He (Hamada) and Takashima said that since the war was over it was not necessary to carry out the execution (p 2). Some one said that if they spared the airmen the previous incidents would be exposed. Furthermore since it was an order, it must be carried out. Hamada agreed that it was an order. He further stated that Warrant Officer Hamamoto ordered him to behead two of the airmen which he did (p 3). When he was ordered to carry out the execution, he could not protest in any way (p 4). Former Captain Takayama stated that between 1000 and 1100 hours on 15 August 1945, Shiuchi stated that the

Foreign Nationals section had been ordered to execute fliers and he ordered Takayama to send two men to assist in the execution. Takayama sent Takashima and Hamada. He did not remember if Hamada asked him what uniform he should wear. About 1500 or 1600 hours, Takashima and Hamada returned. Hamada told him he beheaded two fliers. Upon listening to Hamada's story, he (Takayama) thought the situation had become quite awkward (Ex 49 p 3).

As to the Specification, Nakano: (On numerous occasions between 1 March 1945 and 16 August 1945 at the Central District military police headquarters, Osaka, accused did mistreat and abuse numerous unidentified American prisoners of war by beating them -- as qualified by findings).

Nakano was an interpreter in the Police Affairs Section of the Central District Kempei Tai. He changed his surname to "Shimizu" (Ex 5 p 32). Marcel Pellerin, a former French National prisoner in the Osaka jail from 26 March 1945 until 16 June 1945, stated that about 25 American airmen were taken to the jail between the 5th and 6th of June 1945. The Japanese in charge were Lieutenant Wada, interpreter Shimizu, "one very bad man", Sergeant Minami and two others (Ex 8a). Every day from 6 June 1945 until 16 June 1945, he saw the Japanese mistreat the fliers. Shimizu participated in the mistreatment of the fliers. He was a civilian and spoke good English (Ex 8b). Sergeant Minami, who was on duty in the Kempei Tai jail in Osaka, stated that he saw Shimizu strike an airman with a bamboo sword and his fist during and before interrogation (Ex 20). The accused Shiuchi stated that in July 1945 he saw Shimizu pulling an airman by the neck and threatening him in English in order to obtain information. He did not see Shimizu strike the airman (Ex 54 part 3 p 6). The accused Nakano stated that he was employed by the Osaka Kempei Tai as an interpreter. He denied that he used force during his interrogation of Staff Sergeant Augunas, a captured airman (Ex 52 pp 1 and 2).

As to Matsuda, Tsuno, Konishi, Oikada, Takahashi, Takeda, Tateno, Sugiura, Morimoto, Kobayashi, Takayama and Ono: Not guilty (R-2481-2485).

As to Hamamoto: Nolle prossed prior to arraignment (R-13).

As to the Additional Specification, Okido, Ishida, Uchiyama, Kunitake, Nagatomo, Yamamura, Oba, Anjo, Fujioka, Yamanaka and Wada: The gist of this specification is that the accused, from and after 1 May 1945, acting together and with others pursuant to a common intent and design conspired to prevent the United States Government from obtaining information as to the capture, status, conditions of confinement, death and place of burial of about 53 American prisoners of war and withheld, concealed and suppressed such information from the Japanese and United States Governments and fabricated and transmitted to the Japanese Government and the American Occupation authorities, false and misleading information concerning these matters.

Evidence to support this specification is found in the following: Exhibits 7 (p 16), 28 part 4 (pp 5, 12-15), 36 (p 3), 37, 39 (p 25 etc), 49, 53 (pp 14, etc., 22 etc), 54 part 2 (p 8), part 3 (pp 6, 7, 10), 55 (pp 14 etc), 56, 59 (p 9), 60 (pp 8-12), 61 (p 6 etc), 64 (p 4), 66 (pp 5, 6, 7), 67, 68 (p 9 etc), 69 (pp 2, 13 etc), 72 (pp 3, 4, 8), 73 (p 2), 74, 75, 76, 77, 79 (p 9), 81 (pp 5 etc, 12 etc), 82 (pp 47, etc 55), 83, 84, 85 (pp 10, 29, etc, 36, 37), 88, 90, 92 (p 5), 93 (p 3 etc), 98, 100, 102, 106.

b. For the Defense:

Jo Iimura, commanding general of GHQ Kempei Tai from 21 August 1945 to 1 November 1945, testified that in September 1945 Nagatomo came to report to him concerning the executions by his subordinates (R-1157). Nagatomo stated that the executions were carried out as a result of a letter from Kempei headquarters. Iimura requested that the true facts be made known (R--1158). Neither Nagatomo

nor any of the Kempei Tai officers present discussed falsification of the report. (R-1161). It would be officious on the part of a Kempei commander to volunteer advice to an Area Army commander as to what he should do with prisoners of war in his custody (R-1164). He understands "illegal execution" to mean "without passing them through the Military Discipline Conference". He first heard of the illegal executions from Nagatomo (R-1173). He ordered his subordinate units to report on mistreatment of fliers (R-1174). If Nagatomo had told Ishida that measures were being taken to suppress the facts, it would be Ishida's duty to inform him (Iimura) (R-1175). If Fujioka had told Yamamura of plans for suppressing facts about the executions, it would have been Yamamura's duty to report it to Iimura. (R-1181). Nagatomo should have consulted Uchiyama directly in such an important matter as executing the prisoners of war even though the letter stated that he was to see the Chief of Staff (R-1186). Nagatomo could have determined whether he was obliged to act upon the letter. Iimura was directed by the War Ministry to report on the handling of captive personnel (R-1190). He believes the Area Army Headquarters received similar orders from the War Ministry; their reports would include the handling of prisoners by the Kempei units under their limited command authority (R-1191).

Michihiro Okamura testified that he served the Kempei Tai GHQ as a staff officer and member of the General Affairs Section from 16 March 1945 until the surrender. He was a Lieutenant Colonel (R-1193). Fujioka was the type of man who took the initiative and did his work by himself without waiting. They adopted a plan for use in event of invasion whereby the Army could use Kempei men but the men would not be transferred (R-1204). The Army's limited command authority of Kempei Tai headquarters affected the efficiency of Kempei operations as the work of the latter increased. Because of the shortage in personnel, Okido planned to perform only the main duties of the Kempei (R-1205). If Okido considered himself right on a matter, he forced his intentions strongly; however, if there were contrary opinions, he would not insist (R-1206). Okido did not refuse to listen to the opinions of his subordinates (R-1207). He heard Nagatomo report to General Iimura in September 1945. Iimura called for the truth (R-1208). After 16 March 1945, each Kempei Tai headquarters had one medical officer and two medical NCO's (R-1223). If one of the District Kempei Tai units was detaining airmen and their facilities for handling the airmen became insufficient, the matter should have been handled by the District Kempei Tai commander and the Army headquarters concerned rather than between Kempei headquarters and Army headquarters. When the Kempei Tai handled airmen they did so under the limited command authority of the Army commander. The Army gave orders relative thereto directly to the Kempei Tai commander and not to the Kempei headquarters. The Army commander had no command authority or limited command authority over the Kempei commander. The Kempei commanding general had no authority to go to the Army commander or his chief of staff and express his opinion concerning the handling of confined airmen (R-1224). After the war, he was told by Colonel Ogoshi, former chief of the Kempei General Affairs Section, that he had begged Ishido to stop Okido's intention to have the airmen executed in a simple way as he considered such suggestion was unlawful. (R-1249). Because the Kempei Tai were handling airmen for the Army, it became difficult for them to perform their duties efficiently (R-1250). Anjo generally remained in the background although he was firm (R-1270).

Shyoji Shakudo testified that in 1944 and 1945 he was commander of the Northern District Kempei Tai. His rank at demobilization was major general. In June 1945 he received a letter from Kempei GHQ marked "very secret". It was signed by Colonel Yamamura (R-1294). He considered it a personal, and not an official, letter (R-1295). The letter stated: (1) The war had become more severe and Kempei duties greatly increased. (2) Kempei facilities were weak and there was a shortage of personnel. (3) With the increase of captured fliers, it was difficult for the Kempei to perform its duties. (4) The handling of prisoners was a function of the Area Army commander. For the speedy disposition of airmen, some method, such as a speedy Military Discipline Conference, should be used. (5) Suitable measures should be taken in consultation with the Army chief of staff.

Recalled

(6). The letter was unofficial. (7) Burn after reading. He had an "unpleasant feeling" after reading the letter because it gave instructions regarding duties which he already knew were his as Kempei Tai commander; specifically, the speedy disposition of captured airmen through the Military Discipline Conference and the fact that he was to consult the chief of staff. He had never received such a letter before (R-1296). He considered the letter as an intrusion by Yamamura into matters not properly his concern (R-1297). He had four airmen in custody when he received the letter. He was ordered to intern the fliers by the commander of the Northern Area Army. Army headquarters never tried any airmen by Military Discipline Conference. The Kempei Tai did not conduct investigations. They frequently requested the Army headquarters to conduct the investigations but the latter claimed they were too busy and did not do it (R-1298). His headquarters was located in Sapporo (R-1299). He retained the airmen in his custody until the surrender. While the airmen were in his custody, he was responsible for providing them with food and clothing. They wore their original uniforms. It was not difficult to provide rations for them since there were only four airmen. The fliers were kept in two cells, each about 50' square. There were no latrine or washing facilities in the cells. After the war, Army headquarters took over the prisoners and put them in their own billets (R-1311). He never interned more than three airmen during the last three months of the war. Hot water was taken into the detention barracks for the airmen to wash in. There was a supply of water in Sapporo during the last three months but not much. The airmen were given one blanket each; if they felt cold, "we were able to provide them with more."

The letter from Yamamura was placed on his desk with a lot of others (R-1312). He destroyed the letter an hour or two after he received it. He concluded that the letter did not require any action on his part (R-1313). He received three of the fliers in June and the other flier not long afterwards. (R-1314) At the time he received the letter he did not have any serious problem concerning detention of airmen nor did he report to Tokyo that he had. If more prisoners were added, it would have presented a difficult problem. If at the time he received the letter his detention barracks had been overcrowded and more airmen were anticipated, and if Army headquarters had urged him to execute the airmen without trial, and he had then received the letter, he did not know what he would have done. He thinks that he would probably have gone mad. He naturally would have spoken to the chief of staff (R-1315). He might have interpreted the letter differently in such a case (R-1316). The letter was written on very thin red-lined paper which was occasionally used for official documents. His (the witness') official position was not indicated in the address. He did not recall if the words "very secret" were stamped on the body of the letter (R-1318). He never corresponded privately with Yamamura. It would not be proper for Yamamura to send him a personal letter through Army channels marked "very secret". It would not have been unreasonable to consider it an official communication but because of its vague style and because it stated that it was a personal opinion and not that of higher authority, he considered it a private letter (R-1319). In an affidavit that he signed for the prosecution, he did state that the letter included the following: "Since the handling of prisoners of war is originally and still the duty and responsibility of the army commander, you are to contact the army headquarters immediately and confer with the Chief of Staff to make suitable disposition of the prisoners of war, such as expedite the procedure of the Military Discipline Conference or by other means". At this point, in response to a question an interpreter stated that the words used for "make suitable disposition" could also be translated as "use your own discretion", or "adopt opportune or appropriate measures" or "do as you see fit". In the absence of an Army order he had no duty to interrogate or investigate captured airmen (R-1321). If the letter had been received by a commander of a Kempei Tai District which had been intensively bombed, resulting in damage to many houses and military installations and the killing of many non-combatants, giving rise to an intense hatred towards American airmen; and if the recipient of the letter was burdened with about 30 captured airmen and anticipated receiving more and assuming that he had received reports that on two occasions, Army headquarters had urged the Kempei Tai to execute the

airmen summarily, it would be reasonable for the recipient to feel that he was being given a hint to summarily execute the airmen. The witness admitted he wrote in the affidavit that although the meaning of the letter was ambiguous, it could have meant, among other things, that he was to obtain the consent of the Chief of Staff and the disposition of the prisoners of war by putting them to death secretly. He also wrote: "My personal opinion is that, my interpretation of Colonel Yamamura's letter as suggesting the killing of the prisoners of war was not necessarily wrong. Consequently, when Major General Nagatomo, commander of the Central District Kempei Tai, saw the letter, it was not unreasonable that he interpreted the letter as an instigation to kill the prisoners of war." (R-1324). He visited his prisoners (airmen) twice and noticed that they were treated better than the ordinary prisoners (R-1325). He has known Nagatomo for some time, having worked in the same Kempei Tai unit with him. He found Nagatomo to be warm, gentle and kind-hearted and not one who would ill-treat and take improper measures. He believes that what Nagatomo did was due to the circumstances and the pressure applied upon him. He imagines that he would do likewise under the same circumstances (R-1326). He considered the letter to be private because if it were an order it would have come through the proper channels; also when an inferior officer sends such a message to a senior officer, it should not be given too much consideration (R-1327). He did not think that the Kempei commander (Okido) was supposed to send anything regarding captured fliers. He did previously state that the recipient of the letter could have made different interpretations of it (R-1328). He complained to the Army concerning the fliers interned by him because of the inconvenience involved, and not pursuant to the contents of the letter (R-1329).

Noribumi Takada testified that from February 1945 until the surrender he was the commander of the Western District Kempei Tai, attaining the rank of colonel. He received a letter signed by Colonel Yamamura a few days prior to 20 June 1945. It was either a written carbon copy or written with a stylus (R-1330). He did not pay much attention to the letter. It mentioned suitable disposition (of captured airmen), such as sending them to a Military Discipline Conference. (R-1331). He never interpreted the letter to mean that the fliers might be summarily executed. He would not say that it was a private letter. He considered it an official communication. Official communications from Kempei GHQ were: (1) Directives and orders from the commander. (2) Authorized memoranda from the Hombucho. (3) Administrative liaison from the various chiefs of sections. He would classify the letter as administrative liaison since it was sent in the name of the section chief. Administrative liaison required compliance as far as possible. He thinks the sole purpose of the letter was to require each Kempei Tai district commander to contact the Army so that the Army would properly dispose of the fliers. It did not instruct the Kempei Tai to actually punish the fliers. No captive airmen were executed by the Western District Kempei Tai (R-1334). General Okido inspected his unit in April or May 1945. He did not think that Okido told him to execute any fliers without trial. He did not remember telling Sato (also a witness) to the contrary (R-1335). Under the doctrine of limited command authority, orders to Kempei Tai units concerning the handling of captured airmen would come from the Army commander. General military policing (relating to military personnel), judicial policing (relating to civilians), administrative policing and internal affairs matters were not matters of defense under the limited command of the Army and were, therefore, under the command of Kempei GHQ. Kempei GHQ had supervisory authority regarding the efficiency of operation of District Kempei Tai headquarters, including the performance of duties for the Army under the doctrine of limited command. Generally captured airmen were not confined at his headquarters. They were usually transferred after capture to divisional or fortress headquarters (R-1336). Matters handled for the Army under the doctrine of limited command (including matters of defense and the handling of captured airmen) constituted 10% to 20% of Kempei Tai activities. Western Army regulations provided that captured airmen would be interrogated briefly by the Kempei Tai who would then turn them over to Army headquarters or divisional

Retained

headquarters (R-1340). Because Kempei units were scattered, they were required to take captured airmen to divisional or fortress headquarters in the area and, if requested, escort the airmen to Army headquarters (R-1341). Sometimes his men escorted fliers to General Army or General Staff Headquarters in Tokyo (R-1342). About 5% or 6% of his time was spent in handling captured airmen (R-1343). Prior to receipt of the Yamamura letter, if airmen made armed resistance they were to be brought in although international law permitted that they could be attacked. The letter changed existing policy in that he interpreted it to permit that airmen who resisted could be attacked; and also because it stated that Military Discipline Conferences should be speeded up. At the time he received the letter, he was not detaining any airmen nor did he have any problems connected therewith. The matter of airmen was an Army problem (R-1344). He could make more decisions concerning the disposition of airmen (R-1346). He probably did tell his subordinate, Major Yanase, to contact the Army after receipt of the letter but he is not sure (R-1349). Most documents sent out at the time were marked "secret" or "very secret" (R-1350). He did previously state, on or about 13 June 1946, that upon receipt of such a letter and after receiving the approval of the Chief of Staff, he would have felt justified in executing the fliers who could not have been tried by the Military Discipline Conference, if they were guilty of indiscriminate bombing (R-1357). He would have had to investigate the airmen himself (R-1358). The effect of the classification "secret" or "very secret" had become very weak. If Army headquarters had made him detain and interrogate all airmen captured in the area, he would not have been able to function very well (R-1359).

Tokishige Hiza testified that he was commander of the Tokai Kempei Tai from April 1945 until the end of August 1945. His headquarters was in Nagoya. He recalled receiving the letter from Colonel Yamamura in May or June 1945 (R-1362). He interpreted it to mean that in order to clear the detention barracks the Army should be contacted with a view to expediting the sending of airmen to the Military Discipline Conference or a prisoner of war camp. His detention barracks had burned. Regulations required that captured airmen be taken by the Kempei Tai to Army headquarters. If he had fliers in his custody the letter would have made no difference in his procedure (R-1363). The letter did not indicate that it was sent with the approval of the commander of Kempei Tai GHQ or his Hombucho. He did not consider the letter important because almost all documents from Kempei headquarters were marked "very secret". He also felt that Kempei headquarters was meddling with a matter outside of its jurisdiction and furthermore he considered it to be a private opinion. He did not consider that either General Ishida or General Okido had approved the letter (R-1364). It was not an order. He considered it a great bother. He (a colonel) was superior in rank to Yamamura; furthermore, because of his experience as a Kempei headquarters section chief, he thought the sending of the letter was unnecessary (R-1365).

He did previously state that the letter might have been interpreted to mean dispose of (shochi) them immediately. He did not use the word "execute", as stated in Exhibit 80, part 1, p 36 (R-1368). Upon hearing that Okido was going to make an inspection tour, he contacted the Tokai Army Chief of Staff and Assistant Chief of Staff in June or July 1945. The latter simply stated it was all right (R-1369). Nothing in the letter stated that the fliers were to be executed summarily (R-1370). The letter requested him, as District Kempei Commander, to contact Army headquarters and render an opinion with a view to emptying the Army barracks (R-1373). After reading the letter, he put in in his desk drawer where it remained for about one and a half months. He threw it away shortly after he contacted Army headquarters. He did not consider the letter important enough to show it to them so he mentioned it verbally (R-1374). He might possibly have taken the letter. He might have stated to Colonel Taketomi (who investigated the matter after the war) that the letter could be interpreted as meaning that the airmen should be executed (R-1400). Okido and Yamamura did not inspect his unit (R-1420). He did not contact the Army chief of staff in accordance with the contents of the letter (R-1423). He did speak to the assistant chief of staff after

the surrender. His previous statement to the contrary was due to faulty recollection (R-1427). In 1948 he visited the homes of the former chief of staff and assistant chief of staff. He did not visit them in order to discuss the letter (R-1431). He did not speak to the chief of staff about the letter during the war. He visited the assistant chief of staff after the war to find out what the Army had done concerning the letter and also so that there would be no discrepancy in what each said about the liaison (R-1432). He told the assistant chief of staff that if their stories did not coincide, there would be trouble. They decided to keep the discussion a secret because if "the investigation were conducted superficially", they might be suspected of destroying and concealing evidence (R-1433). The chief of staff (Fujimura) went with him only to show the way to the assistant chief of staff's home. Fujimura suggested secrecy so that he (Fujimura) would not become involved (R-1434). Fujimura later accepted responsibility (R-1435). If Okido reprimanded Nagatomo upon hearing of the executions, it would indicate that the letter did not intend that the captive airmen be executed (R-1444). He believed that the letter referred to fliers interned in the Army detention barracks (R-1446). The reason is that they did not have any duties in connection with fliers nor did they (the Tokai Kempei Tai) have any detention barracks for them as they had been burned (R-1448).

Masaichi Murakami testified that he was appointed chief of the Military Affairs Section of the Military Affairs Bureau on 6 April 1945 and remained so until 30 November 1945. His duties included military and administrative policing which involved prevention of criminal acts among Army personnel and civilians attached to the Army (R-1449). With the increased severity of the air raids and in preparation for the final stand, Kempei Tai duties became heavier, necessitating a reorganization of the Kempei Tai. After the reorganization, which was about 16 March 1945, Kempei Tai personnel were increased from about 9,000 to 14,000 men at peak strength (R-1450). There was a closer tie-up between the Kempei Tai and the Army. A Kempei Tai headquarters was established in each Army district so that in making a last stand each Army could function independently. Kempei Tai prefectural units were also established so that each prefecture could function independently (R-1451). The Army commander had control over the Kempei Tai in matters of military policing in area defense. All other matters were controlled by Kempei Tai GHQ. Kempei Tai strength in the spring and summer of 1945 was inadequate for the performance of its duties, which had increased greatly. The armies utilized Kempei Tai personnel for the interrogation of captured airmen (R-1452). The handling of airmen was an Army function. He never heard that such utilization affected the performance of Kempei Tai duties (R-1453). Such interrogation was also a part of the Kempei duties. If the Kempei GHQ commander heard that a District Kempei Tai were given extra duties by the Army, he should attempt to eliminate the extra duties (R-1454). If Army headquarters left captured fliers in the custody of a District Kempei Tai and took no action to determine their status, and they became burdensome for the District Kempei Tai, the GHQ Kempei commander would tell his district commander to make contact and request that the airmen be tried by a Military Discipline Conference or transferred to another unit. The Kempei commander could not command, but only request that action be taken. He could have sent instructions to his district Kempei commanders in the name of his section chief. This would have to be official; it was limited to the General Affairs Section chief (R-1455). After the war he learned from Yamamura about the letter. He also spoke to Kempei Tai Colonel Otani about it (R-1456). Its purpose was to avoid the accumulation of captured airmen at the Kempei Tai (R-1457). Otani told him that he considered it as simply a request that the fliers be put through a Military Discipline Conference. He did not interpret it to request illegal actions (R-1459). He thinks he spoke to former Kempei Colonel Takada about the letter. Takada also believed that the letter was not very important, merely requesting a speedy Military Discipline Conference for the airmen. Takada further stated, however, "I cannot say that there is no chance of misunderstanding." (R-1460) After speaking to several persons and reading the statements of others, he (the witness Murakami) has concluded "that the intention of this letter was the speedy

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Military Discipline Conference, and was merely a form of business or administrative liaison. I also concluded that the letter did not request any illegal actions, did not force any illegal actions." (R-1461). Administrative liaison is not an official document and, therefore, does not compel obedience unless it contains certain conditions. Such conditions were not contained in the letter. Since it came from superior headquarters it was a custom that such a document could not be ignored. Therefore, the witness thought that Nagatomo would have tried to follow the instructions in the letter (R-1462). The official channels of communication were: (1) An administrative order. (2) An order issued to an individual. (3) An approval given by a higher to a subordinate unit. (4) An order. (5) A warning or instructions to an inferior. (6) An administrative communication. Since Yamamura had no authority to issue the communication it was not official. He would consider the letter merely an administrative liaison (R-1463). The senior member of the Kempei Tai headquarters was not similar to an Army chief of staff since the former had no authority to command. The chief of staff had command authority over his staff officers (R-1464). When the Kempei Tai reorganization was planned the number of men demanded was 24,000, but this number could not be furnished; therefore, it was necessary to use auxiliary Kempeis. Even with these, there was an acute shortage (R-1466). The military police duties of the Kempei under the limited command authority of the Army were very important (R-1467). During June 1945 an Area Army commander would be in a better position than the Kempei GHQ commander to decide whether the District Kempei Tai should interrogate and detain captured airmen. If a Kempei Tai unit were over burdened with detaining and interrogating fliers, the War Ministry would not be informed. To do so would be ridiculous (R-1468). If the Kempei commander (Okido) could do nothing about it perhaps the War Minister would be notified. A district Kempei Tai commander could not contact the War Minister directly; he would have to go through the overall Kempei commander. The Kempei commander would not be expected to know what subordinate units were handling fliers. If one of his subordinate units reported trouble regarding captured airmen he might make an inspection but he did not always receive reports on conditions existing where fliers were detained. The Kempei commander (Okido) had no duty to ascertain the whereabouts and the number of fliers detained by the Kempei Tai (R-1469). If a district Kempei Tai were handling fliers the Kempei commander would have known it. As to the number and treatment of fliers, if the Kempei commander received no reports he would have assumed that everything was functioning smoothly and would not have been curious. (R-1470). Kempei Tai district commanders would report to the Kempei commander when they first interned fliers. There was liaison between Kempei Tai districts but it was not necessary as to fliers. A district Kempei Tai commander would not be expected to be informed regarding fliers detained by other districts since it was not his duty. If the Kempei commander were concerned over the fact, it would have been easy for him to ascertain which of his districts were detaining fliers. If fliers had been causing serious problems, reports thereof would have been sent to the Kempei commander (R-1471). He has heard that Nagatomo is very minute and would not think of doing anything independently or without thought. He (Nagatomo) has a reputation for being a competent and reliable officer who would not be likely to do reckless things (R-1480). If Nagatomo told him (the witness) that the letter meant to kill the airmen, it would not change his opinion that the letter did not intend that the airmen be killed. He judged the letter to mean that the fliers were to be sent to the Military Discipline Conference as soon as possible and that the Kempei Tai should not, by themselves, make any disposition such as execution (R-1482). In view of the tense situation at the time the letter was sent, the Kempei GHQ feared that unless extreme care were used in the wording of the letter there was danger that some recipient might make the mistake of construing it to mean that execution without trial by military commission would be permissible (R-1484-1485). After hearing Ishida's statement that: "As I had predicted at the outset in enumerating my reasons for opposing the commandant, undesirable developments occurred. While I myself, having already been greatly shocked, was not much affected by this expression of the commandant's desire for severe disposition (Shobun), it may have

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profoundly influenced readers who knew nothing of the affair, especially those who were inclined to share his views"; it is apparent that the letter did not intend to compel illegal actions. From his information he understands that the letter was prepared so that there would be no mistake (R-1486). If the letter were received in the middle or latter part of June 1945 by a Kempei Tai district commander whose district had been intensively bombed, resulting in damage to many homes in addition to military objectives, and assuming that many non-combatants had been killed or injured, giving rise to an intense hatred towards American airmen and assuming the recipient had custody of about 30 captured airmen and anticipated receiving more, although his facilities were inadequate, and assuming that the Kempei Tai district commander had several times urged the District Army headquarters to dispose of the airmen by transferring them to prisoner of war camps or to the Military Discipline Conference, and the Army headquarters had never indicated any intention of doing either, and assuming that the District Kempei Tai commander had received at least two reports that responsible Area Army headquarters personnel had urged the Kempei Tai to execute the airmen without trial, and bearing in mind his (the witness') conception of the letter, he believes it would be easy to misunderstand the letter. Nagatomo would have been placed in a very difficult position. It is possible to assume that Nagatomo thought that the letter could be interpreted to mean that execution was desired by his higher headquarters, if possible by a Military Discipline Conference, otherwise through any other convenient means, after contact with the Army chief of staff. (R-1488, 1492). He did not think that the War Minister would have publicized to the personnel of the War Ministry the fact that in July 1945 Okido sought authority from the War Minister, which was granted, to conduct an investigation of the Osaka executions because the incident occurred when preparations were being made for a last stand. It is possible that he took temporary measures to prevent a re-occurrence and postponed the investigation. The War Minister did not talk directly to the section chiefs except when reports were taken to him or a decision had to be made or during luncheons held for section chiefs once or twice a week (R-1493).

The witness was again asked his interpretation of the letter in view of the following statements made by Ishida: "The lukewarm tone of the communication was a consolation. I felt that the ambiguous passages *** would naturally be interpreted in a legal and not in an illegal sense, because an illegal interpretation always requires a special, definite basis, completely lacking in the present case. This was no more than legal and moral common sense. It seemed unlikely that any high ranking MP officer who had studied the law and spent many years upholding it would, failing to make this distinction, communicate with the Army on the basis of an illegal interpretation--still less would one be inclined to engage personally in illegal activities. The specific request in the statement that caution be exercised was further grounds for reassurance. The net result was a neutral product, not definitely committed to either view, which I believed would appear somewhat ambiguous to a recipient lacking in background on the factors involved. On one hand there were sections reproving rashness and demanding prudence, while on the other there were outcrops of a bold, positive policy expressed in vigorous words which I felt were provocative and dangerous. Naturally, since I had always been completely against any communication incorporating the commandant's views, I disapproved of the letter's contents, but for the reasons noted in (2) below, as well as in the light of all that had gone before, including the fact that when the section chief had uttered a protest upon being ordered to send it out the commandant had flatly overruled him, I resigned myself to it."

The witness stated that considering the above he did not think the letter was a request for illegal action. There are many portions which could have easily been misunderstood. He is in complete accord with what Ishida said (R-1496). When he stated, in answer to the prosecution's hypothetical question, "the circumstances as described made it easier to be misunderstood", he meant that because the conditions at that time were not normal, Nagatomo interpreted the letter as he did (R-1498).

As to the taking of temporary measures to prevent the re-occurrence of the incident in Nagatomo's unit the War Minister would order his Chief of the General Staff to order the armies to take temporary measures. If the War Minister had sent out such a notification, he (the witness) would have known it. He does not know of any such notification issued by the War Ministry after the middle of July 1945. Since such an incident had occurred he thinks it would have been proper and urgent for Okido to issue another notification to the Kempei Tai units to insure against another mistake. War Minister Anami was very punctilious. If the War Minister did receive a report of the incident from Okido he probably would have issued the notification. Ishida saw the letter while it was being drafted and, therefore, Ishida would know a great deal more about the letter than he (the witness) would (R-1499). The statements made by the Hombucho (Ishida) previously incorporated in a question give him the impression that Okido felt very strongly. He would get the impression that when the letter was being originally drafted, Ishida feared that it might lead to an occurrence such as happened in Osaka (R-1500). When the letter was sent out Ishida feared the consequences since he so stated. He (the witness Murakami) never served in the Kempei. He was in the infantry. If the senior member in a Kempei Tai unit is ordered by his commander to represent him, he does so. Even if not so ordered, he must take care of all the routine (insignificant) matters in the absence of the commanding officer (R-1501).

Shigetoshi Nakahara testified that he was a staff officer (colonel) in the 15th Area Army from 1 May 1945 until the surrender. He had charge of mobilization of personnel, material and munition factories. Lt. General Kunitake was the Chief of Staff (R-1508). The staff officers were responsible to the chief of staff. When he arrived at headquarters, Colonel Oba was senior staff officer in charge of operations and administrative matters. Oba had no authority to give orders and instructions to the staff officers in his section; nor were they regarded as his (Oba's) subordinates. The senior staff officer handled the administrative duties of the various staff officers (R-1509). There was a re-organization on 10 June 1945. After the re-organization Oba was chief of the first of two sections in charge of operations. Intelligence under (the accused) Major Yamanaka was also in his section. The witness (Nakahara) was chief of the second section in charge of national mobilization and likewise in charge of administrative matters (R-1510). The chief of staff issued the orders and instructions to the staff officers who were responsible to him. Oba was still the senior staff officer. Yamanaka was not a subordinate of Oba. Colonel Oba had no authority to give orders and instructions to Yamanaka. The Army, under the War Ministry and the General Staff headquarters, had the duty to handle captured airmen. Army headquarters could delegate duties and responsibility for the care and custody of captured airmen to subordinate units of the army (R-1511). The commanders of such units would then be responsible for the care, food and quarters of the airmen (R-1512). In the summer of 1945 quite a number of captured airmen were detained within the area of the 15th Area Army. These airmen were entrusted for safekeeping to subordinate units of the Army and also to the Central District Kempei under the limited command doctrine. He does not know how the airmen were treated (R-1513). Staff officer Oba told the witness that the number of airmen had increased greatly and their disposition was being discussed. Nagatomo visited the chief of staff once or twice a week. Since Oba was the senior staff officer he had to contact the chief of staff many times (R-1514). He never visited any of the inner guard houses or Kempei Tai detention barracks or cells where the airmen were confined nor did the chief of staff so far as he knows (R-1515). He learned that the airmen had been entrusted to subordinate units from a Kempei Tai investigation report which was circulated among the staff officers (R-1516). The report also stated that airmen were being held by the 22nd and 23rd units (R-1517).

Shuichi Miyazaki testified that he attained the rank of Lieutenant General and served as chief of the 1st section of the General Staff headquarters from December 1944 until the surrender. He assisted the chief of staff in

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operational plans and organization (R-1518). "Limited command" refers to a limited matter and for a specified length of time. The chief of staff's duty was to assist the Area Army commander. In doing this, he must be fully aware of the intentions of the Area Army commander. He is not a commander; he is an assistant. He cannot issue orders or instructions on matters of local defense to Kempei Tai units placed under an Area Army under the doctrine of limited command. (R-1519). A local Kempei Tai unit attached to the Army under its limited command could not be considered a subordinate unit. The handling of captured airmen comes within the term designating matters of local defense as provided in the regulations governing the doctrine of limited command of the Army over the Kempei Tai. However, sometimes the Kempei Tai could make certain dispositions of the airmen within the Kempei Tai. The chief of staff did not possess limited command authority over captured airmen handled by Kempei Tai headquarters (R-1520). Where the chief of staff had been assigned certain duties he could take action in routine matters without the orders or directions of the Army commander. He could not take such action in the case of an unusual or important matter. Ordinarily reports or notices were usually sent out in the name of the chief of staff as he conducted the liaison (R-1521). Such reports might have included plans on intentions of Army headquarters. In combat actions for example future plans were always included. Office work connected with reports was a part of the chief of staff's duties (R-1522). The Army commander determined the contents of reports. The Army commander was informed of the contents of important reports prior to distribution. Where a matter has been ordered to be put under limited command, additional communications in connection therewith do not have to be sent as orders. They may be sent by the chief of staff as instructions (R-1523). "Emei Tsucho" is a notification issued by the chief of staff, by order of the Army commander. It is usually used for administrative matters. The chief of staff is fully aware of the Army commander's intentions. If the Kempei Tai commander of a district under the limited command of an Area Army received permission from the Army chief of staff to take action regarding a matter within the limited jurisdiction of the Army, the Kempei Tai commander could assume that the chief of staff had expressed the Army commander's will. Executions could be carried out only after orders given by the Army commander. If the chief of staff gave his approval for the execution of captured airmen, which a Kempei Tai commander believed was intended By his own Kempei GHQ, the Kempei Tai commander could properly conclude that he had received the order of the Army commander himself (R-1529). In his opinion, however, the approval was not sufficient. If the Kempei Tai commander had the slightest doubt he should have taken some measures to clear it up (R-1536). Even if approval were given, it was not right to immediately conclude that it was an order unless there was an intention that complete orders would follow (R-1539). However, he is not sure that his opinion was in accordance with the circumstances which prevailed at the time. Orders were written in most cases (R-1540). Generally reports were sent out in the name of the chief of staff except in matters of grave importance (R-1542). When the area army commander had delegated the custody and care of captured airmen to attached units and to Kempei Tai headquarters, the responsibility therefor lay with the unit commanders. The army commander retained his original responsibility (R-1543). If the unit commanders failed to discharge their duties but the army commander had no knowledge thereof, he is responsible administratively and morally. The chief of staff would not be responsible administratively. An army senior staff officer had no authority to issue orders or punish failure to carry them out. A subordinate could not decide whether an order given to him was legal and in accordance with regulations, nor could he question whether to obey it. (R-1544). An officer or NCO who carried out an apparently irregular or illegal order would be criminally responsible, depending upon the nature of the matter. However, he could render an opinion, but if still ordered to carry it out he would have no alternative. An NCO would be held less responsible. An enlisted man would have almost no responsibility (R-1545). Army Asia Secret Order No. 2190 (Ex 3 p 2) which deals with the handling of captive airmen provides that those who did not violate international law would be disposed of as felonious war criminals and those

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suspected thereof shall be sent to a Military Disciplinary Conference (R-1546). It does not state how violators and suspected violators would be determined (R-1547). Section 6, article 20, part 2 of War Time Higher Headquarters Service Regulations concerns the handling of prisoners of war, war material and criminals (R-1548). The term "felonious war criminal" as used in Army Asia Secret Order No. 2190 is included in the term "criminals". Under this regulation the adjutant's department is in charge of captive fliers and "criminals". Section 20 of the regulations defines the adjutant's duty as control of general affairs not directly concerned with operations. It further provides that the senior adjutant is responsible to the Army commander. In addition to the preceding duties the adjutant handles liaison and sometimes investigations pertaining to operations (R-1549). The army regulations known as "Dairirei" deal with representation of a unit commander due to absence or some other reason (R-1551). Representation in divisional or higher units was governed by Imperial order (R-1552). The "Dairirei" were based on peace time organization; they provided that divisional or higher commanders are appointed by Imperial order or by the Emperor's order and representatives were assigned by order of the Emperor. Unless there were such an order there was no representative (R-1553). The same regulations applied to the Kempei Tai (R-1554). According to the regulations, the representative of a Kempei Tai district commander would be the commander (colonel) of a Kempei Tai unit under the district Kempei Tai. If the Kempei Tai commander ordered the representation, he would send orders to all subordinate units (R-1555). If the commanding general or commander of a unit became temporarily incapacitated his representative was determined by the regulations; however, if he were incapacitated for only a very short time and administrative duties could have been carried out he does not believe a representative was necessary (R-1556). Even though a commander relied absolutely upon his chief of staff he could authorize the chief of staff to issue orders or instructions in his name (R-1557). An army commander could instruct his chief of staff to approve the proceedings of a Military Discipline Conference and order its sentence executed even though the commander was absent at the time because the chief of staff merely carried out the intentions of the army commander (R-1558).

Koni Fujiwara testified that he was a former 1st lieutenant in the 23rd Infantry from August 1942 to September 1945 (R-1558). He was a company commander. In the summer of 1945 some captured airmen were confined in the 23rd Guardhouse. It was built according to standard Japanese Army specifications. Japanese soldiers were also confined there. He looked into the cells from the outside; they were clean. He believes there were no vermin. There was a toilet in each cell. He does not believe that any airmen were refused the use of a toilet. The airmen had 4 blankets each (R-1559). Japanese soldiers under "light confinement" received 4 blankets, the same as the ordinary soldiers. The airmen received the same food as the regular soldiers. When he served as officer of the week the airmen were treated the same as the Japanese detainees. He never saw nor heard of any mistreatment of the fliers nor did he see any physical signs thereof. He served as officer of the week on one occasion and for only one day. He looked into the guard house only once. When he inspected the cells, there were two airmen confined. They had been brought in a few hours previous (R-1560). He believes they were the first airmen confined. Colonel Miyata was his commanding officer. There was one light bulb in the corridor. There were no Japanese confined when he inspected the cells. The furthest portion of the guard house was used as a storehouse (R-1561). When he looked into the cell neither of the fliers asked for medical treatment (R-1562).

Masataro Hara testified that he is a physician (R-1562). He served as the chief medical officer (major) in the 23rd Infantry Unit from September 1943 to October 1945. Some captured airmen were detained in the unit guardhouse in the summer of 1945. He never heard that any of them required medical treatment. He treated one of the fliers (R-1563). It was in the treatment room of the dispensary (R-1565). The flier was blindfolded but not handcuffed. The airman complained of pain in his chest when he breathed. He had a subcutaneous

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contusion of the right side (R-1566). He applied an immobile bandage; no medicine was required. There were no indications of broken bones (R-1567). The injury was not serious; he would have recovered in a short time even without the bandage. The flier thanked him. The airman was accompanied by a civilian interpreter from the Kempei (R-1568). The commanding officer was the one who first told him that captured fliers were to be confined in the unit guardhouse; he did not give the witness any instructions concerning medical treatment of the airmen. There were three other medical officers in the unit (R-1569). He does not believe that the other medical officers treated the fliers. He had understood that the Kempei Tai would furnish any medical attention needed by the fliers during their confinement (R-1570). He never heard of medical attention being refused for the airmen. He saw the airmen only when he treated the one who was injured. He inspected the guardhouse frequently but never when the fliers were interned there. He warned them twice about unsanitary conditions. These were corrected immediately. The other medical officers inspected the cells but not when the fliers were there. He never heard of any mistreatment of the airmen (R-1571). He does not think that when his unit took over the captured fliers from the Kempei Tai it became responsible for their care and custody. When Colonel Miyata told his assembled officers that airmen were to be detained, he said that the unit was "to lend accommodations and that the Kempei Tai would handle it" (R-1572). He did previously say in a statement that since neither the commanding officer (Miyata) nor the division medical department had given instructions concerning medical treatment of the airmen, he (the witness) considered that his unit medical department was not responsible for such treatment and, therefore, gave his assistants no instructions thereon nor did he receive reports from them or render reports himself to the medical department. He thinks that the airmen were detained pursuant to superior orders. He thinks the unit detention cells were originally built to confine soldiers. The medical officer was responsible for medical treatment of confined soldiers; the company commander had the overall responsibility. He believed that the Kempei Tai were to handle medical treatment of the airmen because the property within the guard house was Kempei Tai property (R-1573). He did not conduct liaison with the Kempei Tai medical department. He never entered a cell where an airman was detained nor did he speak to the airmen. The unit did not have an interpreter. He never asked anyone about the condition of the airmen while they were detained. The airmen ate unit food. He inspected the unit food daily. He had heard that higher headquarters had ordered them to give the rations to the airmen. It was his duty to inspect unit food (R-1574). Though the unit was responsible for the place of detention and food, it was not responsible for medical care because there were no orders to that effect. He believed it was necessary to receive specific instructions. He did not know on what days the airmen were confined. He thought they came and went from time to time (R-1575). The statement of Lieutenant Sato, former company commander of the 23rd Unit, that all the cells in the rear half of the detention barracks were being used as a storeroom, is correct. No Japanese soldiers were detained in the guard house while the airmen were there. They were not permitted to have any close contact with the airmen; therefore, they were not allowed to be responsible for medical treatment (R-1576). He knew that the Kempei Tai had only one medical officer. He never consulted the division medical department to determine his responsibility for medical treatment of the airmen. He did previously state that at the end of the war the unit commander told them not to mention that the airmen were detained as this would involve the unit. He thinks these instructions were either from the Kempei Tai or division headquarters (R-1577). Questioned whether he previously stated that he found the injured airman to have a fractured rib and that, after taping it, the airman said that it was the same treatment given in America, the witness testified that he did not believe he stated that the rib was fractured; he might have stated that it was possibly cracked. He believes he used the words "subcutaneous contusion" which may include a cracked bone. He applied an immobile bandage to ease the pain (R-1578). After 5 or 6 days the bandage should have been renewed (R-1579). He was never instructed not to treat fliers who had been

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brought to him for treatment. He thinks that the instructions to destroy documents, buildings and other physical equipment for the purpose of concealing or destroying evidence were issued by higher headquarters. (It was stipulated that the guardhouse was still standing and was used for storage purposes).(R-1580). The guardhouse was not cleaned solely when it was evacuated. When there were detainees, they cleaned out their own cells. The person responsible for the cleanliness of the barracks saw that it was kept clean. When he stated (supra) that the Kempei Tai were responsible for medical treatment of the airmen because the property within the guardhouse was Kempei Tai property, he meant that since the airmen had been placed there by the Kempei Tai and since they were not allowed close contact with the airmen, the Kempei Tai were responsible. He examined the food at least once daily. It was fit for human consumption (R-1581). Even if someone failed to give unit medical officers specific instructions he does not know nor did he hear of airmen failing to get adequate medical attention by reason thereof. Questioned whether he previously said in a statement: "During May, June and July 1945 I spent most of my time during the day at the Kaikosha Officers' Club where I was busy giving physical examinations to newly arrived officers. I usually returned to the unit at the end of the day to sign papers. The main force of the unit was located at Wakayama and from time to time I went there and spent a period of several days", the witness stated that he did not mean to imply that most of his time was spent in giving physical examinations to incoming officers. He meant that most of his time was spent away from the unit because of the physical examinations, going to Wakayama, etc. He did previously state that (medical officer) Captain Yoshikawa was at Wakayama most of the time and during June (medical officer) Lieutenant Inouye was away most of the time examining draftees (R-1582). There was always at least one medical officer on duty in the unit. The other medical officers could have been summoned in case of an emergency but none ever arose. He was not ordered to discontinue sanitary inspections of the detention barracks after the fliers were detained there (R-1583).

Kinosuke Nunoi testified that he was a former captain and company commander in the 22nd Infantry Unit, Osaka Division. He served as officer of the week on four or five occasions. Enemy airmen were confined in the unit guardhouse. He visited the guardhouse (R-1585). There were five or six cells, each about 8' x 10' (R-1586). He saw two fliers in separate cells in March 1945. One had an injured eye, the other had an injured leg. Both received necessary medical care by the medical officer of the day (R-1587). He served with the 22nd Unit from May 1944 to March 1945 (R-1588).

Junnosuke Chomei testified that he was an intendance captain assigned to the 22nd unit from 3 April 1945 until the surrender. After the first part of June 1945 he handled the planning, records and supply of food. In the spring and summer of 1945 American airmen were confined in the unit cells. He saw them once about May 1945 during the unit inspection. Each had blankets (R-1589). He never saw nor heard of any mistreatment of the fliers nor did he see signs thereof (R-1590). The inspection was in April or May 1945. The unit commander, a medical officer and two adjutants were among those in the inspection party. His headquarters did not consider the treating of the airmen as a troublesome problem (R-1591). He had heard that special food was given to the fliers. He once saw a food requisition which mentioned feeding of the fliers. The 1st Company had charge of feeding the airmen. The company commander submitted a memorandum when drawing rations. It included the total number of personnel and did not distinguish between airmen and soldiers. According to the records the daily ration was 705 grams of staple food per day (R-1592). His previous statement that he handled the requisitioning of provisions and accounting for provisions consumed and that he never saw any record either of provisions requisitioned for airmen or consumed by them, is true. He also previously stated and the statement is true that he submitted daily vouchers to 2nd Lieutenant Hayashi showing the number of men subsisted in each company, that Hayashi then computed

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the total daily provisions and sent an order to the provisions warehouse; that all food was prepared in one kitchen and that Hayashi then told the cooks how much food to prepare for each company. He also previously stated, which is true, that at first specially prepared food was given to the airmen but later, before he took charge, it was decided to give them the same food as the soldiers received; other than this he know nothing about American airmen handled either by the 22nd Unit or by the Kempei Tai. He did not know while he was in the intendance department that by 4 June 1945 at least six airmen were detained in the 22nd Unit Detention Barracks. He know only of the two airmen that he saw (R-1594, 1595).

Yoshitaro Hayashi testified that he was a 1st lieutenant in charge of the 22nd Infantry mess from 3 April 1945 until the surrender. In the spring and summer of 1945 captured airmen were detained by the 22nd Unit. At first two, then four and finally two airmen were detained. He found this out by the vouchers. He handled the feeding of the airmen. The unit commander (Colonel Imada) instructed them to treat the fliers carefully and give them ample food. They carried out the instructions. He (the witness) asked the guards if the prisoners could eat Japanese soup and rice and when they answered in the affirmative instructed the guards to give them all they could eat. From time to time he gave them additional rations of beef. He requested and received facilities so that all personnel, including the prisoners, received polished rice. No other unit had that facility (R-1597). Polished rice is more palatable and digestible than unpolished rice and the fliers liked it better. The airmen received the same ration as the ordinary Japanese soldiers and sometimes more. He has never heard that the fliers were given inadequate food or refused rations or drinking water. He never saw nor heard of any airmen being beaten or refused medical treatment. He heard in June 1945 that an airman had died in his cell during the month. He found this out through a voucher; the medical officer also mentioned it (R-1598). He would be responsible if the fliers did not get adequate food. He never visited the cells to see if the fliers were getting their food. That was the guard's responsibility. There was a gradual shortage of food; the ration was about 700 grams. He had heard that the Japanese soldiers were getting sufficient food for performance of their duties and that they were happy to receive polished rice which was more digestible. They were generally "full". He cannot state that during the summer of 1945 all Japanese soldiers got as much as they wanted. The average soldier would have eaten more if it had been issued. The airmen fared as well or better than the ordinary soldier (R-1599). The vouchers showed the whereabouts and number of the fliers detained. The procedure was that someone from the company would bring the voucher for one meal ahead and then upon returning would take the meal that had been prepared. The voucher for breakfast would be brought in just prior to the evening meal of the day before. When the breakfast was picked up the noon meal voucher would be left. Captain Chomei did not have direct knowledge of the number of daily rations requisitioned by each company (R-1600). He still states that the vouchers did show the number of captured airmen although Captain Chomei testified to the contrary. A maximum of four airmen were detained according to his recollection and a minimum of two (R-1601). Because he is a farmer he is now receiving 460 grams of rice and wheat and 203 grams of other staple foods daily. He heard that people who are not farmers receive 362.5 grams per day. In the summer of 1945 he and other Japanese soldiers got 705 grams per day. Airmen detained by the 22nd Unit also received 705 grams; he had instructed the guard to give them more when they requested it. No other persons were detained in the same guardhouse when the airmen were confined. When the requisition slip showed a certain number of men in the guardhouse it might have included prisoners in other companies. On the 1st Company voucher there was a column headed "guardhouse". The fliers came under that column; it differentiated between fliers and Japanese soldiers (R-1604).

Masami Yamada, former captain and aide to (the accused) Lt. General Uchiyama from April 1945 to the surrender testified that he handled Uchiyama's miscellaneous personal matters which were both official and private. He accompanied Uchiyama on an inspection of the 22nd and 23rd Infantry Units (R-1606).

Part 7

The inspection of the 22nd Unit took about one hour. He does not know if the subject of detained airmen was mentioned; it was not written in the report (R-1608). Uchiyama in a speech instructed that adequate training be given for the final stand. The inspection of the 23rd Unit also took about one hour. Uchiyama and the inspection party did not visit the detention barracks of either unit. He (the witness) did not know at the time that American fliers were detained by these units (R-1609). The inspections took place in June 1945. There was also an inspection of emplacements. He never saw any captive American airmen in Osaka during the summer of 1945 nor did he hear during the war that some were executed in the last two months. Uchiyama made a great many inspection trips (R-1610), including one or two to the Wakayama district, two to the Kochi area and one each to the Tokushima and Hiroshima areas and the Sanin district (R-1611). He remembers the inspection trips to the 22nd and 23rd Units and to the division better than the others because he planned the former. Oba or Major Yoshida may have planned the first inspection of the 22nd and 23rd Units but he planned the documents. The staff department would plan an inspection of the combat fitness of a unit (R-1614). When the 22nd and 23rd Units were inspected the commanding general had lunch at divisional headquarters. He went to the 22nd Unit only once (R-1616). He had frequently passed the 22nd and 23rd Units and he know the guard room of the 22nd Unit because it was closest to the entrance. On the inspection trip they did not enter the guard room (R-1617). He knew that generally the guardhouse is very close to the guardroom (R-1618). The guardrooms of the 22nd and 23rd Units are each in the building nearest to the entrance. The commanding general did not see the airmen although he remained at the unit for an hour because the plan did not call for it (R-1619). He (Uchiyama) did witness an exhibition of practice with woodon rifles at the 22nd unit. They saw "Kirikomi" training (a suicide charge) at the 23rd Unit (R-1620). He does not remember having had lunch at the 23rd Unit as stated by Colonel Miyata, the former commander (R-1621). The witness denied that Uchiyama visited the guardhouse of the 22nd Unit and saw the airmen who were confined there, even though Imada, the former unit commander, stated in Exhibit 64 that he did. He accompanied General Uchiyama on an inspection at Shikoku in July 1945 (R-1622). They flew back to Osaka on 18 July 1945. He did not hear that afternoon that two airmen had been executed by a Military Discipline Conference. He heard about it after the war. (The prosecution then quoted from Exhibit 82, page 25, in which the accused Uchiyama stated that, being busy with operational duties, he did not have an opportunity to inspect the detention barracks in which airmen were interned nor did he have the inclination being unaware of whether any fliers had been captured). He was the "adjutant" who accompanied Uchiyama on the inspection trip as brought out by the prosecution (R-1623). After they had inspected the 22nd Unit, they proceeded to the 23rd Unit where they were served refreshments. The Commanding General (Uchiyama) was away from his headquarters more than half the time (R-1624). The witness was with him during his absence (R-1625).

Masanori Takai testified that he served as company commander in the 22nd Unit of the Osaka Division from the middle of June 1945 until the surrender. He twice saw captured fliers confined in the 22nd Unit guardhouse when he was officer of the week. He believes there was a maximum of four or five airmen. As weekly officer he was instructed by Colonel Imada, the commander, to evacuate the airmen to a shelter in event of an air raid (R-1626). It was stipulated that the other officers who served as officer of the week were given the same instructions by Colonel Imada. When he saw the fliers none appeared to be suffering from sickness or injury nor did they complain thereof to him. While with the 22nd Unit he never heard that a flier died in his cell. He did not think that the fliers were treated badly. To his knowledge there was no food shortage in his unit. In the first part of July 1945, there was no water for about a week due to bombing (R-1627) He got water from a radio station for the 20 horses in the company. The soldiers suffered quite a bit from the shortage. The Central District Kempei Tai headquarters was a little less than 200 meters from the 22nd Unit. The 22nd and 23rd Units were stationed on the highest ground in Osaka . From the first part of July 1945,

they were building defense positions at Kumatori in Osaka and were extremely busy. Their morale was low because of continuous bombing (R-1628). The water obtained from the radio station was in a pool which was used to cool the transmitters. The water was found fit for horses but not for humans. They did get water up to the end of the war but not in abundance (R1629). It was his duty to inspect the cell block. He inspected it once and kept informed through daily reports from subordinates and the weekly duty officer. He does not know if it was his duty to personally inspect the cells. He recalls that he was conscientious in the performance of his duties (R-1630). He did not visit the cells out of curiosity rather than for the purpose of ascertaining the condition of the cells. His visit lasted about 20 minutes. The fliers were in separate cells. He did not enter the cells. He stood before each cell about three or four minutes. It was light enough in the cells to read a newspaper. He did not speak to any of the fliers. They were covered with blankets. He would not have been able to tell if some of them had been pretty thin. One purpose of his inspection was to determine the physical condition of the fliers (R-1632). He did not have an interpreter for the inspection nor does he remember if one was available. It was not necessary to have an interpreter because he received a daily report from the guard commander. The day following his inspection he made a report to the unit commander. He reported there was no change. He did give a written statement to the prosecutor in May 1948 in which he mentioned his instructions relative to evacuation of the airmen during air raids, and in which he stated that he had no knowledge of bathing, laundry or food, etc. of the airmen and that he knew nothing in addition to the foregoing. It was true at the time he made it (R-1633).

Haruo Hoda, who served concurrently as an official of the Prisoner of War Information Bureau and Administration Bureau from May 1942 until 23 July 1945 testified that his duties concerned mainly internment, movement and labor of prisoners of war and in the Information Bureau, historical records, monthly reports and intendance and plans for meetings of prisoner of war camp commanders. They did not handle matters concerning captured airmen. Such matters were handled by the army commander who had jurisdiction over the area in which the airmen were captured (R-1635). Army Secret Order No. 2190 provided that captured enemy airmen should not be given the status of prisoners of war upon capture. After the Doolittle raid the Central authorities felt strongly that the fliers who participated "must be given extreme punishment". Since there was no existing regulation for this purpose the necessary procedure and punishment were incorporated in Army Secret Order No. 2190. Lt. General Uemura, Chief of the Prisoner of War Information Bureau told War Minister Tojo at a Bureau chiefs conference that if the trials were not conducted properly, it would cause trouble in Japanese international relations. War Minister Tojo agreed and said that in case of doubt a retrial would be permissible. Tojo ordered the members to study the matter carefully (R-1636). As a result some captive fliers who had accompanied Doolittle on his raid had their death sentences commuted in all but two or three cases. Uemura stated that it was important to show all the other nations that Japan was abiding by international law and handling enemy airmen in accordance therewith. Under Army Order No. 2190 captured airmen were not to be treated as prisoners of war until they were cleared of having violated international law. Those who were not cleared were to be sent to Military Discipline Conferences (R-1637). Until they were tried, the army commander could handle the airmen according to prisoner of war regulations, mutatis mutandis, if he wished, in the opinion of the witness. Until their status had been decided, because there were no specific regulations, the army commander could put them where he saw fit; for instance, in the prison or Kempei Tai detention barracks. If they were held as suspected felonious war criminals the commanding general could have treated them the same as Japanese or other for other foreign national criminal suspects. The army commander within whose territory the airmen were captured was authorized to determine their status and how they should be screened (R-1638,1640). If the army commander decided that an airman was not entitled to prisoner of war status he thinks the chief of the General Staff or the Emperor could review the

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decision but he is not sure. If the army commander could not obtain the facts of a case directly he could do so from reports of subordinates or he could order the Military Discipline Conference to conduct an investigation. (The witness was uncertain). It was stipulated that the regulations provided that the army commander was the president or convening authority of the tribunal and that he did not sit as a member thereof. The witness further testified that the chief of staff could not determine the status of the airmen nor could any other subordinate officers (R-1641). (The witness was then given a copy of Order No. 2190 to read to himself). The order provided for three categories of captured airmen (R-1642). Those in category (2) were to be disposed of (shodan) as felonious war criminals. "Shodan" includes capital punishment. The army commander could decide whether the airmen would be tried (R-1643). If the commander was convinced that the results of an investigation, particularly by an investigation section of the Kempei Tai, and the results of bombing in the vicinity clearly showed violations of the laws of war, he could then declare the examination or trial of the airmen completed and order the execution of punishment. The army commander could, after ascertaining the facts, hand down a finding as a method of trial (R-1644). The Prisoner of War Information Bureau never received written reports through official channels from any of the area army headquarters concerning the disposition of captured airmen. He thinks they learned these facts through other means such as reference documents (R-1645). He does not recall hearing while with the Prisoner of War Information Bureau that the Bureau received reports of Military Discipline Conference trials held by either the Tokai Army or the 15th Area Army; nor did it receive any reports of airmen not interned in prisoner of war camps who had died of illness or accident. He would have heard of such reports if they had come in (R-1646). Colonel Odajima was his superior. Odajima's superior was Lt. General Tamura. Major Takada was also under Odajima and his duties concerned prisoner of war information and file cards. The witness was then informed by the prosecution that Colonel Sato of the Western Army had testified in another case that on 28 June 1945 his army sent to the Central authorities a report that 16 airmen had died as a result of bombing and that after the surrender his headquarters, desiring to obtain the report from the Prisoner of War Information Bureau because it might prove embarrassing, consulted Takada who found the report indexed in a message record book (R-1647). The witness then testified that since the document concerned information or liaison, it went to the Information Department of which Takada was a member. The army commander decided whether airmen should be sent to a prisoner of war camp (R-1648). The Prisoner of War Administration Department chief could not directly permit or deny airmen admission to an internment camp (R-1649). The army commander decided whether an airman was a prisoner of war; the internment orders were made by the War Minister. The War Minister decided in which prisoner of war camp a prisoner was to be interned (R-1650) so that they could be evenly distributed among the prisoner of war camps. He (the witness) was third in command (R-1651). He does not know of any subsequent regulations (after Order No. 2190) which permitted an army commander to execute airmen other than through the Military Discipline Conference (R-1654). He believes it was not necessarily wrong to order airmen executed without passing them through a Military Discipline Conference (R-1655). In view of the last statement, the court, at the request of the prosecution, took judicial notice of testimony of the accused Uchiyama in case No. 123, in which he stated that if the army commander found that the facts were of such importance as to warrant disciplinary action, the supreme penalty being death, and this being the result in the majority of cases, he (the army commander) had to forward his opinion to the Minister of War (R-1657, 1658). The court also took judicial notice of testimony of former Lt. Colonel Fujii, the Army Judge Advocate General, in the same case (pp 41, 42) in which he stated that the condemning of fliers to death by a staff officer after reading investigation reports, there being no trial other than his decision, was not legal since there must have been a trial (R-1659).

The accused Okido, having been advised of his rights (R-13, 1661), stated that what he wished to say has been submitted to the prosecution in Exhibit 88. This statement is the truth. He, therefore, elected to remain silent (R-1661).

The accused Ishida (who was acquitted of the main charge), having been advised of his rights (R-13, 1662), elected to take the stand and testify under oath. He would like to explain further regarding two points in the statement he submitted to the prosecution (Exhibit 87, parts 1, 2 and 3). As to part 3, paragraph 7 (page 10) containing the contents of the letter when he stated that if the Military Discipline Conference did not proceed smoothly it would be necessary to expedite the disposition by other suitable means, he meant that the expediting was to be done through the Military Discipline Conference. As to page 11, paragraph C(2) starting from "the results showed, however" and continuing to the bottom of the page, this should not have been written. The true feelings that he had when the private letter was sent were that the letter itself was not illegal and that it would not be interpreted illegally. There was a great difference between the commander's original intentions and the contents of the private letter. The contents of the letter "was far gentler than the intentions held by the commander at the beginning ** my true feeling is that we should not have sent the letter at all" (R-1663,1664,1665). There was nothing in the contents of the letter which he considered dangerous. The letter was signed only by the section chief (Yamamura) so that the receiver would not be forced to comply. He (Ishida) thought that it was simply the rendering of an opinion for reference purposes. He knew of no other letters sent out by Kempei Tai GHQ which were signed only by a section chief. He suggested the signing by the section chief to Okido. He had the letter sent out as a private communication in order to prevent the commander(Okido) from carrying out his plans (R-1666). At first he disagreed wholly with Okido but Okido would not listen. Therefore, Ishida toned the letter down thinking that Okido would abandon the idea. He knew that if he disagreed face to face Okido would not have listened. After hearing other accounts of the matter and recollecting further he thinks the letter was sent the middle of June 1945. Okido was at headquarters at the time. The letter was sent prior to 14 June (R-1667). Because Okido had not consulted him prior to the sending out of the letter, he felt that Okido had ignored his revisions and returned to his original intentions. After reading the draft of the letter and finding that no illegal points had been included, he was overjoyed. However, he was not in absolute agreement as to the sending of the letter. He thought there was no other possible interpretation of the letter than to have the Kempei Tai commanders urge their army headquarters through the chiefs of staff to take action concerning the captive fliers (R-1668). It is possible that Nagatomo would have contacted the chief of staff regarding the disposition of the fliers even without the letter (R-1669). On 16 September 1945 he spoke to Nagatomo at GHQ. They did not discuss concealment of the Osaka executions (R-1670) even though Nagatomo stated (Exhibit 85, pages 32, 33) that they did. One reason is that there was ill feeling between them at the time because Ishida had disagreed with Nagatomo's interpretation of the letter. It was the first time that he had heard about the incident and neither he nor any of the Kempei headquarters personnel were in a position nor were they willing to partake in the concealment plans. His next meeting with Nagatomo was on 16 November 1945 at Tokyo Kempei headquarters. At that time he heard from Nagatomo that a ship carrying fliers and two Kempei Tai men had been sunk and all hands lost (R-1671). Ishida thought the story was true. Nagatomo asked him to acknowledge that a report of the loss of the Kempei men had been made by phone but Ishida refused to do so. Okido then asked Yamamura who also was present to do so and Yamamura stated that he would consider the matter (R-1672).

During the first meeting Nagatomo asked Ishida if it were not true that the letter did not mention that the Kempei was not to participate even if army headquarters gave such orders. Ishida replied that there was a warning that in contacting the chief of staff the main point of the liaison was to be the difficult position of the Kempei Tai. The Kempei Tai was not to imply that it was making demands. Because this warning was included, it was natural to assume that the Kempei were not to participate in any killings. He did not indicate to Nagatomo that he wished to mininize the importance of the letter and to avoid making a big issue of it though Nagatomo stated (Exhibit 85, p 45) that he did. He and Nagatomo

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were in complete disagreement and, therefore, there was no opportunity for him (Ishida) to mention the circumstances prior to the sending of the letter. He never said "For the Kempei headquarters to put out such a document is like turning water towards the army chief of staff" as alleged by Nagatomo (Ex 85, p 32). The first time he even saw the phrase was in Nagatomo's statement. Nor did he use any other expression implying instigation (R-1675).

He spoke to Lt. General Takashima, Eastern District Army, chief of staff in Tokyo in April 1945. Ishida told him that since his duties did not involve handling captured airmen he was unaware of conditions in the army and did not know the true facts concerning the Kempei. Ishida then said that if the number of captive airmen increased he wondered if it would become important that a legal adjustment be made so as to relieve the army of this burden. Takashima agreed (R-1676).

When Tamura, chief of the Prisoner of War Information Bureau, visited Okido, Ishida was called into the officer. Okido asked him (Ishida) if it were possible for the Kempei Tai "to execute the disposition of execution of the fliers instead of the M.D.C.". Ishida replied that it was preposterous, that it was the duty of all nations to handle fliers according to international law. Okido turned towards Tamura "and as if he were talking to himself he stated that the Kempei could not do it" (R-1677).

He opposed the sending of the letter from beginning to end. Okido was adamant and told the section chief to draw a draft. It was apparent from the draft that he had ignored Ishida's suggestions. Ishida then told the section chief not to submit the plan to Okido. Ishida thought of sending a private letter voicing intentions far from the intentions of the commander, hoping that Okido would abandon the plans. "Knowing what I did about the characteristics of the commander, knowing that his intentions were very strong and that once he voiced his opinion he could almost never retract it, and since I had experienced repeating a suggestion, and having been reprimanded for repeating such a suggestion, I know that nothing could be accomplished. He was the type of person who after making a statement could not withdraw it. Fortunately the official document was stopped and the private letter was sent out and all of his bad intentions which were included in the official document were not included in the private letter. I regret that even the private letter was sent." (R-1678). It is true that Okido made all of the decisions arbitrarily and on his own and that he was for the most part disregarded until Okido wanted expert advice on the procedure for carrying out his intentions. It is not true that Okido's ultimate objective in writing the letter was the execution of the fliers. He did feel when the commander first voiced his opinions that he had some intention of killing the fliers and that was the reason he opposed it (R-1679).

When he stated (Ex 87, part 3, p 11) "on the other (hand) there were outcrops of a bold positive policy expressed in vigorous words which I felt were provocative and dangerous", he did not mean to imply that the letter contained anything illegal. He meant that "there were instances when the disposition was extremely slow at army headquarters and the necessity for a strict disposition by the Military Discipline Conference. In addition the expediting of the Military Discipline Conference would be another instance" (of danger) (R-1682). The danger was "the overstepping of bounds or the sticking of one's nose into someone else's business." Disposition, strict or otherwise, was the function of the Military Discipline Conference and no outsider had the right to express an opinion as to whether the disposition should be light or heavy. The letter did mention Military Discipline Conference (R-1684). Okido originally intended that if the army headquarters continued to disregard the disposition of fliers there was no alternative but to dispose of them strictly, meaning by execution (R-1686). He did not speak to Otani, Eastern District Unit commander. (Ex 87, part 3, p 11) because he feared the consequences but rather because Otani was discussing the matter and Ishida

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wanted to make sure. He (Ishida) firmly believed there was no chance of misconstruction or illegal interpretation of the letter (R-1687). In June 1945 he did not know whether fliers were detained at any other Kempei Tai headquarters other than Tokyo (R-1692). Prior to the issuance of the letter he had frequently inspected the Tokyo Kempei Tai barracks where captive airmen were detained. He felt there was nothing particularly bad about them; however, they were too small. He never heard that additional barracks were constructed in June 1945. When Okido expressed his intentions to him Ishida felt momentarily that Otani had told him about the internment of fliers at the Tokyo Kempei Tai. He thinks that Okido communicated the subject matter of the letter to Otani orally. (R-1693). Before the regulations (Army Secret Order No. 2190) concerning captured airmen were issued, in a hazy way he felt that the airmen would naturally become prisoners of war upon capture and that according to international law if the necessity arose for investigation of an airman it would be conducted after he became a prisoner of war (R-1694). In June 1945 he believed that it would have been contrary to Japanese law as well as international law to execute airmen suspected of war crimes without a fair trial and conviction by a Military Discipline Conference. His opinion is not based upon experience with the handling of fliers since he had no connection with the matter (R-1695). He did state on 28 June 1946 during an interrogation, "Yes, I told Okido that executions might result from sending out such a communication and he answered, 'in spite of that, the order goes out'. I objected to sending the order because it was a violation of the international law but Okido overrode my objections." However, what it does not state is that these were the original intentions of the commander; nor does it mention the private letter (R-1698). He also stated during the interrogation that he was not sure General Nagatomo would have approved the execution of the fliers if he had not received the communication from Kempei headquarters but it is possible that the letter influenced him. He first heard of Okido's intention to execute the fliers summarily in the first part of June (R-1701). He first heard a suggestion for summary execution of the fliers on the occasion of Tamura's visit to Kempei headquarters in April (R-1703).

In the first part of June 1945, Okido told Ishida in effect that (1) the fliers should be punished, (2) they should be punished by Military Discipline Conference but if that could not be done then some other means of punishing them outside of the Military Discipline Conference would have to be devised, (3) steps should be taken for strict disposition (shobun). He never at any time during the war conversed with Colonel Ogoshi, chief of the General Affairs Section regarding the execution of airmen nor with anyone else other than Okido and Yamamura (R-1705). He imagines that Okido assigned the duty of preparing the letter to Yamamura, Foreign Affairs chief rather than to Ogoshi because Yamamura was connected with matters concerning foreigners (R-1706). He spoke to Nagatomo in Tokyo in November and December 1945 but he does not recall speaking about the letter. After Nagatomo's visit to Tokyo in September he summoned Okido to Tokyo in order that the facts of the executions might be made known to Lt. General Iimura who was conducting an investigation. He did not tell Okido that he considered Nagatomo a very unscrupulous fellow. He believes he stated "that Nagatomo had said this terrible thing and that terrible thing" (R-1710). While he was in Sugamo and prior to the arrival of Okido he believes he told Nagatomo that he had protested the issuance of the letter but he cannot recall. He had not withheld that information from Nagatomo because Kempei headquarters was trying to induce Nagatomo to change his interpretation of the letter (R-1711). He does not remember clearly but he might have seen one answer to the letter.

He learned, after the war, about the deaths of fliers in the burning of the Yoyogi Prison in Tokyo (R-1713). He believes the letter was marked "very secret" because it involved an army matter and the rendering of an opinion as to strict disposition by Military Discipline Conference was going beyond the bounds of the Kempei (R-1716).

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The accused Yamamura having been advised of his rights (R-13, 1716) elected to take the stand and testify under oath (R-1716). He became Foreign Affairs section chief in Kempei GHQ in April 1945 (R-1718). In addition, in May 1945 he became chief of the Foreign Affairs Special Squad. The Foreign Affairs Special Squad protected foreigners who were traveling in Japan and also prevented them from conducting espionage. It was a temporary organ formed by the Kempei Tai commander under authority of the War Ministry. The duties of the Foreign Affairs Section were purely administrative. It was a government organ (R-1720). There was an Osaka branch of the Foreign Affairs Special Squad under Major Shiuchi (R-1721). He would like to correct two mistakes in his statement, Exhibit 86. In part 2, page 3, it states that Okido instructed him to prepare the document as a private message whereas it was General Ishida who desired that the official document be changed to a private letter. In part 3, page 3, he was in doubt whether he or Ishida handed the draft to Okido. He now remembers receiving the draft from Ishida and submitting it to Okido (R-1723). When he read the letter prior to its being sent out he felt that there was nothing dangerous in it and there would be no chance of misunderstanding (R-1724). Okido gave the order for the dispatch of the letter (R-1728). Prior to the Army Secret Order and the regulations of the Defense GHQ which were issued about September 1944 concerning the handling of captured airmen, Kempei GHQ "under the request" of the General Staff Headquarters handled captured airmen. Subsequent thereto the Kempei headquarters "withdrew its hand in this work". Thereafter intelligence from subordinate Kempei Tai headquarters was handled by the Foreign Affairs Section (R-1729). Kempei GHQ never instructed subordinate Kempei Tai units to submit investigation reports on captured airmen. However, he may have instructed Colonel Takada to do so individually, as Takada testified (R-1730). He first heard of the Osaka executions about the middle of September 1945 (R-1732). He, together with Ishida, spoke to Nagatomo on 16 November 1945. Nagatomo stated that the captured fliers and two Kempei NCO's were on a ship which had been bombed and they had been lost. Okido desired that they acknowledge a telephone report of the occurrence. Ishida refused but Yamamura said he would consider it (R-1734). He did not doubt the story of the ship. He said he would consider the matter in order to relieve the ill-feeling between Ishida and Okido. He intended to decide definitely at a later time (R-1735). Because the letter was drafted by order of the commander it was natural that it would have to have the order of the commander for its dispatch. Furthermore since it concerned a matter outside the duties of Kempei headquarters it would have required Okido's order. The phrase "that the letter was not the intention or direction of higher authorities" meant, in his opinion, that it was not the intention or direction of the Kempei commander and War Minister. The letter was classified as "secret" or "top secret" because it could give the impression that Kempei GHQ was concerning itself with an army matter and also overstepping as far as disposition by Military Discipline Conference. "If some hot minded young man happened to get hold of the letter a mistake could easily occur." (R-1736). Okido did not tell him to mark the document "secret" (R-1749). When he wrote in the draft, "We are concerned lest the treatment accorded these fliers become harsh should their numbers increase in the future", his concern was over what the Kempei Tai might do to the airmen since from the standpoint of clothing, food and shelter the conditions were already acute. His fear did not refer to physical mistreatment by Kempei Tai personnel (R-1750). When he wrote his statement he was not sure whether the words "Military Discipline Conference" appeared in the draft (R-1751). His and Ishida's concern about the letter was that the Kempei in dispatching the document was greatly overstepping its authority and they feared that if they offended the army's dignity the difficult work of the Kempei might be made even more so by the offended officers (R-1752). When he used the example of the "hot headed young man" he did not imply that execution of the airmen might have resulted. He sees nothing wrong about the District Kempei Tai explaining to the army about the crowded cells and requesting the army to accept the airmen or provide additional places for confinement (R-1753). The purpose of the letter was to relieve the crowded condition by having the army accept physical custody of the airmen or place them in internment camps. He believes that Okido insisted upon stating that "airmen who were responsible for brutal atrocities should be strictly judged by military courts and punished

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(shobun)" because the Kempei Tai was heavily burdened through having to handle the airmen and if the request were only half-hearted it would result in the persisting of the same conditions. His statement of 23 February (Ex 86, part 3, p 5) erroneously mentions only six Kempei Tai commanders instead of eight to whom the letter was sent (R-1764). It was, therefore, corrected to include the commanders of the Northeastern and Chugoku Kempei Tai Districts. Nothing in the three or four answers to the letter indicated that the district commanders thought the Kempei Tai were inter-meddling. Because of the failure of the other commanders to reply he assumed they thought the letter came from some insolent section chief and there was no need to answer (R-1756). He thinks this was justified especially after hearing Major General Shakudo testify to that effect. Nagatomo signed a receipt for the letter (R-1757). He denied that he told Colonel Takahashi that Otani came to see him and asked if the letter meant that the airmen were to be executed and he (Yamamura) answered that it did not (R-1764). The prosecutor provided the questions in parts 2 and 3 (Ex 86) of his statement (R-1765). He did not believe it was proper for Kempei Tai GHQ to interfere with the army in its handling of an army problem. Kempei Tai GHQ did not know the specific reasons which caused the army to leave the airmen in the hands of the Kempei Tai, except in the case of the Tobu Kempei Tai (R-1769). The answers to the letter were addressed to him. The letter was sent 14 or 15 June 1945 (R-1771).

The accused Ono (who was acquitted), having been advised of his rights (R-13, 1773), elected to take the stand and testify under oath. He was a legal officer assigned concurrently to the 15th Area Army and Central District Army. (R-1774) His duties involved carrying out orders and instructions of the legal department chief. The legal department chief was the one who gave advice and legal opinions to the commander and chief of staff (R-1775). The accused Nagatomo had stated (Ex 85, pp 13, 14) that he (the witness) was present during his meeting with Kunitake and voiced his opinion concerning the handling or execution of the fliers. Nagatomo further stated that Kunitake summoned him (Ono) by pressing the bell. Ono denied that he was at the meeting and that there was such a bell and further stated that he was never summoned by the chief of staff in June or towards the first part of July 1945. He has no clear recollection whether he conversed with Kunitake relative to disposition of fliers without reference to a Military Discipline Conference. It's possible that he did (R-1777).

They had from 40 to 70 military courts martial cases per month (R-1778). He reported to chief of staff Kunitake every week or 10 days concerning the general affairs of the Judicial Department. He discussed the Nelson and Augunas case twice with Kunitake. On neither occasion did they discuss the disposition of the fliers without putting them through the Military Discipline Conference. He never said to Kunitake "the investigation of the airmen is taking up too much time--too much of our time, so we would like the Kempei Tai to execute them without hesitation." He was never consulted by Kunitake regarding the execution of fliers under control of the Kempei Tai (R-1779). He first heard of the executions after the war (R-1780). None of the slight conversations he had with Nagatomo could have induced Nagatomo to order execution of the fliers without putting them through the Military Discipline Conference (R-1781). He visited Kunitake's office probably towards the end of June 1945 (R-1802). Kunitake said that he had instructed the Kempei Tai to execute the captive fliers and the Judicial Department would not be troubled further about the matter. Kunitake indicated that in the future the fliers would not be executed after a Military Discipline Conference. Normally the matter concerning the Military Discipline Conference was the business of the legal section. Execution was handled by the Judicial Department if it was carried out after a Military Discipline Conference. Kunitake used the word "shokei" for "execution" (R-1803). "Shokei" was officially interpreted as meaning "execution". Ono said "Is that so?" in reply to what Kunitake told him. He did say in his statement (Ex 70, p 5) quoting Major General Otahara, his section chief, "I suppose it would be permissible if the army commander favored the abbreviation of procedure" (referring to the Nelson-Augunas case). He further stated "The decision as to whether or not the fliers are

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sent to military tribunals rests with the army commander" (Ibid). He also stated in his affidavit (Ex 70, p 7), "Then Oba asked me 'As a result of a talk between Kempei Commander Nagatomo and the chief of staff it was decided that the other fliers would be executed by the Kempei Tai instead of being tried by military tribunal. What do you think about it?' I answered 'No matter who conducts the execution the results are the same. I believe the matter rests solely upon the army commander who is the president of the military tribunal.'" (R-1804). He also stated "Army commanders were vested with broad powers and under Japanese laws and regulations had a free hand in determining the disposition of the fliers. In short, the army commander had the authority to send or not to send fliers to the military tribunal. Moreover I thought that the army commander also had the authority to determine whether or not to try the fliers by a military tribunal or to execute them without trial" (Ibid). The army commander had a broad if not unlimited power and authority to determine the disposition of captured airmen (R-1805). This conclusion was reached on the basis of his interpretation of pertinent laws and regulations and his experience as a legal officer of the Burma Expeditionary Army (R-1806). The prosecution called the attention of the commission to paragraph 20 of the witness' statement in which he said: "Moreover, the Judicial Department was under the impression that the procedure required by regulations could not be abbreviated to expedite the case involving the fliers." (R-1807).

The accused Oba, having been advised of his rights (R13, 1807), elected to take the stand and testify under oath. He was senior staff officer of the 15th Area Army and Central District Army Headquarters at Osaka in the summer of 1945 (R-1808). He had charge of the first section. The other staff officers were not his subordinates. The staff officers were directly responsible to the Chief of Staff (R-1809). As senior staff officer his duty was to see that the administrative work within his section functioned smoothly (R-1810). The functions of the second section were communication, guards, martial law, civil air defense, special warfare, mobilization and organization. He had no administrative control over the second section because the second section also had a senior staff officer. The duties of section chiefs were assigned by the army commander. He heard in the early part of July 1945 from Major Shiuchi that executions of captive fliers were to take place (R-1813). About the middle of June 1945 he discussed this matter with Captain Ono and a few days after that with the army commander and the chief of staff. He was not familiar with Army Secret Asia Order No. 2190 at the time he spoke to Ono (R-1814). He had been in Manchuria when this order was issued (R-1815). That those who had violated the laws of war were to be disposed of without being passed through a Military Discipline Conference and that those suspected thereof were to be tried by such conference was not and is not his interpretation of the order and even after studying the regulations it is not
clear that the regulations so state. The fliers were executed at Osaka in order to cope with the difficult conditions at that time and this was more of a "temporary nature" which was a result of the exercising of the commander's authority over the Military Discipline Conference (R-1816). The General Defense Command issued regulations in 1942 which set up the Military Discipline Conference. About 7 April 1945 there was a reorganization in which the General Defense Command became the 1st and 2nd General Armies. The 15th Area Army came under the 2nd General Army (R-1819). It was stipulated that the 2nd General Army issued regulations in the last week of July 1945 setting up the Military Discipline Conferences (R-1820). About 1 June 1945 immediately after the bombing of Osaka, Uchiyama said "Exhaustive investigations must be made in order to clarify the acts of indiscriminate bombing by air crew members." These remarks referred not only to operational intelligence reports but also to criminal investigations and such investigations were in fact to constitute the criminal investigations, both of which under army orders were to be made by the Kempei Tai (R-1821). The words "Trial for guilt" in sub-paragraph (2)a of his statement (Ex 69, p 5) should have been interpreted as "Crime investigations" (R-1822). This was the reason why, at the time he learned that executions were to take place, he asked Captain Ono whether airmen who committed acts of indiscriminate bombing could be executed, as stated in paragraph 13-b on page 8 of his

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statement (R-1822). It was also the reason why he asked Major Shiuchi whether there was sufficient evidence of indiscriminate bombing against each airman to execute him. According to what Shiuchi told him the decision to execute had already been made. He did not recall receiving a report of the executions. Shiuchi told him that three days after this execution another was to be conducted at Shinodayama. He never heard of any other subsequent executions prior to their taking place. At the conference of the army commanders during the middle of November 1945, he first heard of the plan to send in false reports concerning the executions. He never heard of this plan during the war (R-1823). It was stipulated that the witness participated in the conspiracy under orders from his superiors. He had no authority or control over the attached Kempei Tai units. He was never in a position to have prevented the Kempei Tai from carrying out the executions. This is because the matter had already been decided by the Chief of Staff and Nagatomo (R-1824). With reference to paragraph 21, page 12 of his statement (Ex 69), the Kempei Tai did not have to receive army permission in order to obtain medical supplies or to hospitalize patients. The army medical department had to make the arrangements but hospitalization could be accomplished through direct negotiations between the unit concerned and its closest hospital. Also, it was not necessary to obtain permission through the army medical department in order to get medicines. This could also be done directly (R-1825).

The prosecution called the attention of the commission to certain parts of the witness' statement (Ex 69): "The fact that I acceded to Shiuchi's request, without first consulting the Chief of Staff, cannot be regarded as an act executed on my own authority. The reason for this is the fact that in the Japanese Army a staff officer of my position and responsibility ordinarily did not consult with supervisors on measures to be taken on simple items but judged and executed matters according to circumstances, or else settled and reported on them at leisure within a definite time limit." (paragraph 17, p 9). "As the senior staff officer of the army headquarters and for the following reasons, I ordered Staff Officer Yamanaka to give the Kempei Tai a place for execution and motor fuel to transport the air crew members." (paragraph 5-g, p 4). "In regard to both matters, Yamanaka did not dispose of nor decide on the matters on his own authority. He just followed my wishes. Therefore it is my personal desire that Yamanaka be absolved from this responsibility as far as possible." (paragraph 14, p 9).(R-1826). Attention was also called to paragraph 11, p 7; paragraph 13-b, p 8; paragraph 19, p 10; paragraph 20, p 12 (last sentence). (R-1827).

The witness (Oba)had no authority to give orders to Yamanaka or any other staff officer. Japanese army regulations provided that though an officer was not a subordinate he will obey the orders of the senior ranking officer as long as he is not thereby prevented from carrying out his duties. In connection with the arrangements for the execution ground and for the fuel, although Yamanaka was staff officer in charge of such matters, since Oba as senior ranking officer had some connection with the matter Yamanaka was obliged to do what he said as long as it did not prevent him from performing his duties. That is why the witness, stated that he "wished to be held responsible for Yamanaka's responsibility." (R-1829).

The accused Yamanaka having been advised of his rights (R-13, 1830) elected to take the stand and testify under oath. He served as staff officer concurrently of the 15th Area Army and Central District Army. The staff department handled intelligence matters (R-1831). He was assigned to the first section, which handled operational intelligence. Colonel Oba was head of the section. He first heard of the proposed executions in the early part of July 1945 from Major Shiuchi. Major Hirano had asked the witness to arrange for fuel and an execution ground. Shiuchi told him that he had already referred to Colonel Oba about the matter and that the executions would be carried out by the Kempei Tai at the Shinodayama Maneuver Grounds in secret (R-1832). Shiuchi wanted Yamanaka to arrange for another unit to be training there so that the executions could be carried out under

cover of the firing. Yamanaka refused. Yamanaka asked him why he did not contact the maneuver grounds himself and Shiuchi replied that the maneuver grounds were not in the Kempei Tai chain of command (R-1833). He arranged to obtain some charcoal for fuel (R-1834). He remembers seeing Shiuchi only twice during the war. Shiuchi did not show him the place of execution. The directive delegating the handling of airmen to the Kempei Tai referred to operational intelligence. He did not know of any other executions prior to their occurring. During the late spring and summer of 1945 he was not asked for his opinion as to the execution of captive airmen nor did he advise anyone concerning such executions. He never had any authority over the Kempei Tai personnel attached to army headquarters. He could not have prevented the executions which had been decided upon by his superiors.

"In the assembling of intelligence and in the handling of fliers I was not in charge of the airmen ** . I was president of the one and only Military Discipline Conference that was held." He did not hide any facts concerning the executions although everyone tended to do so. Therefore, his name was often mentioned. After arranging for the fuel at Shiuchi's request he reported to Kunitake because staff officers were required to make reports on all matters concerning their duties. Shortly thereafter he reported to Kunitake that the executions had taken place because, although this was not a part of his duties, the Chief of Staff always wanted reports on everything that occurred (R-1836).

The accused Kunitake having been advised of his rights (R-13, 1841) elected to take the stand and testify under oath. He was Chief of Staff concurrently of the 15th Area Army and the Central District Army. He had command authority over the staff department which included the smaller staff department and the adjutant's department. He had no other command authority (R-1842). Under the doctrine of limited command over the local Kempei Tai units he had no direct command authority over the Kempei Tai other than to assist the army commander. He did not recall receiving reports of mistreatment of airmen held by the Kempei Tai nor did he recall receiving reports of crowded detention cells of the Central District Kempei Tai. He had no command authority over the 22nd and 23rd Infantry Units in Osaka (R-1843). Under Army Secret Asia Order No. 2190, the area army commander had the authority to determine whether captive fliers were innocent or guilty of violating international law. He had the responsibility of assisting the army commander in his decisions regarding the status of the captive airmen but he (Kunitake) did not have any authority to make decisions. He never advised the commanding general deliberately to deny captive fliers, otherwise entitled thereto, the status of prisoners of war. Regarding the directive from 15th Army Headquarters pertaining to the handling of captive airmen including their interrogation by the Kempei Tai: He never heard of nor saw Kempei Tai headquarters' facilities for confining the suspected airmen. A detention barracks in which Japanese criminal suspects were confined would be a proper place to confine the airmen. The order issued by army headquarters to the Kempei Tai that they were to take charge of the captive airmen did not specify what housing, food or medical attention were to be provided. Such matters were to be according to regulations. Army headquarters never ordered the Kempei Tai to withhold food, water for drinking and washing, or medical attention from the airmen (R-1845). No order or approval from headquarters was necessary for the Kempei Tai to obtain food for the fliers (R-1846). The army commander was not responsible for the supervision of the Kempei Tai guard houses. Perhaps the intendance department had some connection since their facilities were national property.

Nagatomo visited him in the latter part of June or early July regarding the letter from Kempei Tai GHQ. He did not contact army headquarters prior to his visit. Nagatomo wanted to avoid sending intelligence reports about the airmen when the information obtained was merely repetitious (R-1847). Nagatomo also stated that instructions had been received from Kempei Tai GHQ that disposition be made of the fliers (shodan) which Kunitake interpreted to mean that they were to be

killed. He did not see the letter even though Nagatomo stated that he did. He did not believe that such instructions were normal procedure but assumed that the letter must have been sent pursuant to instructions from Central Authorities. Under the regulations, the army commander had the authority to decide the guilt or innocence of the airmen (R-1848). This was by virtue of being director of the Military Discipline Conference which was convoked when the necessity arose (R-1849). The director could not act when the conference was not in session. He believes that fliers who bombed an open city violated international law (R-1850). In the late spring and summer months with one exception, the bombing of Osaka City and its vicinity was indiscriminate (R-1858). The exception was the bombing of an army arsenal (R-1859). Thousands of homes were bombed in the other raids. Casualties were heavy (R-1861). The main military targets were not damaged. (R-1862) In one bombing the primary target could not be attacked because of the weather and orders were given for "free bombing". He estimates that there were 30,000 casualties and 120,000 homes destroyed in the month of June 1945 (R-1863). The foregoing is based on Kempei Tai reports. Such reports were received from seven to ten days after a raid or the capture of fliers. He thought at the time that the airmen were kept at the Kempei Tai detention barracks but there might have been some in the infantry units. He does not recall that any of the captured fliers were cleared of indiscriminate bombing. The reports were passed to the commanding general. Reports on all the fliers were submitted by the Kempei Tai until Nagatomo told him repetitious reports would not be submitted (R-1864). After reading the reports he considered that the captured fliers were suspected war criminals in accordance with Army Secret Order No. 2190. He suspected that they were guilty of indiscriminate bombing (R-1865), and believed that they would probably be convicted if tried by a Military Discipline Conference (R-1866). The normal sentence therefor was death.

When Nagatomo told him about the letter he did not ask Kunitake what he should do. Nagatomo stated that the Kempei Tai would make proper disposition of the fliers and added "Is that all right?" or "Okay?" or words to that effect. He then asked Nagatomo if the airmen had participated in indiscriminate bombing. Receiving an affirmative answer, he then said, "I understand." (R-1867). In a letter dated 4 April 1948 addressed to a prosecutor he did say that after Nagatomo told him the airmen were to be disposed of he replied that he understood, presuming that to be the army commander's intention (R-1869). He used the word "understand" in its literal meaning. Nagatomo might have construed "I understand" to mean that he (Kunitake) agreed. He knew that such were the intentions of the army commander even before Nagatomo's visit (R-1870). When Colonel Oba spoke to the commander in Kyoto relative to the airmen, Uchiyama said "I shall talk to the legal department first about this matter. I think that the results of the investigations of the fliers taken by the Kempei can be used by the Military Discipline Conference. However if the Kempei Tai has enough real evidence to show that these men participated in indiscriminate bombing, it is not impossible for me as army commander to use my authority to omit the Military Discipline Conference in the exercising of the Military Disciplinary Regulations and execute without passing them through a Military Discipline Conference." Uchiyama asked Kunitake for his opinion and he answered "It is true that the enemy are bombing indiscriminately all over, so therefore, I guess that would be all right too."

Uchiyama also told Kunitake of his intention to execute the airmen summarily when Kunitake told him he heard that railroad employees were to be made gunzokus (R-1871). When a gunzoku committed an offense he was tried by court-martial conducted by army headquarters. It would have been almost impossible to handle all these trials, however, in July gunzoku trials were taken over by the civil courts (R-1872). None of the gunzokus were tried by army headquarters (R-1873).

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When he said to Nagatomo "I understand" (supra) he did not mean to convey an order to execute nor did he think that Nagatomo would construe it as such (R-1877). He did not believe that Nagatomo expected any orders from Uchiyama to execute (R-1878). He could not have summoned Captain Ono by means of the buzzer system. He never used the buzzer during his conference with Nagatomo. Nagatomo never reported to him during the war that the executions had been accomplished. He reported to Uchiyama after his conference with Nagatomo (R-1879) relative to reports containing cumulative intelligence (R-1880). Regarding Captain Ono's statement that the witness told him it would no longer be necessary to trouble the legal section as to disposition of captured airmen since he had instructed Nagatomo to execute them, the witness (Kunitake) stated that he might have said something to that effect on some other occasion. He did not recall saying what Ono claims he said; he could not have said it. However, he felt that he might possibly have said it (R-1881).

It was stipulated that on 11 February 1945 the 15th Area Army (organized that date) adopted Military Discipline Conference regulations according to the General Defense Command. It had already been stipulated that the 2nd General Army established a Military Discipline Conference in the latter part of July 1945 (R-1882). As to matters which had to be, or were accomplished, by the army commander, if some of them were not up to par or in time, it is because he did not quite fulfill his duties as Chief of Staff in assisting the army commander (R-1885). Because it was the duty of the staff officers to follow his orders, he is responsible for what the staff officers did regardless of whether he knew about the matter. He never heard that there was a discussion between General Uchiyama and General Nagatomo concerning the execution of the fliers. Uchiyama did not expressly tell him about a concealment plan. He did say that every effort should be made so that as few persons as possible would be involved and this gradually led to the concealment plan (R-1886). There was no area over which the 2nd General Army had direct jurisdiction in the area of the 15th and 16th Area Armies to the exclusion of the latter armies. Only area armies could try airmen by Military Discipline Conference. If the Central District Army captured airmen the 15th Area Army would have handled them and not the 2nd General Army headquarters. However, there were two divisions within the Central District Army which were under the direct command of the 2nd General Army; they did not possess jurisdictional areas. Perhaps because of this, airmen captured by these divisions might have been considered to have been captured in the direct jurisdictional area of the 2nd General Army (R-1890). Higher Headquarters Service Regulations provided that in all important matters the departmental chief must clear with the Chief of Staff first before going to the commanding general. However, as to judicial administration and legal advice there was a separate regulation. Major General Ohdahara discussed the Nelson and Augunas case as the prosecutor, with Uchiyama as the director, of the Military Discipline Conference. Although Kunitake took part in the discussion there was no need under the regulations for Ohdahara to see him. He (Kunitake) merely attended and listened. He did say one or two things, however, concerning administration, purely as a bystander (R-1892, 1893).

Airmen were entitled to a defense before the Military Discipline Conference (R-1894). He did have several conversations with Ono about the Nelson-Augunas case in which he criticized the delay and demanded that Ono expedite the trial. He did affix his seal to a rough draft of the execution order in that case, which order was presented by the prosecution. Uchiyama was not present in Osaka during the day the trial was held or the execution carried out (R-1895). He did previously state in answer to the question why the remaining fliers were not tried by the Military Discipline Conference, that the Kempei Tai sent the army information on only five or six fliers and then stopped; and that the army knew the Kempei Tai was holding fliers but took no action because they were busy with defense preparations (R-1896). He recalls saying that composite reports on airmen were sent by the Kempei Tai but does not recall stating that individual

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reports were made (R-1898). Other than in the Nelson-Augunas case, the Kempei Tai never forwarded reports requesting trial of airmen by the Military Discipline Conference nor did he know of any negotiations therefor. He never asked the Kempei Tai why the sending of other airmen to the Military Discipline Conference was delayed. He could not state whether the Legal Department could have handled further trials by Military Discipline Conference. He did previously state (in October 1946) that it was doubtful that the military police could have investigated and sent the remaining airmen to the Military Discipline Conference because they were extremely busy with their other duties and the investigations did not progress favorably and not because the military tribunal refused to receive the cases (R-1899). He also stated at that time that not all the judicial personnel were busy so the situation was not such that they were not able to handle any cases (R-1900). He also said in the statement that the Kempei received many airmen from May to August but did not report on the number nor take any steps to forward the cases to the military tribunal; also, the army was too busy with other matters to have time to think about the airmen. He also previously stated (in October 1946) that if Nagatomo's visit had been for the purpose of obtaining approval of matters over which the chief of the military tribunal had the deciding power, the army would have refused because it was outside of the Kempei's jurisdiction. If there had been a violation of international law the area army would have made fair and just disposition (shodan) based on military law.

There is some doubt that in June and July all the fliers would have received the same treatment as Nelson and Augunas, because there were so many (R-1901). If a life sentence had been recommended for Nelson and Augunas by the chief of the Legal Department, there would have been no need under the regulations to consult Tokyo (R-1902). When he wrote the statement above referred to he was trying to prevent the army from being responsible. If there is a difference between the statement and his testimony, his testimony is the truth (R-1905). He had stated that the Central District Kempei Tai headquarters investigated the fliers under their independent authority. This was a mistake. The investigations were under the limited command authority of the army commander. Also, under the limited command authority the Kempei Tai were ordered to assemble operational intelligence (R-1906). Even while the fliers were in the hands of the Kempei Tai headquarters, the army commander was responsible. Sometimes the Kempei Tai sent individual, and at other times composite, reports of captured airmen (R-1907). Yamanaka was responsible for fuel used in training (R-1908). Yamanaka was one of the most capable officers at headquarters. In addition to the reasons previously given for not sending the fliers to the Military Discipline Conference, a Kempei Tai defendent in this case has stated that there were no order from the army. Regarding Shiuchi's visit to the staff officers, he previously stated that he learned of this after the war. Oba and Yamanaka, however, stated that they reported this to him during the war. He, therefore, believes he was wrong (R-1909). Since the army, which had jurisdiction over the airmen, did not express any contrary opinion regarding the executions, it was reasonable for the Kempei Tai to have assumed that they had the consent of the army headquarters. He agrees with the statement by Uchiyama that the question of whether or not a crime was committed was decided by the judge on the basis of the facts and the president was not allowed to participate in the decision (R-1910, 1911). There was no provision in the military tribunal regulations allowing the Kempei Tai to execute fliers without trial (R-1913).

When Nagatomo visited him regarding the letter from Kempei Tai GHQ, he told Kunitake that there was a document--not instructions, as he previously testified--in reference to the disposition "shodan" of the fliers. Nagatomo also said "We will take proper disposition of the fliers. Is that all right?" or "Do you understand?" He thought Nagatomo came to army headquarters merely to give information. Nagatomo did not state that the letter instructed him to consult

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the Army Chief of Staff concerning the disposition "shodan" of the airmen. The Kempei GHQ did not have the authority to determine the disposition of the airmen (R-1915). Since the Kempei Tai were conducting the investigations, he assumed at the time that the Kempei GHQ were the superiors and, therefore, had the authority to dispose of the fliers. That is the reason why he thought the Kempei GHQ had given instructions to execute the airmen without the approval of the army commander. He did not tell Nagatomo that the army commander "had the opinion of disposing of airmen with passing them through the Military Discipline Conference (R-1916). As Chief of Staff it was his duty to carry out the intentions of the army commander. The commander on two occasions expressed his intention to execute (shodan) the airmen summarily (R-1918). He would not have given Nagatomo permission to do anything contrary to the commander's intentions (R-1919). In his March 1948 interrogation together with Nagatomo, Fujioka, Yamanaka and Oba, he did deny that Nagatomo's visit was connected with the "shodan" of airmen. He did previously deny Colonel Oba's statement that he had told him (Kunitake) about Shiuchi's visit. After he was told about the letter submitted to the prosecution by Uchiyama, he did state "The stand I have constantly taken to cover up the army commander's position has become futile." The witness explained this as follows: "Since the authority in connection with fliers was in the hands of the army commander I thought that if anyone were to be accused of the responsibility for the execution of fliers that responsibility would naturally be placed upon the army commander. Therefore, I took steps to avoid that, and one was to state that the visit of Nagatomo was in no way connected with the execution of fliers. Next would be the concealment plan. The army commander did not know about it until sometime later and this concealment plan was planned by myself and subordinates and it was not until later that the army commander participated. Those are the steps that I took." The army commander was participating at the time the report was prepared in November 1945. After December 10, he stated that Uchiyama knew about the matter because it was no longer possible to hide it (R-1921). He admitted that Yamanaka told him about the arrangements for the use of Shinodayama Maneuver Grounds by the Kempei Tai and for fuel for transporting the airmen to the place of execution. He also admitted that Yamanaka told him that he had been informed by Major Hirano that the Kempei Tai had executed certain airmen at Shinodayama and that the remaining airmen did not suspect anything and were not perturbed. He acknowledged that on the day following Shiuchi's visit, Colonel Oba reported to him that Major Shiuchi of the Kempei Tai had called on him the previous day regarding the execution of airmen (R-1923). He does not think he disapproved when Colonel Oba told him of the arrangements that had been made for the execution. If he had been dissatisfied with Oba's conduct he would have disapproved. If Staff Officer Akatsuka had received reports indicating that airmen had died at the Kempei Tai, he should have sent them to him (Kunitake). Akatsuka had conversed during the war with Shiuchi about reports from the Kempei Tai concerning the deaths of airmen and had asked Shiuchi if the airmen were really dying from illness. However, Kunitake did not hear about this until after the war. He then heard it from Major Hirano. During the war he does not remember any member of his staff saying anything about airmen dying after capture (R-1925, 1926).

There were anti-aircraft concrete emplacements about 3,000 meters from Osaka castle (R-1929). There was an anti-aircraft unit and reserve infantry units in the vicinity of Osaka City (R-1930). Nelson and Augunas were first interrogated by the Kempei Tai and reports thereof were sent to army headquarters. The reports showed that Nelson and Augunas were navigator and radioman respectively (R-1934). (It was stipulated that the highest headquarters had determined that the death penalty could be asked for persons other than the pilot and bombardier). The reports also showed that Nelson and Augunas were connected with Tokyo bombings, among others. The Military Discipline Conference convicted them of violating international law in that they participated in indiscriminate bombing in the Kobe and Osaka areas (R-1935). When he placed his seal on the copy of the opinion in the Nelson-Augunas case that document was merely a file copy to be

retained at the army headquarters. There was no need for his seal to appear on the official document which was to be forwarded to Tokyo. The Military Discipline Conference Regulations of the 15th Area Army governed the cases of fliers who had violated international law, Army Secret Asia Order No. 2190 and the military discipline regulations of the Central Defense Command (R-1937). He never saw the military discipline regulations issued by 2nd General Army Headquarters about the end of July 1945 (R-1938). It is true that Uchiyama after the war intended to court-martial Kempei Tai and army personnel who were connected with the executions of the fliers and that he had the Legal Department chief investigate. (It was stipulated that the Occupation Forces stopped efforts by any Japanese army headquarters to try any of their personnel for war crimes). He was one of the men investigated.

When Nagatomo visited him in connection with the executions and he (Kunitake) said "I understand", he did not think that Nagatomo was seeking army approval of the executions. He never gave permission to Nagatomo or to anyone else to execute the fliers (R-1939). On page 1 of the witness' statement (Ex 84) the sentence "I assented because I gathered that this was the intention of the Army Commander" was changed after a conference to read "Presuming the army commander's intentions I replied that I understood (R-1940). There was no person in 15th Army Area Headquarters who was given the duty of administrative control of the fliers in accordance with the indirect responsibility of the Commanding General for the fliers. However, as to food the indirect duty would fall upon the Intendance Department chief. Medical matters would be the duty of the chief of the Medical Department and intelligence would be the duty of the Intelligence Staff Officer. There was a staff officer who controlled Kempei Tai matters and it could be thought that he would naturally take over such duties. Staff Officer Tani who was concurrently assigned duties concerning prisoners of war did not have that duty (handling of fliers). The army commander was responsible for airmen held by subordinate units (including the 22nd and 23rd Infantry Units). Akatsuka was the staff officer in charge of Kempei Tai matters (R-1943, 1944).

The accused Nagatomo having been advised of his rights (R-13, 1951) elected to take the stand and testify under oath. It was stipulated that he became commanding general of the Central District Kempei Tai in April 1945 and served until 3 September 1945 (R-1961).

With reference to the investigations of Nelson and Augunas and of the four or five airmen after them referred to in his statement (Ex 85, p 7), the witness stated that the reports contained among others the facts of the offense, what article or regulation had been violated and any extenuating circumstances (R1962). Included in the facts was the realization of the offender of his actions, objective, type of bombs, weather and anti-aircraft artillery opposition at the time. It was then decided whether the facts constituted a crime and whether the offender realized the act committed (R-1963). An opinion in the report as to whether an offense had been committed was given by the army judicial police who conducted the investigation. The reports were addressed to the director of the Military Discipline Conference. The "judicial police" were the Kempei Tai personnel who handled the investigations. Special courts-martial regulations applied to the procedure of the Military Discipline Conference and according to these regulations those who investigated the accused were called "judicial police". The reports showed that each airman participated in indiscriminate bombing. The reports were used to determine whether airmen were to be sent to the Military Discipline Conference. Major Shiuchi had told him that Chief Otahara of the Army Legal Department had said that such reports were no longer necessary. The reports would logically have been submitted to the Legal Department (R-1964). In his opinion the reports were not used as evidence but merely as an aid to the prosecutor. The reports were submitted to the prosecutor and not to the Military Discipline Conference. Such an investigation report was called a dispatch report. Shiuchi told him to hold back the reports in the latter

part of May. However, the Kempei Tai continued the investigations and made up operational intelligence reports. Operational intelligence reports were not used in connection with Military Discipline Conferences. The type and method of bombing and objectives were included and it would have been apparent if the bombings were indiscriminate. Such reports were made on every flier placed in Kempei Tai custody (R-1965). Upon learning that reports were no longer necessary, he felt that some problem had arisen at army headquarters as to continuing the Military Discipline Conference. The airmen who were first detained in the 22nd and 23rd Units were also covered by the investigation reports. All reports were submitted to the army the same way. Only copies of operational intelligence reports were sent to Kempei Tai GHQ. These did not show the conditions of confinement nor was it indicated in the reports that the Kempei Tai had asked the army to take over custody of the airmen. After the first part of June, fliers formerly detained by the 22nd and 23rd Units were detained in a former division warehouse in an area adjacent to the Kempei Tai which belonged to the Divisional Intendance Department (R-1967). Prior to the conversion of the warehouse a portion of the building used by the Otemae Kempei Squad was used as a detention room. It did not continue in use after the conversion of the warehouse. The warehouse was converted according to army regulations. He never inspected the building except from the outside. The reconstruction was handled by the Divisional Intendance Department and he had no authority to inspect it or control its construction. The Kempei planned to use it for temporary detention of anti-war and anti-militaristic prisoners. The conversion was ordered by the divisional commander. He (Nagatomo) did not anticipate any long term confinements. No one was allowed to be detained in the detained in the detention barracks for over three or four months. (R-1968). He had not contemplated that it would be used for captured airmen. Army headquarters decided to place captured airmen in the reconstructed barracks. It contained a great deal of space and was much better than the narrow detention barracks which were used before. Generally detention barracks or rooms were in places like basements where it was very dark. The cells in the converted warehouse were about 108 sq. ft. each (R-1969). He believes they were larger than the individual cells at Sugamo, which contained two prisoners. There are eight prisoners in his present cell which is eight mats in size. The individual cells had two mats. He believes the cells in the Kempei Tai remodeled barracks were six mat rooms.(R-1971). He recalls the occasion when Fujioka reported that the army refused to accept the airmen and someone at army headquarters had mentioned executing them. This was shortly after the building had been remodeled. He thought it was some form of jest or casual conversation. This remark was made at army headquarters prior to the receipt of the "letter" from Tokyo (R-1972), perhaps a week prior. He thinks the letter was received about the middle of June 1945.

The adjutant brought in the letter which was sealed. There was no postage stamp on it. Official documents and private communications came through three channels. Official documents came either through the government mail service or by Kempei GHQ courier. Private communications usually came by mail. Official documents were usually brought in with other documents by the section chief. This was generally about the 1100 hours or 1500 hours as to those brought by courier. Documents from other than Kempei Tai GHQ were sent by mail and were given to him after Kempei GHQ communications, at about 1100 and 1600 hours. Private communications were brought to him before 1000 hours and 1500 hours directly by the adjutant who brought two or three at a time. The so-called private letter from Yamamura was brought to him early one morning by the adjutant. It was probably brought by the courier from the Kempei GHQ together with other official documents and it necessitated a special early delivery to him (R-1973). There was an acknowledgement of receipt attached which he signed. It had not been opened because it was apparently to be read only by the commander and was marked "top secret" and "private" (R-1974). Prior to receipt of the letter no reports had been sent to Kempei Tai GHQ concerning overcrowded conditions of the Kempei Tai detention barracks or of the burden of handling the fliers. At the time he received the letter he did not know the circumstances under which the letter was drafted

(R-1975). As to the purpose of the letter he is more positive than ever that he did not misunderstand and that he did not intentionally falsify his interpretation of the letter. The letter mentioned that the handling of captured fliers necessitated speed and that the various Kempei Tai were progressing smoothly in the handling of captured airmen but it was anticipated that the number of captured airmen would increase and, therefore, some proper, speedy disposition must be taken (R-1976).

"In analyzing the contents of this particular matter I believe that since captured enemy fliers had acted in offense of the military disciplinary regulation that this was of such a nature that they should have been or should be passed through a Military Discipline Conference and given a strict disposition (shodan). However, if the progress of the Military Discipline Conference is slow then some other method which is best fitted might be necessary in the speedy, strict disposition (shodan) of such men; that there was no alternative but to take some other method." He believes that it was desired that he take into consideration the conditions of his own unit and in absolute secrecy contact the District or Area Army Chief of Staff and under his instructions take proper disposition (shochi) of the fliers. Next, the letter hinted that it was the writer's personal opinion and not the opinion of his superiors and further stated that it was to be burned after reading. It took him about five minutes to read and reread the letter. Later when he red-lined and analyzed it, it took a great deal longer. After first reading and then rereading the letter, he thought he understood it (R-1977). He further analyzed the contents because he wondered why Yamamura could, without considering the intentions of the higher authorities or his superiors, communicate by private letter on such an important official matter. Secondly he wondered about the unnecessarily longthly greeting. There was nothing inflammatory in the greeting (R-1978). He considered the reference to the bombing of the Imperial Palace and the shrines at Ise to be a form of greeting. None of the other private letters he received in June 1945 referred to such bombings as a starting point. The letter indicated that since the Kempei GHQ in deciding to execute the airmen would be overstepping its boundaries the Kempei Tai commanders should contact the army and carry out the proper measures under the instructions of the army. As he understood the letter he was to speedily dispose of the physical beings of the fliers. "When I state that I was told by the contents of the letter to carry out such and such a thing, it seems as if I was receiving an order. However, considering the fact that the fliers were under the jurisdiction of the army I believe the Kempei headquarters was merely showing their intentions that I was to exert my free will after contacting the Army Chief of Staff and under his directions." (R-1979). He did not think the purpose of the letter was simply to contact the Army chief of staff. The real purpose was the disposition of the fliers. Since the Kempei GHQ were clearly overstepping the bounds of their authority in mentioning physical disposition of the fliers this raised a doubt in his mind (R-1980).

He concluded from the letter that the governmental department charged with supreme responsibility for captured airmen must have decided upon execution of the airmen because (1) After long acquaintance with Yamamura he believed that he was not the type of man who would send a private letter in such an official matter without the authority of higher headquarters or superiors and that Yamamura was forced to write the letter under pressure from some superior or higher headquarters. He doubted whether the letter was sent by authority of Commander Okido, whom he believed was very warm hearted. Ishida was upright and honest. He did not believe that these three men could have pried into army matters and he, therefore, believed that it must have been the Central Authorities who showed their intention in this way. (2) It was rumored that the Central Authorities of the Army were tense in anticipation of the final stand and that they had a very positive attitude as far as the fliers and others were concerned. (3) While he was in Manchuria, the Kwangtung Kempei Tai Commander, Major General Kato, former Deputy Commander of the Tokyo Kempei Tai GHQ was always praising the alertness of

the Tokyo Kempei Tai and the fact that they had taken a positive attitude in handling the fliers; for example the Doolittle fliers.

When he referred to the government office charged with supreme responsibility for the airmen and to "higher authorities" he meant to indicate the Ministry of War (R-1981). He still believes that the decision regarding the execution of the fliers was the policy of the Ministry of War and that the Kempei were being used as a means of secretly communicating this policy to lower echelons (R-1982). He thinks that Okido is trying to protect the War Ministry when he says that the letter was his idea (R-1983). When Lt. Colonel Fujioka read the letter, it was apparent that their interpretations of the letter agreed (R-1984). Shiuchi also interpreted the letter to mean that the airmen should be killed (R-1987). He did not show the letter to Lt. Colonel Anjo since he thought that it was a police affairs matter and, therefore, it should be shown to the police affairs section chief. Since Anjo was senior to both Fujioka and Shiuchi, it might possibly have been more appropriate to show it to him. Questioned as to Anjo's statement that when he entered Nagatomo's office the latter was showing the letter to Fujioka but upon seeing Anjo enter he (Nagatomo) quickly hid it, the witness stated "I have nothing to say." (R-1989). He visited the Chief of Staff in order to show him the letter and receive his instructions. Although Kunitake testified that Nagatomo reported to him that he had an order from Kempei GHQ to execute the fliers, he had no recollection of that (R-1991). After Kunitake read the letter twice he said "If that is the case we will have to keep the place of capture and the number of airmen captured a secret in the future." He discerned the feeling from Kunitake's expression that he felt that the airmen should be strictly punished (shobun). From a legal standpoint he could not state positively whether Kunitake had the authority to order or consent to the execution but "substantially" he believed that the chief of staff had that authority (R-1992). "Abstractly or as a general rule I was fully aware that from the standpoint of the law that he had no authority. However, actually since Kunitake was very efficient and able as a Chief of Staff he was always being used by the Army Commander and particularly in matters of defense he was famous. As Chief of Staff he carried weight and importance of such a nature that there was no other Army Chief of Staff who was comparable. Commander Uchiyama and Commander Uchiyama's predecessor, Commander Kawabe, were very strong in their trust in him and in their confidence in him." (R-1993). He thought at that time that the Commanding General had authority to order or consent to the execution of the airmen. He (Nagatomo) suggested to Kunitake that the method of execution be left up to him (Nagatomo). The reason was that in taking a man's life the executioner must carry out this duty properly as if he were working for God. The army and populace possessed an extreme hatred for the fliers. The army's discipline was insufficient and had they executed the fliers they might have been very brutal and atrocious. In contrast his unit had been well trained and he had confidence in them. He considered the executions as legal punishment for offenses (R-1995).

"When Kunitake had said, 'It won't be necessary to pass the fliers through the Military Discipline Conference, will it?' to someone behind me, it was then that I turned around. I recall that when I turned around I saw there a young judicial captain who possessed a very light complexion and very energetically he replied that would be all right since the Military Discipline Conference unnecessarily expends a great deal of time, and I have stated in my statement also the following quotation by him which I clearly recall, but because there is a slight possibility that I may be wrong I wish the Commission to consider it--'Will your Kempei Tai carry it out without hesitation?'. There is a possibility that I may be wrong." (R-1997). He (Nagatomo) studied some law in Tokyo Imperial University. The courses were slightly different from those taken by a normal student. It was a long time ago (R-1999). Where an army commander had limited command authority over Kempei Tai, the Kempei Tai commander had no authority to give instructions or orders as to a matter outside of the main duties of the Kempei. If the matter "were parallel with the duties of the Kempei" the Kempei commander could give orders

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much in the same way as the army commander. The handling of airmen was outside of the ordinary duties of the Kempei Tai. In that case only the army commander could give orders or directions concerning that matter (R-2000). He interprets the first article of Army Secret Asia Order No. 2190 as substantive law, and the following articles as procedural law. As to procedure: (1) Those who had clearly violated the military disciplinary regulation were to be given strict disposition (shodan). (2) Those who were to be passed through the Military Discipline Conference. (3) Those who were to be sent directly to prisoner of war camps. He believes that all of the executed fliers had clearly been shown to have been guilty of indiscriminate bombing. Since the judicial processes were extremely slow, it was necessary with the advent of war to rely on the command authorities in order that such matters would be expedited (R-2001). "If we pursue the aim of the Military Discipline Conference to its end we would find that the procedures of the Military Discipline Conference have to be shortened to its shortest point or to zero and if this matter were to be handled by the judicial authorities the process would be extremely slow and, therefore, in order to offset this, the Military Discipline Conference is used to cope with or keep up with the climax of the war. Therefore I say that fliers could be disposed of under the name of the Military Discipline Conference without actually going through its procedure (R-2002). At the time he conferred with Kunitake he had 25 or 26 fliers in his custody. The 22nd and 23rd Units had another 10 airmen. He did not consider them as being in his custody or charge. He did consider that they were included with the airmen whose disposition was being discussed (R-2003). He gave the order to Fujioka to execute all of the fliers (R-2004).

In deciding whether the ordering of the executions was legal he wondered if it was in accordance with the existing war situation. He also wondered if the execution of a large number of fliers could be done with a clear conscience even though done legally. There is a saying that necessity provides law and, therefore, he concluded that the execution was legal and would not bother his conscience (R-2005). When he received the Chief of Staff's agreement and instructions it meant the same as receiving the orders of the army commander and he felt that the orders given by the Chief of Staff merited the same compliance on his part as an order from the army commander. Fujioka and Shiuchi were not in any position to doubt the propriety of the order for execution or to refuse to carry it out. Anjo, Fujioka and Shiuchi were under his orders and had absolutely no authority to judge or question his orders. He believes about 50 men were executed. He received reports from subordinates on all of the executions (R-2006). The first plan of execution did not include execution by poisoning. However, with the happening of a certain incident, a part of the plan was changed and unavoidedly they had to choose the poison method of execution. They had been so ordered. The incident involved a flier who suffered fatal injuries. Fujioka told him that nothing could be done to save his life. He asked Medical Officer Yoshida for his opinion and Yoshida stated that there was nothing to relieve his agony and the only thing remaining was to poison him with potassium cyanide. Therefore, he decided to change the procedure of execution and ordered Fujioka to carry out the execution by using the drug instead of by firing squad. On two other occasions, in mid-July and early August, there was an outbreak of a malignant epidemic and similar measures were taken. He knew of all poisoning incidents before they occurred (R-2007).

During a conference of Kempei Tai Unit commanders, Colonel Yamanaka, the Kyoto Kempei Tai Commander, stated that terms for unconditional surrender were being discussed. This was on the morning of 13 August 1945. He (the witness) stated at the time, "Isn't it also true that just a few days ago Premier Suzuki announced over the radio that the Japanese Nation was to be defended, even if the dead body of Suzuki himself were to be trodden upon. Such a thing as you say is preposterous. It is impossible." Colonel Yamanaka retorted with 'Don't address such remarks to me. I can do nothing about it.'" He told Anjo and Fujioka about the matter and thereafter saw an authorized memo (a telegram) from the Vice Home Minister which stated: "Since the highest authorities are at present discussing

the terms of unconditional surrender, in order to prevent turmoil among the populace we desire that you keep this matter in utmost secrecy, limiting this knowledge to only concerned persons." He showed the memorandum to Uchiyama, the Chief of Staff and the two Vice-Chiefs of Staff also read it (R-2010). Uchiyama stated that they must act in accordance with the intentions of the Emperor. He took that to mean that they must serve with absolute obedience. It was also his opinion that the army would fight to the very end. Since the communication from the Home Ministry was unofficial and because there was no official confirmation, there was nothing to be done (R-2012). In the event of a final battle he considered the transferring of his headquarters from the Itoman Building to the mountainous regions. It was decided that the soldiers who were on detention duty were to be withdrawn and used in combat. This referred to the guards at the detention barracks. There were a few more than ten and in addition some NCO's. He had no one to replace these guards. Fujioka reported that there were several detainees and four or five airmen still detained. "With this remark I was taken by surprise and I stated 'You mean to tell me there are still some remaining?' And this was the first time that I ever raised my voice in reprimanding Fujioka. ** However, this was not an order from me to conduct executions. It was merely an opinion and Lt. Colonel Fujioka did not take it as an order. I believe this occurred on either the 12th or 13th. On the morning of the 15th I officially ordered the execution of the fliers." (R-2013). "I had thought that there were no airmen left but when I heard this I realized that the situation was becoming more and more imminent, especially so since on the 14th we received a very intense air raid and I was able to barely escape with my life. It was at this time that I made the decision to fight until the last. ** The execution of the men was included in the plan which was discussed during the conversation with the Chief of Staff. However, the date and time of the execution was not decided. It just so happened that it occurred at a time when we were expecting the battle for the final stand." He did not give any instructions regarding the details of the final execution nor did he know the details. He ordered the execution no later than 0800 hours. He did not think that any of his subordinate men or officers knew of the conference in Tokyo relative to surrender. He did not recall coming into personal contact with the fliers. He never ordered any of his subordinates to use physical violence on the captive fliers nor did he hear any reports of mistreatment either by his subordinates or by the guards, while the airmen were in his charge (R-2014). The detention house was about 150 meters from his headquarters. He never heard sounds indicating mistreatment. There were no special orders regarding food and drinking water for the fliers; however, there were detention regulations and feeding regulations. The feeding regulations were determined by the army. Regulations concerning guard duty, etc, were made by him. He did not recall whether any of these orders made any distinction as to the fliers and the other prisoners. The water supply in Osaka during June, July and early August 1945 was very inferior. The water was cut off for long periods of time due to air raids. There was a medical room and medical officer in the detention barracks. There were hardly any medicines available. The Otemae Military Hospital, about 1000 meters away from Kempei Tai headquarters, was destroyed in a June air raid. There was a Red Cross Hospital available (R-2015). He received a report from Medical Officer Yoshida that he had treated fliers. Yoshida would have been able to hospitalize any flier who required it. Lt. Yoshida, as medical officer, could have released a flier for hospitalization if he considered it necessary (R-2016). Regarding the late Lt. Yoshida's statement that Fujioka and Shiuchi refused to permit hospitalization and medical treatment of the fliers, he cannot understand this as he knew Yoshida well and believes if such a thing were true, Yoshida would have told him about it. He could not imagine why Fujioka and Shiuchi would refuse hospitalization and medical treatment (R-2017). They were equally as warm hearted as Yoshida. He doubts the truth of these facts (R-2018). Fliers who crashed or parachuted were often severely injured at the time of capture. Regarding the conspiracy charge, he knows of no effort prior to the surrender to conceal evidence of the execution or handling of fliers from either the Kempei GHQ or any other superior organization, including the War Ministry. Colonel Anjo never attended any of the meetings held either by

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the Kempei Tai or Army headquarters regarding plans for concealment of evidence. As far as he knows, Anjo never participated in any other plans or actions to conceal information from the Occupation Forces or the Japanese Bureau (R-2020). The first time he spoke to Ishida in Tokyo after the war they discussed several matters. He was not ordered to go to Tokyo by Lt. General Iimura. He told Ishida that as the result of the document from Yamamura some airmen had been executed. Ishida was greatly surprised. Yamamura was not there at the time although his (the witness') statement implied that he was. Although Ishida has stated that he appeared angry that such a letter had been sent, this is untrue. He was surprised, just the same as Ishida. He asked Ishida if the document contained the phrase "strict discipline" (shobun). Ishida replied "Didn't the document contain the phrase that it was not to be done by the Kempei's hands?" He told Ishida there was no such phrase. There was a slight argument (R-2021, 2022), then he asked Ishida why the document was written and Ishida replied "In order to turn the water toward the Chief of Staff." Ishida has stated that he (Nagatomo) gave an example from a book, stating that if there was a sign which stated that a person was not to walk along the back road, that it indicated it was permissible to walk along that back road. He (the witness) did state something similar to that, but not that. He did not go to Kempei GHQ because he wanted to charge the responsibility of the crime to Yamamura's letter and the Kempei GHQ. There was no positive action on the part of Ishida and Yamamura which encouraged or led to a continuation of the conspiracy to make fraudulent reports and to conceal the executions and handling of airmen. He did not participate under orders in the conspiracy to conceal (R-2023). The witness was asked his opinion, as Kempei Tai commander, as to who would have been in charge of the execution in view of the following evidence: Warrant Officer Sugiura was ordered by Shiuchi to direct the last execution. Shiuchi also ordered Warrant Officer Hamamoto, who was senior to Sugiura, to assist Sugiura (R-2024). The witness testified that "I feel that under Shiuchi's orders, as assistant to Shiuchi, Hamamoto must take command over his lower ranking man, Sugiura. Hamamoto, with the rank of warrant officer and with quite a little experience, as warrant officer should, when ordered to take the command of newly trained Warrant Officer Sugiura, have a doubt arise in his mind." (R-2025). "When a prior order and a later order are inconsistent, in such an event that subordinate is given the right to question the inconsistency. From the standpoint of Hamamoto's position, I believe he was in that exact position. He was in a position where he had to ask the reason for the inconsistency between the prior and the later orders. I believe that in such an event Shiuchi would have changed his orders. If the inconsistency did not occur to Hamamoto and also did not occur to Shiuchi and Hamamoto departed for the actual site as assistant to Sugiura, in spite of that, according to the articles as stated in the Field Service Regulations, Hamamoto still possessed command authority over Sugiura. ** There is an article within the Field Service Regulations that states that when two unit commanders of different rank assume the same duty at the same location, even though there may be no further orders the higher ranking commander has the command authority over the lower ranking commander." If Shiuchi said nothing more to either Sugiura or Hamamoto and they went out and conducted the detail, while Shiuchi remained at headquarters, Hamamoto would be the man authorized to command

He met Uchiyama in the latter's office about two or three times a month during the war. (R-2026). He did not recall if Uchiyama during such meetings ever expressed his intention or desire for the execution of the fliers or ever ordered him (Nagatomo) at any time to execute the fliers. He did not recall discussing the captured fliers with Uchiyama. He did not recall if any of Uchiyama's aides or other officers closely associated with Uchiyama ever told him of Uchiyama's desire or intent regarding the execution of the fliers (R-2027).

During his service in Korea he became acquainted with Father Scheiwiler a Catholic Missionary, and was personally associated with him from 1939 to 1942. While at Ranan he met him at least once a week. He would visit the witness' family or the witness would visit his church. They discussed various matters (R-2028).

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The witness was Kempei Tai commander of the district and had his headquarters at Ranan. "My feeling was that it was not proper for the police and the Kempei Tai to keep up extreme surveillance over foreigners, especially in the case of Catholic fathers and pastors of Protestant faith. Since I had some connection with Christianity from some time prior or some time in the past I ordered my subordinates to lift the cordon and to leave this matter up to me." (R-2029).

He would like to mention something in connection with the testimony of Lt. General Iimura, a defense witness. Iimura testified that Nagatomo's career was akin to that of a government official and, therefore, he did not know command authority and hence when he (Nagatomo) contacted Chief of Staff Kunitake in connection with the letter, he did so in accordance with the custom that prevailed prior to the China incident--that of contacting the Chief of Staff and staff officers and not contacting the army commander. Iimura further testified that any commander with the rank of general should have gone directly to the army commander and not through the Chief of Staff. In answer to the foregoing he (the witness Nagatomo) stated that he was sent to more schools than the usual person and never served as a civil official--always as a military officer. He believes he knows just as much about command authority as the average general should know. He once submitted an article to an army magazine on command authority (R-2030) and received praises for it. "Also I received prizes or awards in this connection. ** That I took the Yamamura document to the Chief of Staff is explained by the fact that it stated in the document that I was to contact the Army Chief of Staff and to work under his instructions. Those were superior orders and I believe I took the most proper steps." (R-2031). "Again I would like to state that after I was assigned to the duty of commander of the Osaka Kempei Tai I worked with three army commanders. At first I sometimes went directly to the army commander without going through the Army Chief of Staff. One day Lt. Colonel Anjo asked me the following: 'Do you always go directly to the army commander's office?' I replied, 'Yes'. Then Anjo said that a Staff Officer of the army headquarters had whispered to Anjo the following:, That the Kempei Tai commander went directly to the army commander without going through the Chief of Staff; therefore, no one within the army headquarters knew what was going on. He stated, also, that the Staff Officer told Anjo that it would make things much simpler if the Kempei Tai commander went through the Chief of Staff to see or to make his reports to the army commander. After that incident my policy was to go directly to the Chief of Staff before seeing the army commander, except in cases where it required special attention. Chief of Staff Kunitake was very good, and on some occasions I recall that he told me to go directly into the army commander."

Fujioka did not have authority to give orders to medical officer Lieutenant Yoshida in "the getting of medical practice and treatment." Neither did Fujioka have authority to give orders to the guards at the detention barracks or set up rules for the guard (R-2032).

After he had discussed the Yamamura document with Ishida in the latter's office he went to the office of Staff Officer Ogoshi. He told Ogoshi about the discussion of the document. "Ogoshi became very angry and stated that sending such a thing is outrageous. And he stated the opinion that he didn't think it was a good policy to keep this hidden, that it should be made public." He also told senior staff officer Lt. Colonel Okamura about his conversation with Ishida (R-2034). Yamamura testified that he did not send the document to Korea. Major General Takaji, former Kempei Tai commander in Korea, told the witness while in Sugamo that he received the letter and "stuffed it in his desk" because there was a possibility, from the wording of the document, that a misunderstanding might arise. (By mistake he previously told the defense counsel that it was Kempei Colonel Miza who put the document in his desk and left it (R-2035). He did not spread the story of the document around as stated in a number of affidavits. He reported to Lt. General Iimura about the fliers, but he did not report what Iimura has stated. Iimura complimented him on his suit and stated that he had received

his suit from Field Marshall Terauchi. There was nothing in this conversation which dealt with the subject of fliers (R-2036). He went to see Yamamura because the document was signed by him. He told Yamamura that he had executed the fliers because of the letter. Yamamura stated "I have got to have the Kempei commander take this responsibility or he will be in a predicament." He said to Yamamura "Was there a phrase in that letter to the effect that the Kempei Tai was not to stick their hands into the matter?" Yamamura replied, "Yes, there was, because Ishida took the trouble to insert that phrase with a pencil." That was the first time that he knew that Ishida was connected with the sending of the letter. He recalls that Ishida got very angry (R-2037). Ishida had arranged to have a conference with him and Yamamura regarding the letter but they never got the opportunity to do so. The following were present at the conference referred to in paragraph 43 of his statement (Ex 85, p 31): Iimura, Ishida, Major General Harada, Major General Tanikawa, Colonel Saito, Colonel Yamamura, Lt. Colonel Okamura and Colonel Ogoshi. Lt. Colonel Noguchi asked to be excused. Regarding this conference, Nagatomo testified that "At this time my idea of what to submit to the Allied Forces was---and in my statement I have listed 24 men but at that time it was 18--that two were sent to the army, two were sent to Tokyo and 14 were buried at Sanadayama as a result of death after illness. At that time we did not call it the concealment plan but it was something that was based on that idea." (R-2038). Actually, the reporting of the 14 deaths as a result of illness was a part of the concealment plan. (R-2039). Neither Iimura or any other person asked Ishida or Yamamura the contents of the letter or why it was sent out. He first learned in December 1945 that Ishida had objected violently to the sending of the letter. One of the main reasons for his visit to Tokyo was to ascertain the circumstances surrounding the dispatching of the letter (R-2040). He learned from Yamamura only that Ishida had participated in the writing of the letter--nothing else. He believes that Ishida withheld telling him that he had objected to the sending of the letter because he did not feel that it was proper to disclose to him the purpose and spirit of the letter. He first heard of the possible connection of Lt. General Tamura with the matter after he entered Sugamo (R-2041). With reference to paragraph 4 of his statement (Ex 85, p 32) in which he stated: "Ishida expressed an opinion that he 'had no objections to carry out suppression activities in connection with the disposition of the captured airmen, however, it is better to take some measure with regard to the actual number of captured airmen'", the witness testified that Ishida did not make the statement in those words (R-2042). During the conference when he explained the concealment plan if any doubtful points arose Ishida should have questioned him on those points with which he disagreed or did not understand or to which he objected. In spite of the fact that there were many occasions Ishida did not do any of these. "In other words, he simply threw away his rights or discarded his rights to question and to render opinions, and since he went to sleep on his rights there was no alternative but to judge that he was in agreement." (R-2047). "In addition to this, in order to make sure before I returned home, I once again asked Ishida in relation to the matter which I discussed a few minutes ago, and again he showed no objections." If Ishida and Yamamura had objected to the plan, he would not have continued with the plan because their objections would have shown that they were acknowledging their responsibility. The fact that they did not object or agree indicated that they did not want to take any responsibility (R-2048). The facts stated in paragraph 54 of his statement (Ex 85, p 41) are true. "Ishida and Yamamura in relation to the matters that are discussed in paragraph 54 have stated that I reported those facts as true facts and when I stated to them that the army's concealment plans were progressing in such and such a fashion I cannot believe, no matter how much I try, that they believed those to be true facts. Next I wish to state that Lt. General Ishida when he took the stand stated that he objected twice saying that that is not good when I suggested that. That is in contrast to the recollections that I bear. I can in accordance with my conscience state this. That I at this time took Ishida's silence to mean silent consent." (R-2049).

Although Yanase testified that the purpose of the letter was to contact the army headquarters, his interpretation, however, is "that the contacting of the army headquarters was only one condition and that the purpose of the letter

itself was to take action under the instructions of the Chief of Staff." There was nothing in the letter which indicated that the Kempei Tai should dispose of the captive airmen. "The Kempei Tai commander was to take full consideration of all the parts of the letter, take full consideration of the existing circumstances and then to contact the Chief of Staff. I took that to mean that in Kempei Tai Units who were interning fliers (R-2050) that the Kempei Tai themselves make the disposition and in cases where the Kempei Tai were not interning fliers and the army was interning fliers in such a case the Kempei Tai commander was to contact the army and have them make the disposition." He recalled testifying that he believed the War Ministry "had a strong opinion to execute the airmen." (R-2051). He thinks that in using the Kempei GHQ to express their desires, the War Ministry "took a back road". He thought that could be explained by the use of the words "proper disposition", which means that the "proper disposition or the responsibility for this proper disposition was to be taken by our lower unit." He interprets paragraph 2 of Kunitake's statement (Ex 84, p 2) to mean consent or agreement and consent or agreement means permission or approval. In this case the words "shochi shimashita" do not mean "I understand" but rather that consent is being given (R-2053). When he spoke to Kunitake regarding the disposition of the airmen, Kunitake did not suggest that he talk to the army commander about it. He, therefore, inferred that Kunitake knew what the commander's intentions were. Before he received the letter he had never considered or discussed with his subordinates the idea of going to army headquarters and suggesting that the airmen be executed. He visited the army headquarters not only because of the receipt of the letter but also because he had received reports that the intentions of the army were of a positive nature and this fact made it easier for him to go (R-2055). The Foreign Affairs Department personnel who conducted the criminal investigations and prepared reports had been trained at the Kempei School and thereafter received unit training (R-2056). He believes that higher authorities felt that there was no alternative but to omit passing the fliers through the Military Discipline Conference (R-2061). If a captive airman had been a corporal that fact should have been considered as an extenuating circumstance. However, by law those men were to be given strict punishment (shodan) for violating the military disciplinary regulations and that was also the intention of the higher authorities. He could not say that they were permitted to take extenuating circumstances into consideration. When he was in Manchuria, Kempei Major General Kato stated in effect that the attitude of the higher authorities in connection with the Doolittle fliers was very severe and positive. From this he assumed that their intentions were to give the fliers strict disposition (shodan). He had never previously ordered the summary execution of any persons (R-2062). He did not consider that the airmen who were executed were given a Summary Military Discipline Conference. However, he now thinks that the airmen received a type of trial akin to the American summary court-martial (R-2064). It is true that with the exception of Nelson and Augunas and possibly four or five others no investigation reports were prepared on any of the remaining fliers; only operational reports. Operational intelligence reports were not connected with criminal matters. Most of the airmen were executed on the basis of information contained in reports prepared for defensive combat operations. He thinks that perhaps the fliers believed that the reports were being made not for operational intelligence purposes but for criminal investigation (R-2065). He did not know who considered the operational intelligence reports and decided the guilt of each airman. No one in the Kempei Tai had the authority to decide. The authority to make that decision was in the hands of the army commander. He thinks that the army commander considered the situation as to each airman and then made a separate decision in each case (R-2066). Although Kunitake gave him permission to execute airmen captured in the future without submitting any reports, where the information was repetitious, actually individual reports were submitted which showed the route, conditions of bombardment, etc., and these were the factors which constituted the crime. These reports should have been considered by the army and a determination made as to guilt (R-2067). It was his understanding that Kunitake gave him permission to execute not only the airmen in confinement but also any airmen captured in the future. He also told Kunitake that since the information

on the fliers was often the same, in the future he desired not to submit any duplicate information to which Kunitake agreed (R-2068). Thereafter he did not submit any duplicate information. Intelligence reports were submitted on all the airmen. At the end of each intelligence report there was the following phrase: "I desire a close study on your part of this case in reference to the military disciplinary regulations." He never received a report from the army on each airman stating what their decision was (R-2069). Nor did he recall any liaison concerning their guilt. The matter of guilt was discussed between Oba and Shiuchi and between Oba and Ono. These conversations took place in the latter part of June or early July, just a few days after his conversation with Kunitake. He did not recall inspecting the detention barracks after the reconstruction work had been completed. It is his contention that the first poisonings took place after receipt of the letter and his liaison with army headquarters (R-2070). When he received reports that several airmen had died and that others were suffering from an epidemic, he did not make an investigation since he had been told that everything had been done to save their lives but they would not survive long. The Japanese Army was the same as the American Army insofar as the medical officer had sole authority concerning medical matters and line or staff officers could not interfere with his decisions. Fujioka concerned himself with the poisoning of the airmen because it had some connection with the investigations and he was responsible to Nagatomo in the event of the death of an airman who was being investigated.

The water in the well within the Kempei Tai headquarters compound was not used for drinking purposes--only for putting out fires, etc. It was originally dug for the purpose of providing drinking water and was in front of the new detention barracks. His headquarters was moved from Banbucho to the Itoman Building about 12 August 1945 in order to obtain protection against incendiary bombs. Prior to moving, the storeroom had been half burned. At the time he removed his headquarters he had no specific plan to move the fliers and other detainees but it was his policy to move everything (R-2072). Although military necessity was the basis for executing the last group of airmen, he did not order them executed when his headquarters was moved because he did not think of it at that time. It is true that they were not moved until they were taken out to be executed. He did think it would help the battle situation to relieve the few guards who were detaining the remaining four or five airmen and several detainees. The detainees were going to be released or sent back to the procurator's office or some disposition made. At the time he ordered the execution of the airmen he did not give any special orders regarding the disposition of the detainees nor does he remember ever having given such orders. He did not recall the fact that guards remained on duty and the other detainees continued to be confined in the detention barracks until the latter part of August 1945 (R-2073). Assuming this to be a fact, part of his purpose in ordering the execution was defeated. At the time he ordered the execution of the last group of airmen there were information and rumors that American ships were off shore in Wakayama Bay and were soon to land. He has seen the statements by several of the accused alleging that the execution was carried out after the Emperor's broadcast. The executions were carried out on the morning of the 15th, according to the reports. He gave the order for execution no later than 0800 hours. He received a report shortly before 1200 hours on 15 August 1945 that the airmen had been executed. He gave the orders that the executions were to be carried out at Sanadayama Military Cemetery (R-2076). He did not remember why he selected Sanadayama as the place of execution. He gave the order for the burning of the effects belonging to the airmen. He might have ordered that some of the airmen be decapitated. "I just recall about it right now." He has not given false testimony in order to protect others in the case (R-2077). He remembers having denied in previous interrogations that he knew the details of the last execution. He thought that even though he did not know the details he would have to assume the responsibility. He remembers having stated that he was not consulted in advance and did not know any of the details. He does not know why the last poisonings were not reported to army headquarters (R-2031). He recalls stating that he considered the poisonings as executions. "I believe that my recollection of that time was a

mistake. I did not hear at that time that the last poisoning execution and the final execution by shooting was reported. However, I did hear that they were reported at the same time. I also heard that they reported in conjunction with other executions." He heard this from his subordinates (R-2082). "After the war's end and before Major Shiuchi had completely hidden himself I met him and I believe this occurred after he returned to his home and I called him. I am not sure in my recollection if it was at this time I heard it from Shiuchi or if it was from Fujioka that I heard it, but it was from one or the other."

The letter from Tokyo was received in mid-June. An injured flier was brought in from Wakayama on either 26th or 27th June and the poisoning was shortly thereafter. The airman was in a serious condition when he was brought in. (R-2083). It would have been better if a priest had been present at the executions. He know that it was important to Catholics that a priest be present when death is imminent (R-2084). A subordinate did report to him that at one of the executions at Shinodayama sake had been served. There was a reservoir about 30 feet from the former detention barracks. It was about 360 sq. ft. in area (R-2085) and about 12 ft. deep (R-2086). Less than 15 guards were employed in the detention barracks. If the final battle had taken place these guards would have been needed for other duties. The water in the reservoir was used for fire fighting.

The accused Anjo having been advised of his rights (R-13, 2090) elected to take the stand and testify under oath. It was stipulated that he was Chief of the General Affairs of the Central District Kempei Tai and senior officer from about March 1945 to the end of the war (R-2091). Referring to the following sentences in his statement (Ex 55, p 14) "I heard that Fujioka had told the medical officer that the airmen must never be hospitalized or given medical treatment. I heard this after I was sent to Sugamo Prison," he learned this from Prosecutor Morrison. Medical Officer Yoshida never reported to him that Fujioka was interfering in medical treatment of the fliers (R-2093). He left Osaka about 29 July 1945 to attend a conference in Tokyo. He returned to Osaka about 1 August 1945. After the war he talked to Fujioka and Fujioka stated that since he (Anjo) would be handling the remaining business he would, if the Allied Forces told him to do so, have to lead them to the (false) graves of the fliers at Sanadayama. Major Shigematsu showed him the way. They went to Sanadayama that afternoon with Medical Officer Yoshida. His subordinate Yoshida did refuse to sign false death certificates for the 14 airmen at Sanadayama Cemetery and submitted reports only on the six or seven airmen who actually died (R-2095). At the end of the war all documents including the death reports on the fliers had been burned. The death reports had to be reproduced. Yoshida told him that he did not know the names to put on the death reports and he (Anjo) suggested that they visit the graves and see if the names were on the markers, so they went (R-2096).

The accused Fujioka having been advised of his rights (R-13, 2096) elected to take the stand and testify under oath. It was stipulated that he served as Chief of the Police Affairs Section of the Central District Kempei Tai from May 1945 until the end of the war. He had the duties of "administrative control" and was responsible for the smooth functioning of the section (R-2097). His immediate supervisor was Major General Nagatomo. Lt. Colonel Anjo was the senior member. In carrying out his duties he received orders from the Kempei Tai commander and was responsible to him for the faithful performance of his duties. He did not receive any orders or instructions from Anjo. However, he was under the control of Anjo as far as administration was concerned. His section was divided into (1) Foreign Affairs. (2) Industrial Production Control. (3) Thought Control. The duties of the Foreign Affairs subsection were (1) Counter-Intelligence. (2) Conservation of intelligence. (3) Assembling of information on foreign affairs. (4) Censorship. (R-2098). The General Affairs Section had a medical subsection which was responsible for medical matters within the Kempei Tai headquarters and for supervising subordinate medical units. Yoshida was in charge of the medical subsection. The General Affairs Section also had an Intendance subsection which

took care of all intendance matters within the Kempei Tai headquarters. No section was exclusively concerned with handling captive airmen (R-2100). No one at headquarters had the exclusive duty of handling captive airmen. There were about 40 captive airmen in the custody of the Central District Kempei Tai during the spring and summer of 1945.

As to captive airmen the Foreign Affairs section was assigned the duty of investigations, detention was in the hands of the Otemae Squad commander and other matters were handled by the various General Affairs sub-sections. For example, if a detainee became ill the guards would notify the medical sub-section. Direct responsibility for provisions was on the guards and thereafter on the Intendance sub-section (R-2101). Medical officer Yoshida had no special responsibility for the captured fliers. Respective organizations having charge of injured or ailing airmen were responsible for their treatment. (It was stipulated that there were two medical sergeants who assisted Yoshida and that Yoshida was the only medical officer attached to the Central District Kempei Tai Headquarters). The Foreign Affairs and Police Affairs sections did not have to provide food and water to the airmen. However, if during investigations a request was made for water or some other thing, it would have been given to them. These two sections were not responsible for medical treatment and hospitalization of captured airmen (R-2102). While Chief of the Police Affairs section, he never had any connection with the medical affairs of captured airmen. He never gave orders or instructions to medical officer Yoshida regarding medical affairs. He never prevented Yoshida from treating the airmen nor did he tell him not to hospitalize any captured airmen. The providing of sanitary facilities to the airmen in the detention barracks was not one of his duties. The guards in the detention barracks were supplied by the various squads in Osaka. They were under the supervision of guards from the Otemae Kempei Squad. These guards and NCO's received their orders from the commander of the Otemae Kempei Squad. Neither the Foreign Affairs section nor the Police Affairs section directed or supervised the guards and NCO's. Neither the Police Affairs section nor the Foreign Affairs section ever drafted regulations governing the conduct of the guards (R-2103). Even if they did the guards did not have to follow them. The Detention Barracks Service Regulations were issued after the construction of the new detention barracks--at the end of May or early June 1945. Neither he nor his section had anything to do with these regulations. They were issued in the name of the Kempei Tai commander and were drafted in the General Affairs section. Neither the Foreign Affairs section nor the Police Affairs section ever furnished guards for the detention barracks (R-2104). The Foreign Affairs section had the duty only to investigate the airmen. The army had given orders for the investigations to the Kempei Tai commander, who in turn ordered the Foreign Affairs section to handle them through him. Thereafter criminal investigations were stopped but during operational intelligence investigations, some of the facts necessary for determining criminal acts were included.

Major Shiuchi was Chief of the Foreign Affairs Section and was directly responsible under him (Fujioka) for investigating the airmen. The only time the members of the Foreign Affairs section had the physical custody of the captured airmen was during the investigations. He never interrogated or investigated the fliers personally. On one occasion he attended an interrogation which was for the purpose of ascertaining the name, age and rank of the fliers. He never attended any other interrogations (R-2105). He never mistreated nor ordered his subordinates to mistreat any of the captured airmen. He never saw any captured airmen being beaten nor did he receive any reports of mistreatment of captured airmen. He first learned that the airmen detained by the Central District Kempei Tai were to be executed by Kempei Tai personnel when he was given an order to that effect by the commander about the middle of June 1945 (R-2106). He first heard about execution of fliers in the early part of June 1945 when he received an unofficial verbal report from Shiuchi that the army was saying "execute them". It was not an order and he let it pass. Upon hearing the same thing two or three days later he reported it to Nagatomo (R-2107). Nagatomo showed him the letter in mid-June after he had the conversation with Shiuchi. He has a slight recollection that some of the

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passages were underlined in red. After he read the letter he thought that it indicated that strict disposition (shobun) was to be given to the fliers. However, since he could not tell how disposition was to be accomplished, he asked the commander. He did not tell Nagatomo his interpretation (R-2108). Nagatomo did not tell him what he thought about the letter. When he returned the letter Nagatomo said that he was going to see the Chief of Staff about it. Shortly thereafter he discussed the letter with Nagatomo. After Nagatomo returned from his visit to the Chief of Staff he told him that the Chief of Staff had agreed that the fliers should be summarily executed and he said that he (Nagatomo) was going to do it. Fujioka was to draw the plan of execution. Nagatomo said it had to be done with dignity and solemnity. He (Fujioka) ordered Shiuchi to draw the plan (R-2109). He now recalled that the letter stated in effect that the fliers should be given strict disposition (shobun) after passing them through a Military Discipline Conference and if that was not possible disposition should be by any convenient method. When he received the order from Major General Nagatomo to execute the fliers he knew that Nelson and Augunas had been sent to a Military Discipline Conference. When he received the order to execute the fliers he knew that they would be executed without putting them through the Military Discipline Conference. It did not occur to him at the time that such an execution would not be proper (R-2110). He did not think that it was improper because "First of all, I knew that the authority in regard to the handling of fliers lay in the hands of the army commander and that the authority to determine whether or not a Military Discipline Conference was to be convened also lay in the Army Commander's hands. Therefore, since the Army commander gave that order or permission I did not feel that the execution was illegal. I interpreted that in that way. In addition the superior authority as far as the chain of command was concerned of the Kempei Tai was the Kempei commander. There had been instructions from him as to the disposition or execution of fliers. This, with the full authority as given by the highest commander in that area, made me feel that of all the order of the Kempei Tai commander, these orders were the most fully authorized. I had no doubts or questions on this at all." (R-2111). He does not know if the army commander gave that order or permission. However, since the Chief of Staff gave permission he felt that it was the same as the permission of the army commander. He concluded that the Kempei commander in Tokyo gave the order to execute the fliers because he felt that the letter clearly showed whose intentions were behind the writing of the letter. He knew that instead of being the intention of some section chief it was clearly the intention of the Kempei commander. His opinion remains the same. Although he acknowledged that the letter stated that "this is not an intention of the higher authority," he believed that this was written to avoid responsibility in anticipation of future trouble. When he ordered Shiuchi to draft an execution plan he believed that such an order was legal and proper. He desired to make the following change in his statement (Ex 53, p 13): After "humanity" there should be a comma and the following words added "and must be recognized as violations of the international laws of war." When the plan was first drafted the words "beheaded and poisoned" were included but he had them deleted and they were not included in the plan shown to Nagatomo (R-2112).

As to paragraph 26 of his statement (Ex 53, p 15, etc): "Shiuchi and all the members to participate in the execution were summoned to my office. They were lined up in four ranks and stood at attention and I gave the following orders one, air crew members had participated in numerous indiscriminate bombings; two, the Central District Kempei Tai commander in accordance with the Army's intentions from this day forward will conduct the execution of the fliers; three, the following men will participate in the firing today (1) Lt. Col. Fujioka, (2) Major Shiuchi (3) Wada, (4) Morimoto, (5) Takahashi; and the fourth portion of the order was to command the execution, Lieutenant Colonel Fujioka. The above are the orders that I gave." (R-2113). As to sub-paragraph (b) (Ibid, pp 16, 17): "Both hands of each flier were tied by what is termed regularly by the Kempei as 'escort bindings", and in accordance with the articles in the Field Service Regulations each flier was blindfolded with a piece of white cloth. After this I ordered Sergeant Major Mori to read the sentence. Sergeant Major Mori then read the English translation I had

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made of the sentence. ** (R-2127). After the completion of the reading of the sentence I gave the order to fire, and all the executioners aiming at the chest of the respective victims fired simultaneously. Those who did not die instantly after the first shot were shot several times by the appointed executioners. After I had determined that all the men who were executed were dead, we buried them in a hole. (R-2128). After we buried them, each individual present spoke a silent prayer for the souls of those who had just died and a prepared amount of sake was drunk by each individual as a token of prayer to the departed souls. After everything was over, because I had to make the necessary reports, I departed before all the rest and reported the fact that the execution had been completed to the commanding officer. This ended the first execution." Five airmen were executed and there were five executioners. The five executioners were Fujioka, Shiuchi, Wada, Morimoto, and Takahashi (R-2129). As to paragraph 28 of his statement (Ex 53, pp 17, 18) he wished to make certain changes: The second execution occurred about 20 July 1945. He was not sure that Mori was selected as an executioner. Mori read the sentences on all three occasions. Mori stood slightly to the front and right of the firing line. He (Fujioka) was at the extreme right in the firing line. Mori barely had time to move into a zone of safety. While Mori was reading the sentence he did not have a pistol in his hand. He did not think that Mori would have had enough time to step back into the zone of safety, unbutton his holster, take out his gun and join the firing line before he gave the order to fire (R-2130). He (Fujioka) shot two fliers on that occasion. Shiuchi and Wada each shot two fliers (R-2132). As to paragraph 29 of his statement he would also like to change the words "following the second execution mentioned in the foregoing paragraph" to "following the first execution ...." (R-2135). In the third execution the airmen were executed in two groups. The executions lined up according to rank as on previous occasions. After he entered Sugamo he heard that some of the executioners changed places. What actually occurred during the fourth execution is somewhat different from what he related in his statement (Ex 53, p 21). About 0800 hours on 15 August he went to Nagatomo for instructions as to disposition of the remaining airmen. He had been reprimanded by the commander one or two days before because he had not seen to the disposition of the airmen. Nagatomo ordered immediate execution of the fliers. Just prior to the noon hour he received a report from Shiuchi that the executions had been completed. He reported this to the commander. It was no later than 0830 when he ordered Shiuchi to carry out the executions (R-2136).

Toward the end of June, Shiuchi told him that a flier was about to die from his injuries and was in great agony. He told Shiuchi that the man should be hospitalized. Shiuchi stated that the hospital had been bombed and nothing could be done. He, therefore, went to the commander for instructions. Medical Officer Yoshida told the commander that he had tried to alleviate the pain but did not have the necessary medicines and, therefore, the only alternative was to poison him with potassium cyanida. Nagatomo ordered that the fliers be executed by poisoning. He (Fujioka) ordered Wada to obtain the poison and to give it to the flier. He believed that he had received an investigation report on the flier. The second poisoning occurred toward the end of July. Shiuchi had reported that two fliers were in serious condition as a result of dysentery. This occurred when he was considering the third execution. Nagatomo ordered him to poison the two fliers so he ordered Shiuchi to carry it out (R-2138). The third poisoning occurred at the end of July or early August. Three of the men had contracted diphtheria and, as in the second execution, he believed it would handicap the third execution so he reported this to the commander who ordered that the men be poisoned. He (Fujioka) ordered Shiuchi to carry it out.

The erection of false grave markers was part of the concealment plan. After the war, those who had any connection with the execution of the fliers wanted to hide the facts. He also felt that this was necessary and after considering the matter decided upon false grave markers or false graves. He originated the idea of the false graves and ordered Wada to carry it out. (It was stipulated that Wada was not at any of the discussions or conferences in connection with the concealment plan). Anjo was not present at any of the discussions or conferences.

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As far as he knows Anjo did not participate in any way to conceal the facts about the executions and treatment of the fliers. He (Fujioka) did a great many things in connection with the concealment plan and attended most of the meetings (R-2139). About early October 1945 he had been called to Kempei Headquarters to report the facts concerning the fliers. He falsely reported to Colonel Yamamura that 18 airmen had been interned at the Osaka Kempei Tai Headquarters, that two had been sent to Tokyo, two to the Army and the remaining fourteen had died at the Kempei Tai. He did not tell Yamamura that the report was based upon a concealment plan. He did not think that Yamamura believed the report stated the true facts (R-2140). He did not believe that Yamamura desired a concealment plan which would sound reasonable. Yamamura told him to prepare a more complete report. At this time he also conversed with Lt. General Ishida and Lt. General Okido (R-2141). None of these three men asked him not to mention anything about the "letter" to any of the investigators.

When he wrote his statement (Ex 53), he had been interrogated day and night and consequently his thoughts were confused. Since then his recollection has been refreshed and where portions of his statement do not coincide with his testimony, what he has testified is more true (R-2142).

He recalled that the prosecutor (Mr. Reese) for many days attempted to reconcile differences between Kunitake and Nagatomo (R-2150). He further recalled that before he asked Kunitake the 100 questions (in Ex 81) Nagatomo's contentions about the fact were denied in their entirety by Kunitake. He further recalled that between him and Nagatomo and also Wada there were many differences about the poisonings which could not be reconciled (R-2151). He recalled also that there was bad feeling between him and Anjo at that time and that Prosecutor Morrison had them together in the same room and he and Anjo were able to reconcile much of their difference of opinion and became better friends (R-2152). Since the trial no influence has been exerted upon him to get him to protect his subordinates. The reason he wanted to make so many changes in his statement is that since the opening of the trial various incidents he did not know about have been brought to light. Although he said in his statement that the poisonings were not executions (Ex 53, paragraphs 30 and 47 c), he considered that the true type of execution was by firing squad. He did not desire to change those statements. He thought it would be more merciful if the poison were given without the airmen's knowledge and, therefore, he said that he did not think that the death sentence was read to them (R-2153). He recalled stating during a pre-trial interrogation by the prosecutor that the first poisoning occurred before receipt of the secret letter. It is true that if the plan of execution had not been drawn and the decision to execute had not been made at the time this poisoning occurred, the poisoning could not be considered as part of the execution plan (R-2154). He now desires to change his statement after considering the conditions at the time and in view of other testimony which has been given. He now believed that the poisoning occurred toward the end of June and that the statement in his affidavit is erroneous (R-2155). He now fixed the date of the first poisoning as 26 June 1945. As to paragraph 30 of his statement he remembered saying that he did not hear about the poisoning until after it had taken place and that he thought Shiuchi was a hopeless fellow and further, "Since the unit commander and the senior officer had previously approved it and it was after the act and also since I felt diffident towards Shiuchi I did not make any further entries." However, he now could not state definitely if the first poisoning had been previously approved. He had the feeling that Shiuchi was a hopeless fellow because he had been careless and occasionally he forgot to make reports and that is why he used to think Shiuchi was quite a problem (R-2157). He now thought that he spoke a little strongly about Shiuchi.

As to paragraph 22 of his statement: "There was also the danger of America using poison gas in retaliation for this as a crime against humanity should they find out." (R-2159). Prior to this at the time of the Doolittle raid, Japan had announced that anyone who participated in air raids over Japan would be given strict disposition (shodan) in accordance with the military disciplinary regulations

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He heard that America had stated that as far as the laws of war were concerned this was a crime against humanity. His feeling was not deep--just a slight worry. When the sentence of death was read to the airmen prior to execution, it was the first time they were told that they were going to be executed (R-2160). As to the executions at Sanadayama: On 12 or 13 August he heard from Colonel Yamanaka that Japan had been discussing the terms of the Potsdam Declaration. It came as a great shock to him. He had thought that there was a possibility of victory. By the morning of the 15th of August there were rumors that unconditional surrender was near. He felt that if this occurred there was no use in further living. That is the reason why he did not feel like attending the execution as commander. In spite of the fact that if he could not attend in person his duty was to give the order and instructions to Shiuchi, he did not do so because of the foregoing reason. He is responsible for whatever defects there were in the execution (R-2162). He merely gave Shiuchi an order to execute the remaining airmen and stated the location as Sanadayama. He chose the location after he received the order from the commander. Shinodayama was fairly distant and the Jonan Firing Range was not considered suitable because of security reasons. He thought that the men who carried out the execution would carry it out in the same manner as the previous executions. He did not choose Sanadayama because he had in mind his subsequent scheme to say that the fourteen men who were buried in Sanadayama had died of illness (R-2163). He thinks that he instructed Shiuchi concerning the burning and burial of the airmen's effects. He is not sure if this occurred before the receipt of instructions from army headquarters to burn particularly the documents connected with the airmen (R-2164). When he received the instructions from Army headquarters he interpreted them to mean not only documents but everything. There was no reason to burn the airmen's effects before receipt of the instructions from headquarters. Shiuchi did not report that certain airmen had been decapitated. It is possible that Shiuchi did not report because he did not know what happened. He remembers Shiuchi's statement: "I was too busy preparing to send my family back home to Yamanashi so I did not receive a report of the execution. After my arrest when I heard that the two airmen had been decapitated I was dumbfounded." Between 1500 and 1700 hours on 15 August 1945, Shiuchi told him that he had reported the last execution to the Army (R-2165). He believes that the poisonings were also reported to the Army headquarters (R-2166). After the sentence of death was read, he did not give the airmen a chance to speak (R-2167). If Hamamoto had been present at the second execution, considering his rank as sergeant major, he would probably have been given the duty as acting as a member of the firing squad (R-2173). Instead of forcing the same members to participate at all executions the firing squads were drawn from all men, even lance corporals, provided they could be spared from their duties (R-2175). After he entered Sugamo he heard that Hamamoto was in command of the last execution; that Hamamoto had fired a pistol and that Hamada "had committed beheadings." (R-2176). When he planned the execution he knew at the time that a great number of the airmen were sergeants or even lower in rank. He did not feel at the time that the rank of an airman should be considered in determining his punishment. He never protested against the execution of lower ranking airmen because they had merely carried out superior orders. He did state in paragraph 47 (b) of his statement that Kempei personnel below the rank of warrant officer acted involuntarily.

He interpreted indiscriminate bombing to mean the intentional killing or injuring of non-combatants, the intentional bombing of non-military installations and the failure to take care to avoid bombing non-military objectives. He never heard of the reason why the Japanese Army sent balloons carrying explosives to bomb the United States wherever they happened to land. He regarded that an indiscriminate bombing. He had contemplated suicide (Ex 53, pars 44, 45) because as a defeated enemy he felt there was no use in further living. Also he felt regret over the execution of the fliers. In addition on 13 December he was told that the concealment plan was a complete failure. He selected the date December 15 because the true facts about the incidents were to be reported to the Central Authorities on that day. (R-2177, 2178). He did give Shiuchi some poison. He told Shiuchi that

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he had three choices: (1) To be captured. (2) To desert. (3) To commit suicide. Shiuchi then asked him for some of the drug. No one told him before he left Osaka to tell Yamamura only about the 18 fliers (R-2179).

The accused Shiuchi having been advised of his rights (R-13, 2180) elected to take the stand and testify under oath. It was stipulated that the accused was assigned to the Foreign Affairs Sub-section of the Police Affairs Section of the Central District Kempei Tai, serving from April 1945 until the surrender. He attained the rank of major.

He was Foreign Affairs Section Chief. Lieutenant Colonel Fujioka was his immediate superior. Under the direct orders of Fujioka he handled administration within the Foreign Affairs Sub-section and had supervision of all its members. He never received any orders directly from the Commander, Major General Nagatomo. His section was responsible for investigating the fliers. It was not responsible for providing medical care for the fliers. The Foreign Affairs Section never assumed the providing of such medical care (R-2181). He never ordered Lieutenant Yoshida to withhold medical treatment or hospitalization from the fliers. Yoshida was not his subordinate. He did not recall any instance during interrogations when medical treatment was necessary. If a person being investigated was ailing they asked Yoshida if he was able to continue. (It was stipulated that the Foreign Affairs Section did not furnish any of the guards in the detention barracks.(R-2182) Major Hirano was the liaison officer between Kempei Tai Headquarters and Army headquarters. He contacted army headquarters early in May 1945 because the Central District Kempei Tai had received orders regarding interrogation of captured fliers and he wanted to ascertain what method of interrogation the army desired (R-2183). As to liaison there was also a direct telephone connection between the Central District Kempei Tai Headquarters and the Central District Army Commander's Headquarters (R-2184). For these reasons it was not necessary for him to go directly to Army Headquarters unless some special matter was brought up (R-2185). He recalled that in his statement (Ex 54, part 1, p 17) he stated that Colonel Oba asked him whether there was evidence of indiscriminate bombing and he asked Oba to read the intelligence reports that were submitted to Army Headquarters by the Kempei Tai (R-2187). He thought it was silly to ask such a question. He also recalled saying that Colonel Oba said that Army Headquarters would not have the Kempei Tai do anything that would cause the Kempei Tai to be held responsible and, therefore, the Kempei Tai should execute at once (Ibid). He reported this to his superiors. Since the execution plan was already prepared, Oba's remark did not affect the decision to execute or the manner of execution (R-2188). 1st Lieutenant Maruyama of Major Yamanaka's office drafted the memorandum instructing the Kempei Tai to handle the interrogation of the airmen for the army. When a captured flier reached the Kempei Tai, the fact was reported by telephone to army headquarters. It is possible that Fujioka did not concern himself with such minor details (R-2189). Major Hirano used to come to the Kempei Tai headquarters almost daily in connection with the fliers. He believes it was Hirano who inquired concerning the deaths of fliers in their cells. (It was stipulated that Yamanaka made only one visit to the Kempei Tai headquarters). He made no special effort to find out who was specifically in charge of fliers' affairs at army headquarters. He believes that Yamanaka was in charge of matters concerning fliers (R-2190). (It was stipulated that when the storehouse had been reconstructed as a detention barracks neither Colonel Oba nor Major Yamanaka inspected the building; further, that neither Oba nor Yamanaka had any duties concerning the reconstruction). When he was ordered to execute the fliers he knew that they had not been formally tried by a Military Discipline Conference. Because it was a superior officer's order he thought at the time that it was legal (R-2191). He assumed that all superior orders were legal. He was present in Fujioka's office prior to the first execution. He heard him read the death sentence to be read to the fliers. It stated that in the name of the Japanese army commander the fliers were to be given strict punishment for indiscriminate bombing resulting in the murder of innocentpeople.

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Warrant Officer Wada was in charge of administration in the Foreign Affairs Section. Administrative personnel were responsible for administrative work regarding the internment and release of fliers, also for the handling and dispatching of investigation reports. Warrant Officer Sugiura, then a sergeant major, was in charge of non-administrative (external affairs) matters. Warrant Officer Wada aided in supervision. The external affairs sub-section handled the investigations. He personally interrogated fliers on one or two occasions (R-2192). In the criminal investigations the main point to determine was whether there was indiscriminate bombing. As to intelligence (operational) interrogations, they were asked their name, age, rank, class, schooling and personal history; also the condition of their base, objectives, weapons, plane, impressions of Japanese aerial combat units and other questions tending to show if bombing had been indiscriminate (R-2193). An operational intelligence report would reveal if the individual had participated in indiscriminate bombing. Not all of the Kempei Tai personnel in the external affairs sub-section had been specially trained in conducting investigations. Some attended the Kempei school. Investigation reports were sent immediately to the army commander. General individual reports were written. The fliers were mentioned by name (R-2194). To determine from an intelligence report whether a flier had participated in indiscriminate bombing it was necessary to ascertain whether non-combatants had been killed and personal property burned or destroyed. The latter information was contained in criminal investigation reports. Damage reports were submitted to the army. A report was prepared for every captured flier (R-2195), including those detained in the 22nd and 23rd Units (R-2196). Five fliers were executed in the first execution. There were five executioners: Fujioka, Shiuchi, Wada, Morimoto and Takahashi (R-2197).

Fifteen fliers were executed in the second execution. By mistake he listed the names of fifteen persons in his statement as having been executioners. Also he executed two men although his statement says one (R-2199). This was in the second execution (R-2202). (It was stipulated that the accused was interrogated continuously during the morning, afternoon and evening for about fourteen days until his three statements (Ex 54, parts 1, 2 and 3) were finished). (R-2203). Because he was tired at the time and his spirits were at a low ebb, and because of fear, his recollection lacked clearness. His recollection is clear at the present time (R-2204). Neither Kobayashi nor any of the men who acted as executioners volunteered to do so. As to the third execution, Tateno and Takeda each shot one. The airmen were executed in two groups (R-2207). Warrant Officer Hamamoto also served an an executioner. (The witness changed his statement in this respect). As to the fourth execution, his statement is not correct. He reported at 0820 hours for duty on 15 August 1945, not 0900 hours. Fujioka ordered him to take the remaining fliers out and execute them. He ordered Hamamoto to command the execution (R-2208). After the execution had been completed he received a report from Hamamoto (R-2209). (It was stipulated that no instructions were received from Colonel Yamamura of Kempei Tai Headquarters regarding the execution of airmen)(R-2212).

As to the first poisoning incident he wished to make a correction in his previous statement (Ex 54, part 3, p 2): "Soon Mori came into my office and asked me to come and see the airman because he had killed him with poison. I went down to the examination room facing the medical office with Mori, and saw the body of the airman." He was not sure whether it was Mori or Warrant Officer Wada who came into his office. Also, he now recollects that he went down to the examination room alone (R-2214). He wished to make a further change: He now thinks that the date of the first poisoning was toward the end of June. One day Wada reported to him that a flier was in critical condition suffering from shock. He also reported that Medical Officer Yoshida had stated that something should be done. Following this report he (Shiuchi) reported this to the Chief of the Section. The remainder of the statement is unchanged. It is correct that "Mori explained that after the airman had drunk the poisoned coffee he had remarked that it was very good and then died." (R-2215). Mori did not state that he had administered the poison. He

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never ordered any of his subordinates to mistreat the airmen during interrogations. He never forbade such practices. He did not know of any such mistreatment (R-2218).

He desired to change certain portions of his affidavit (Ex 54). He would like to strike paragraph 24, part 1. In paragraph 48, part 3, he referred to the interpreter Shimizu. During the month of July Shimizu was at the procurator's office. His statement is erroneous (R-2219).

When he submitted the execution plan to Major Yamanaka the latter said something like "It is all right, go ahead and do it." (R-2230). As to part 1, paragraph 22 of his statement, Wada did not propose shooting, decapitation and poisoning. It was his (Shiuchi's) idea. The commander had showed his intention of carrying out the executions secretly. Therefore, he included beheading and poisoning (R-2232). He would like to strike that part of paragraph 41, part 3 which states that he did not receive a report of execution. He did receive a report from Hamamoto as he testified previously (R-2233). He remembered telling the prosecutor at Sugamo Prison that he did not receive a report of the execution. The witness then changed paragraph 42, part 3 of his statement to read: "The first incident occurred about the end of June 1945." (R-2235). The witness further stated, "I should like to strike everything from the sentence that includes the date up to paragraph a, and insert in its stead 'one morning towards the end of June I received a report from Wada.'" No airman ever came with both of his legs and one arm broken as stated in said paragraph. He saw the airman immediately after the poisoning. In paragraph 42a where he stated that Fujioka's nature was such that nothing could make him change his mind once he made it up, he would like to explain that that might have been because of some failure on his (the witness') part (R-2236). As to paragraph 42b, it is possible that Mori administered the poison but he is not sure if Mori or Wada made the report to him (R-2240). As to paragraph 43 the incident occurred about mid-July and not toward the end of June as stated. Paragraph 43a which states that the secret letter had been received and an execution plan was being considered is stricken because this pertains to the first poisoning (R-2241). As to the first poisoning it did not occur on the day of the airman's arrival, as testified by Fujioka. It was two or three days after (R-2242). He watched the poisoning of the three airmen on the truck from a nearby elevated position (R-2245). Wada did not participate in this poisoning (R-2246). He instructed Morimoto to prepare the truck and medicine because Wada was busy (R-2247). He first gave the order to Wada and then to Morimoto because Wada was busy. Perhaps Wada transmitted his order to Morimoto (R-2248). When Morimoto delivered the poison it was wrapped in paper. Onishi (acquitted in a previous case) handed it to the fliers (R-2250). Morimoto speaks English but did not act as interpreter at the time. Onishi acted as interpreter (R-2252). He was sure that Morimoto aided in the poisoning but later recollected that he did not hand the poison to the fliers (R-2253). Wada did nothing during the last poisoning (R-2254) As to paragraph 45e, Morimoto should be substituted for Takahashi (as the one who brought the poison). As to paragraph 48, Shimizu, now known as Nakano, was at the Osaka Procurator's office in July. The month of July is mentioned but it is possible he was mistaken as to the month (R-2256). It was between the 1st of June and 15 August 1945 (R-2257). As to paragraph 50, p 6, "I was informed by Wada" should be changed to "I was informed by someone" (R-2261). As to paragraph 52g (p 9) which shows the connection between the Army and the Kempei Tai, he had in mind at the time the fact that Oba stated, "Do it and we will see that the responsibility does not fall upon the Kempei Tai." The executions were carried out pursuant to this order. Commander Nagatomo did not take any independent action. The executions were carried out in accordance with the secret letter and the orders of the chief of staff and army commander. Paragraph 52h is stricken as he now believe the statement is untrue (R-2262). As to paragraph 38 (Ex 54, part 2, p 8) his conversation with Fujioka took place about 1000 or 1030 hours. As to instructions, Fujioka simply told him to execute the remaining fliers at Sanadayama (R-2268). He (Shiuchi) then told Warrant Officer Sugiura to proceed with the execution. (R-22

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Sugiura stated that there were not enough men so he ordered Sugiura's senior ranking officer, Hamamoto, to take charge. He did not tell either of them to carry out the execution by beheading. He gave the orders to Sugiura and Hamamoto about 0830 or 0835 hours (R-2270). Hamamoto reported just before 12:00 o'clock that the execution had been completed.

As to paragraph 48, Shimizu was pulling the airman by the collar and not by the neck as he stated. (Indicating by grasping a coat lapel). (R-2271, 2272). (It was stipulated that the hours for interrogation at Sugamo Prison are from 0900 until 1145: from 1300 to 1645 and from about 1830 to 2130 or 2200 hours. Generally it was every day (R-2277). He had studied the intelligence reports (R-2280). He did attach his opinions to such reports. His opinion was: "It is requested that this case be studied by a Military Discipline Conference." He did not indicate at the time whether he thought international law had been violated (R-2281). During his absence such opinions were expressed by Warrant Officer Wada. Fliers were investigated as to all missions in which they had participated (R-2283).

William A. McElwaine testified that he is a Southern Presbyterian missionary. He was living in Kobe, Japan at the outbreak of the war. He knows Hamada (R-2222). He identified the accused Hamada in court. About 0600 on 11 December 1941 Hamada and another "Gendarme" called to take him to the detention house in Kobe. They gave him an hour to get ready. He had recently had a heart attack and told them he could not walk fast. They were very considerate. They walked along as if they were friends. There was no pressure put upon him. After he was interned Hamada was a guard there and for some time--about a month--he saw him almost every day. About 35 Foreign Nationals were also interned there. All thought that Hamada was one of the guards who treated them well and with whom they could talk freely. His reputation was that he would not take advantage of them (R-2223). He did not think that Hamada was a Christian. He came here because he wanted to help Hamada who had been very kind to him. He wrote a letter of clemency to the Judge Advocate Section. He was born in Japan. During the war he served in various camps in the United States as a chaplain (R-2224). He knew that Hamada was charged with participating in an execution of American airmen on 15 August 1945. He knew that Hamada was the only one who beheaded Americans. Hamada had at least average intelligence (R-2225). He did not see how Hamada was any the less under the orders of his superiors after the Emperor's rescript on surrender than he was before (R-2226). In the Japanese view, beheading is no worse than any other method of execution. If he were to be executed, he would just as soon be decapitated (R-2227).

The accused Wada having been advised of his rights (R-13, 2300) elected to take the stand and testify under oath. It was stipulated that he served with the Foreign Affairs Squad of the Central District Kempei Tai as administrative chief from April 1945 to the surrender (R-2300). He served in the Police Affairs Section. As to the fliers, his duties involved reports and filing of documents (R-2301). He took orders from Major Shiuchi. They were not responsible for providing the fliers with medical care. Conversations between the fliers were prohibited. The prohibiting of bathing, shaving and exercising was an unwritten regulation. It was also a custom of the civil police. This regulation applied to all of the people who were interned, including the airmen. They did not have any authority to change the regulations (R-2302). In participating in the execution referred to on page 19 of his statement (Ex 39), he was acting under superior orders (R-2303). He did not consider at the time whether the execution was properly authorized. (It was stipulated that a declaration was made that the execution was by order of the 15th Area Army). Even after the execution he did not think that it was illegal. (R-2304). He desired to make some changes in his statement regarding the second execution. Strike out the sentence on page 22: "There might have been some who shot two persons but I shot only one at this time." Substitute "Because there were not enough executioners, Lieutenant Colonel Fujioka ordered that some of the executioners kill two fliers. I did as I was ordered and shot two

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fliers." (R-2305). The others who shot two airmen were Fujioka, Shiuchi and Hamamoto (R-2306). As to the first poisoning the poison was wrapped in paper when he handed it to Sergeant Mori and ordered him to make some tea and mix the poison in it. He did not see Mori mix it but he knew he mixed it because as a result the flier died. He wished to add a few words between the words "interpret" and "He" on page 16, four lines down, so that it will read that he ordered the interpreter to hand the poison to the airmen. The interpreter might have been Onishi (R-2311).

As to the third poisoning he saw Shiuchi passing the paper containing the poison to Onishi and heard Shiuchi order Onishi to give it to the airmen. Onishi handed poison to each of the fliers and Shiuchi told them to drink it. He saw the airmen drink it. They had obtained charcoal from the army under Shiuchi's orders and used it as fuel for the trucks in transporting fliers to the executions (R-2312). The higher officers could tell from reading the intelligence reports the subject airman was guilty of a crime (R-2315). The purpose of the criminal investigation report was to make the facts of the criminal act clear; the purpose of the intelligence report was to show the intelligence obtained (R-2317). Only the criminal investigation reports contained a facial description of the person and a description of his belongings, together with the applicable law and also exhibits. It took five or six hours of interrogation in order to prepare an intelligence report. An example of an objective indicated by an airman was the Sakurajima vicinity in Osaka (R-2320). He objected to the orders for the poisonings and executions on the ground that the interrogations should be made and judgement determined by the military tribunal. He objected to the poisoning because he was suddenly given the order and "from the feeling of tenseness that is prevalent in all human beings it was my desire to get away from that." He objected to the shootings because he thought that they should have been conducted in the prison under the control of the Military Discipline Conference (R-2321). At the first execution he shot one flier, at the second execution two fliers, and at the third execution two fliers (R-2324).

After 0800 hours on 15 August 1945, Shiuchi stated that Fujioka's orders were to burn the effects and administrative documents dealing with the fliers (R-2326). He was not told why those things were to be burned. He did previously state that he heard about the execution at 4:00 p.m. but he did not state that the execution occurred at 4:00 p.m. He recalled stating that he returned from army headquarters about 4:30 o'clock and met Warrant Officer Hamamoto who told him that the execution had been carried out that morning (R-2327). Before he left Kempei Tai headquarters shortly after 0800 hours on 15 August 1945, he heard Shiuchi say something about the execution of the airmen (R-2329).

As to the last poisoning he was ordered to conduct it by Major Shiuchi but was excused because he was doing other work (R-2331). Although Shiuchi said in his statement that Wada and other subordinates handled the details, he thinks Shiuchi is wrong. (He implied that Shiuchi was confusing the last poisoning with the first and second poisonings). He did witness the execution but only after he had finished his work (R-2332). The investigators did not receive any training specifically for the interrogation of fliers. During the interrogations the fliers told when and whence they departed and the conditions up to the time they crashed.

The accused Mori having been advised of his rights (R-13, 2358, 2359) elected to take the stand and testify under oath. It was stipulated that he served in the Foreign Affairs Squad of the Osaka Kempei Tai, which later became the Central District Kempei Tai, from 1939 until 16 August 1945 (R-2359).

He desired to substitute the following for paragraph 15 of his statement (Ex 38, p 3): "One morning in the latter part of June 1945 (or in the early part of July) I was summoned by Major Shiuchi and was ordered to help Wada in the event he needed an interpreter.

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"In the interrogation room adjoining the former lock-up cells I was ordered by Warrant Officer Wada to get a cup of black tea and to bring it to the Scientific Research Subsection."

"There was a captured flier lying on a stretcher in the interrogation room and Wada told me that the flier was reported to have been seriously ill early in the morning and he was examined by Dr. Yoshida and the diagnosis showed that there was no hope of his recovery. Wada further stated that Dr. Yoshida suspected that the flier had contracted some kind of a contagious disease. As it was feared that an epidemic might spread among the fliers detained at the Kempei Tai and since the fliers were scheduled to be executed it was decided that the ailing flyer be executed by poisoning in order to reduce the suffering, and Wada was ordered by Lieutenant Colonel Fujioka to carry out the emergency execution."

"Wada stated that some poison was being prepared by the Scientific Research Subsection and I was ordered by him to witness the poisoning. Since I did not know this flier I tried to learn his name, but it was impossible because he was almost unconscious and it seemed that he could not hear me talking to him. A few minutes later he suddenly seemed to regain a little consciousness and he managed to utter a few words but I could hardly understand except the word 'drinking water'."

"Just at that moment a Sergeant from the Scientific Research Subsection whose name I do not remember exactly except something like Matsumoto, came into the room with a cup of tea and gave it to the flier. The flier drank the tea and in about half an hour was dead." (R-2362, 2363).

(It was stipulated that the "interrogations" mentioned in paragraphs 3 and 4 of his statement referred to criminal investigations). (R-2364). He interrogated seven fliers including Nelson and Augunas, as to both criminal and operational (intelligence) matters (R-2365). He found out that in February 1945, General LeMay announced that he would conduct carpet bombing over Japan during daylight. Most of the night bombings were by a single plane. They used incendiary and explosive bombs. Planes engaged in night bombing had no specific objective. They were given only a specific area such as Northeast Tokyo or Osaka or Southeast Tokyo or Osaka. Thus they ascertained that their bombings were indiscriminate, that is, in violation of international law and "Air Raid Military Discipline Regulations of Japan".

(It was stipulated that paragraph 11 of his statement (Ex 38, p 2) refers to intelligence interrogations) (R-2367). The criminal investigation was conducted after the interrogation for operational intelligence. Criminal investigations were conducted on those fliers who were instructed to be sent to a Military Discipline Conference. Operational intelligence covered a much wider field than the criminal investigation. The type of bombing appeared in both reports (R-2369). A statement by the accused concerning an operational intelligence interrogation of a Captain Hamilton was read into the record. He had been on a reconnaissance mission to photograph an airplane factory. There were two bombardiers among the crew. Hamilton was detained in the 23rd Unit. He had no apparent wounds or pain. Some time in May 1945 investigation reports on five airmen, including Hamilton, were ready to be sent to 15th Area Army Headquarters but Major Shiuchi said that there was no need to send them "after entering the month of June" and the documents were burned after the surrender (R-2372). As a result of his interrogations he recalled that Captain Hamilton did the actual photographing. Hamilton had participated in two or three previous reconnaissance missions. As a result of comparing the records of previous raids, "it was judged to be a reconnaissance for the indiscriminate night incendiary bombings against both Kobe and Osaka. As I recall in the opinion column in the last clause of this letter of opinion which passed the decision, it appeared that although Captain Hamilton did not participate in the bombing directly his duty was to take photos of the course for the following bombings. This was to be important and indispensable material for the next bombing

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and it would be of great help for the accomplishment of the object of the next bombing. Therefore, it was necessary for the Gunritsu Kaigu to give careful examination over the matter which should be regarded either as conspiracy or abetting." (R-2373).

Hamada did not volunteer to execute fliers. Hamada executed the fliers by order of Warrant Officer Hamamoto. The order was either "cut" or "do", but the meaning was to behead the fliers. He did previously state to the prosecutor (Reese) that the two men had been shot and thereafter admitted that they had been beheaded (R-2377). "On this occasion the fliers were shot--that is, the beheading of the fliers was carried out, but after failing to take their lives by beheading they were shot, and when I was asked by the prosecutor, the prosecutor only asked about the shooting and he did not ask about the beheading; therefore, I stated that they were shot." (R-2378). He was an interpreter at the Nelson-Augunas trial (R-2379). He knows that the airmen were interrogated on two different occasions, lasting altogether about 7½ days. He recalled writing a statement for the prosecutor in Sugamo Prison on 27 June 1947 which said in part: "He (Shiuchi) did not explain the reason at that time except only it was the Central Army's intention but I learned later from someone (I do not remember the name now) that the Central Army Authorities did not want to take the time, the trouble of holding the trials anymore under the severe air raids in thos cases because it was very troublesome and actually took them a long time to prepare the trial of the first two fliers. That is about three months had been spent on them in preparing the flyers' interrogation until the execution after the trial. It was necessary at that time to get a permission from the higher authorities in Tokyo in order to hold a trial for the captured fliers and the procedure was very troublesome under the severe air raids and needed a long time in discussion. So the army authorities had wanted to save time and trouble for holding a trial for each of the captured airmen." (R-2380) He did not know if the fliers who were executed had been given a trial. As soon as the criminal investigation reports for Nelson and Augunas were completed, they also prepared reports on the five other fliers. These reports were never sent to army headquarters (R-2381). He remembered saying in the above statement that "There was several flyers severely injured or wounded by burns by plane accidents. At first they were given some medical treatment by Dr. Yoshida a medical lieutenant assigned to the Kempei Tai Headquarters in May or June. But later, when flyers were increasing very rapidly day after day he refused to give them any further treatment, saying there was a shortage of medicine at that time and he would not be able to give any medicine to members of the Kempei Tai as the supply was very scarce and it was very difficult to obtain." (R-2382).

As to the poisoning incident (Spec. 1) he testified in explanation that Wada told him that the flier had suffered great agony all night and that medical officer Yoshida stated that he was in a critical condition. The airman was also suspected of having a contagious disease. Wada stated that Fujioka had said that the flier was to be executed and since there was no medicine available to treat him, the higher officers thought it would be better to end his misery by poisoning. Therefore Wada had been ordered to take action. He (Mori) saw that the flier was in a coma. The flier was just able to ask for a drink of water. At this time a sergeant from the Scientific Squad entered. "The Sergeant had in his hand the cup of black tea I had taken over to him. I forgot to mention this, but before the NCO entered I was told by Wada that things were being prepared in the Scientific Squad. I did not hear at that time what type of poison was being prepared. After entering the room the NCO from the scientific squad neared the flier. Wada immediately closed the door and locked it and left the key in the keyhole in order to prevent anyone from the outside from peeping in. I heard that the reason that the key was left in was to prevent any outsider from prying in in order to maintain absolute secrecy to which Wada had been ordered. At this time the NCO from the Scientific Squad stated he had come under orders of the Chief of the Scientific Squad, Captain Shinomiya. The NCO neared the flier, squatted near the flier's head, and brought the cup of black tea near the lips of the flier. The

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flier then made an attempt to raise his body and put his head back. He took the cup in his left hand and with one breath he drank the contents. During this time Warrant Officer Wada and myself were sitting on a bench near to the window" (R-2398) "When the flier drank the black tea Wada did not say anything. He did not say 'drink,' or 'This is black tea,' or anything, and therefore I did not interpret. There was not a moment lost, because the NCO from the Scientific Squad entered the room near the flier, squatted and applied it. There was not a moment's loss. After the flier drank the contents of the cup I observed his condition and he appeared very serene. Where he had been suffering, he was now very placid and very quiet and appeared to be sleeping. ** After about 30 minutes had passed the NCO stated that the flier was dead. Wada immediately left the room and went to report to Major Shiuchi and Lieutenant Colonel Fujioka. Before the departure of Wada, immediately after the flier was pronounced dead, the NCO from the Scientific Squad informed us that the type of poison used was potassium cyanide. This was the first time that I knew or understood that potassium cyanide had been used. He also explained that normally anyone taking potassium cyanide would die within a few minutes. However, he stated that the potassium cyanide which had been in the care of the Scientific Squad had probably deteriorated due to air and moisture and therefore that it took longer" (R-2399).

They had been told to keep this first poisoning incident in absolute secrecy and therefore Wada left the key in the hole and there was a guard outside of the room. He and Wada could have done it alone if it were necessary to maintain absolute secrecy. However, the NCO from the Scientific Squad did enter the room and was present during the poisoning. He heard that Captain Shinomiya (Chief of the Scientific Squad) had committed suicide. The only reason he could think of for this is that he ordered his NCO to be present at the poisoning and was afraid that this would be discovered (R-2400).

As to the fourth execution, the method of execution was left up to Hamamoto who was in charge (R-2401). It would have been dangerous to use the shooting method. He imagined that for this reason Hamamoto decided to use beheading. He actually heard Hamamoto say that it would be dangerous to shoot anyone there. For this reason, Hamamoto ordered the first two men to be beheaded. Hamada started feeling bad and could not continue. "Therefore, this is purely my imagination but I think that it might be possible that each one of the remaining fliers was put in the hole and then shot." (R-2402).

The accused Takeda (who was acquitted) testified that the fourth execution took place on the morning of 15 August 1945, prior to the Emperor's broadcast. His previous statement to the contrary was in error (R-2421).

The following letter from one Mrs. M. M. Kato (a Caucasian who married a Japanese) on behalf of the accused Mori, was read into the record:

> "In regard to Mr. Takao Mori, former M. P. of Osaka, I wish to state that my friendship with him began when he had to investigate about my character before my son became a soldier in the Japanese Army.
>
> "From the very beginning, Mr. Mori impressed me as a very kind and gentle person. He did not appear to me as a Kempei. In fact, I have never seen him in a soldier's uniform and then his soft voice and gentle actions during the four years of this terrible war which had left me in such a helpless condition with a daughter-in-law dying of consumption and a small infant granddaughter.
>
> "I was about 69 years old and nobody to help me with the terrible burden which I had to endure during the long hours of bombing, during the long years of cold and hunger.
>
> "He brought me food when he could, he repaired my electric fixtures, he helped me in every way possible. He courteously called on me with little gifts for Christmas and for my birthday, so that I had some comfort in my loneliness. He definitely took

the place of my son.

"When I was informed of his arrest I voluntarily went to the Osaka C. I. C. and spoke to Major Bough, offering whatever assistance was possible for me to give.

"I hoped to appear before His Honor, the Judge of the Yokohama Court, but unfortunately my heart has failed me and my doctor insists on staying quietly in bed.

"I am now 73 years old and perhaps shall leave this world soon. I swear that what I have stated above is the truth and the statement is of my own free will.

"Being ill, I beg to be forgiven this irregular way of writing." (R-2430, 2431).

The accused Takayama (who was acquitted) testified that Hamada did not ask him whether he should take a sword or a gun to the execution (on 15 August 1945). Hamada and Takashima reported what happened at the execution just before or just after the Emperor's broadcast (R-2443). He did previously state that Hamada reported to him about 1500 on 15 August 1945 that he had executed someone. He did previously state that Hamada and Takashima returned about 1500 hours (R-2444). Hamada told him that he had been ordered by Warrant Officer Hamamoto to carry out the execution with a sword (R-2446).

The accused Uchiyama, having been advised of his rights (R-13, 2447) elected to remain silent.

Five of the accused, including Hamada and Nakano were advised of their rights (R-13, 2447). All except Hamada and Nakano were acquitted. The accused Hamada and Nakano elected to remain silent.

Exhibit A is a statement by Junkichi Banno. He served at the Judicial Affairs Bureau of the War Ministry from December 1940 until 15 April 1945, and thereafter until the surrender served in the Judicial Affairs Section of the First General Army. On 12 May 1945 the First General Army issued Military Tribunal Regulations concerning captured enemy airmen, based upon the "Boso" Military Regulations. The First General Army Regulations were issued upon the assumption that the "Boso" Military Regulations became invalid with the deactivation of the "Boso". Such an assumption was based upon an interpretation of the Judicial Affairs Section of the First General Army (p 1). The regulations were made retroactive to 15 April 1945. "In the case of the Enemy Airmen's Act by 'Boso'; the substantive law was the Hague Convention Treaty and, therefore, the issuance of the 'Boso Kushu Gunritsu' constituted nothing more than a proclamation--an extract from the Hague Convention Treaty Rules to be applied to the captured fliers and there was nothing wrong in making the regulations retroactive." The Second General Army did not establish a military regulation until near the close of the war. "Boso Gunritsu" was based upon Army Secret Order No. 2190 (p 2).

Exhibit B is a statement by Hideyuki Miyoshi. He was a member of the House of Representatives in June 1945. He was chairman of the committee which investigated the "War-time Emergency Measures Bill" (p 1). It was designed to turn over governmental powers to the military in anticipation of invasion and possible division of the country, cutting off liaison with the central authorities. It was passed about 9 or 10 June 1945, but was not effective until 21 June 1945. The legislative intent of the bill was to confer arbitrary authority on the area government. Actually there was very close liaison with the army commanding general and it was the area army commanding general who really had the authority and wielded the power (p 2). As to the disposition of captured airmen, although the above law stated that the area government general had the authority to countermand previous orders, actually authority was given to the area army commanders. Regardless of any laws or regulations theretofore issued for the control and disposition of captured airmen, the area army commander (even though the law expressly stated the area government general) could disregard such laws or regulations. An extreme interpretation of the law would give a commanding general jurisdiction to executo

captured airmen without a formal trial by merely reading damage reports and investigation reports of the Kempei Tai (p 3). An area army commander had dully authority to do what he saw fit with respect to the treatment and disposition of captured airmen (p 4).

Exhibit D is a statement by Yoshio Nagafuchi. He was assigned to the Judicial Affairs Section of the Second General Army Headquarters from May 1945. The chief of the section was Major General Otahara. In May 1945 Otahara told him that it was necessary to issue a military regulation of the Second General Army. However, for various reasons the issuance of the regulation was delayed. Not all regulations issued from the General Defense Command became invalid after its deactivation on 15 April 1945. Some of the regulations were adopted by the General Armies in toto through an army order of the General Staff Headquarters. The Enemy Airmen's Act (Air Attack Military Discipline Regulations) and the proclamation of the General Defense Command were not so adopted. When the Second General Army Military Regulation was issued it was made retroactive to the date of its activation. There was no substantive law pertaining to the trial of captured airmen until the latter part of July, but when the regulation was issued it was made retroactive to 15 April 1945, and before that the General Defense Command regulations were in effect. "A procedural law was established by the 15th Area Army to be applied to the military regulations of the General Defense Command. This, of course, was established when the General Defense Command was still in force" (p 2).

Exhibit E is a statement by Sadakazu Fukuoka. He was chief of the Intendance Section of the Osaka Kempei Tai from 10 April 1945 until October 1945. His immediate superior was Lt. Col. Anjo, chief of the General Affairs Section (p 1). They received all food supplies from the "Central Army Area Headquarters". As to the feeding of captured fliers, a member of the Otemae Kempei Tai sub-unit, who was in charge of the detention barracks made a written request each morning through the mess officer of the Kempei Tai Headquarters based upon the number of detainees in the Kempei Tai Headquarters detention barracks, including the number of captured airmen. The mess personnel of the Kempei Tai Headquarters then prepared the meals and delivered them to the detention barracks guards. As to the amount and type of food given to the detainees (p 2) he had little knowledge. There were no instructions regarding the fliers' food from either the Army or the Kempei Tai higher headquarters. Therefore, he believed the fliers were given the same treatment as the other Japanese detainees. Reports and requests concerning food were prepared by Lt. Yoshino (in charge of the mess) and submitted directly to the "Central General Affairs Section Chief, Lt. Col. Anjoy". He (Fukuoka) was responsible for all intendance matters in the Kempei Tai headquarters (p 3).

Exhibit F is a statement by former 1st Lt. Mataki Yoshino. He was in charge of the Intendance Section of the Central District Kempei Tai from 14 December 1943 until March 1945, when Capt. Fukuoka became chief. Thereafter he was in charge of clothing, food, office supplies and administration. From about 30 July 1945 Fukuoka also took over the food supply. As a mess officer his duties included preparation of meals for headquarters personnel, including detainees, and also issuing of instructions pertaining to mess matters (p 1). Sometime in June 1945 he saw the first group of fliers being brought into headquarters. He instructed the mess personnel to prepare the same meals for the fliers as for the other detainees. He left the amount and type of food up to the mess sergeant. When the first group of fliers arrived Lt. Col. Anjo instructed him to handle their food matters. Anjo told him that he did not know if the airmen were to be detained permanently. He (Yoshino) and Capt. Fukuoka told Anjo that since there was no regulation pertaining to the feeding of fliers, it would be best to treat the fliers the same as the Japanese detainees. Anjo so ordered them, in accordance with Kempei Tai Intendance Regulations. According to these regulations the detainees were each allotted 330 grams of staple food per day. An additional supplementary ration was given such as a small dish of vegetables. On two or three occasions he saw the meals set aside for all of the detainees (p 2). No one requested more food for the fliers. The civilian food ration was the same (330 grams) (p 3).

Exhibit G is a statement by Konichiro Ozaki. He was a member of the Osaka Kempei Tai Headquarters Intendance Section from September 1942 to 15 August

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1945. He was in charge of repair and maintenance of buildings. They made all reports and requests to the Osaka Division Intendance Section, which handled the actual repair and maintenance of the Kempei Tai headquarters buildings. Unofficially the guard commander of the detention barracks made requests for maintenance, but officially reports were submitted to his section through the Otemae Kempei Tai commander (p 1). He received many such requests from the Otemae unit commander prior to use of the detention barracks, but not while the fliers were detained there. Requests were (1) To make general construction stronger (2) To make rooms comfortable for the detainees. Custody of the detention barracks was transferred to the Otemae Kempei Tai Unit in the latter part of April 1945. The first group of fliers was detained in the latter part of May or in early June 1945. He inspected the barracks two or three times after it was put into use. The barracks were much cleaner and larger than any ordinary Kempei Tai guardhouse. "The barracks was reconstructed on or about August 1944; therefore, the appearance gave me the impression of a new building." The ventilation was good. Although the windows were seven feet from the ground there was an aisle running lengthwise and the door at one end was open, so there was enough fresh air (p 2).

Exhibit H is a statement by Yujiro Kagitani. He was the Central Kempei Tai Headquarters mess sergeant from December 1944 to 25 July 1945. His superior officer was Lt. Yoshino. The first group of fliers was detained at Kempei Tai Headquarters sometime in May 1945. He never saw any regulations pertaining to Japanese or foreign detainees (p 1). He did not recollect any instructions from Lt. Yoshino concerning the airmen's food. He allotted the same amount of food to the fliers as the other detainees received. Detainees received 330 grams of staple food. The monthly average was formulated and a request was sent to the Food Section of the Osaka Prefectural Government office which issued the rations. Sometimes they made additional requests. They received part of the supplementary food from the Central Army Intendance Department and part was procured from the local market. The official food ration for civilians was 330 grams per day but actually they received this for only about 10 days each month (p 2). The captured fliers received the same amount of food as the other detainees. After Osaka was bombed it became impossible to follow the established procedure. There were times when they could not serve the supplementary food ration. All meals were prepared together. Since he was busy he inspected the airmen's meals only occasionally -- about two or three times a week. The meals consisted of one rice bowl with either pickled plum, a piece of pickled radish, a dash of salt or soy bean soup for breakfast. At times there were no supplementary foods. Meals were served three times daily except during air raids. There was no special menu for the captured fliers. He prepared the menu daily (p 3). When the fliers arrived he had to neglect the menus due to the air raids. He never requested more food for the fliers. He never received any complaints from the fliers. Guards from the detention barracks delivered the meals to all of the detainees. When the guards came for the meals they gave a written note as to the number of detainees to be served the next meal. The meals were prepared in accordance with the note. The largest number of fliers detained was about 30. He never saw nor heard of any mistreatment of the fliers (p 4).

Exhibit 96, a statement by the same witness, was introduced by the prosecution in lieu of cross-examination. He stated therein that sometimes the Americans got tea. Sergeant Major Kametani was in charge of the entire mess. As to the amount of food given to the prisoners an order therefor must have come from the Finance Section. The same food and portions were given to all prisoners including sick prisoners. Headquarters personnel received a heaping bowl of rice for each meal. "Vegetables cooked with fish were given, pickles (dikon) and fried fish given every three days, fresh fish almost every other day. Fresh meat was given three times a month. For breakfast, in addition to the rice and pickle was served bean soup and bean cake. Tea was given at every meal." It was considerably more food than the American fliers received. He would not have gained weight on the prisoner's diet (p 2). "It is true that the portions (received by the fliers) were very small and it was slow starvation." He never saw any American fliers being beaten. He believed that someone in the headquarters was responsible for the starvation diet received by the fliers. When Kametani left, he was in charge of the food. He recalled that the food for the prisoners was obtained from the Fucho Ration Food Section--330 grams per person per day (p 3). American prisoners received only a small bowl of rice; Kempei personnel got a large portion (p 4).

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Exhibit I is a statement by Osato Masuda. She was employed by the Osaka Kempei Tai Headquarters as a cook from January 1935 until November 1945. From the early part of 1945 she and another civilian woman did the serving only. There was also a civilian male cook. The mess sergeant prepared the menu for each week but after the air raids intensified procurement of subsistence food became very difficult (p 1). They served an equal amount to all personnel including detainees. Fliers and Kempei Tai personnel received the same amount of food. "For example, during the air raid we were unable to procure the material and prepare the meal due to broken water and fuel lines, and also we were strictly instructed not to build a fire during an air raid. Therefore, on such an occasion, everyone, including the officers, were forced to go without meals." She never saw nor heard of mistreatment of American fliers. She did hear of kind deeds. Often the Kempei Tai guards asked her to prepare soft rice gruel for fliers suffering from stomach ailments. On many occasions at night the guard would ask her to give the hungry fliers something to eat. She would then serve them secretly with some food. The fliers were never discriminated against as to food. All Japanese suffered from a shortage of food (p 2).

Exhibit J is a statement by Mitsuyoshi Murotani. He served with the Otemae Kempei Sub-unit from March 1943 until the surrender. From August 1944 he was in charge of General Affairs. The Otemae Kempei Sub-unit was responsible for the guard duty at the detention barracks. Although the sub-unit commander was responsible for the detention barracks the person actually in charge of the barracks was the guard commandant (p 1). A few guards were sent from his unit. The other guards were from other Kempei Tai Sub-units which also used the detention barracks. As to sanitary conditions and treatment of detained fliers, the guard commandant and in turn the Sub-unit Commander were responsible. He visited the detention barracks several times as officer of the day while the airmen were detained there. He never received reports of mistreatment from the guard commandant nor did he hear of such a thing. He did not recall having to caution or reprimand the guard commander regarding the sanitary condition of the barracks. He could, therefore, say that the sanitary condition of the cells was satisfactory. There was no difference in that respect between the American fliers' cells and those of the Japanese internees (p 3).

Exhibit K is a statement by Saichi Yano. He served with the Otemae Kempei Tai Sub-unit from September 1944 until September 1945. He served as guard commandant at the Central Kempei Tai detention barracks about four times. A building formerly used as the army clothing warehouse was remodeled in early 1945 and used as a detention barracks. It was located next to the Central Kempei Tai Headquarters compound. It was a single story building with a tile roof and about 60 square yards in area. It had about 8 cells, each cell containing 3 or 4 prisoners. High-ranking or sick prisoners were given private cells. The cells were "5 or 6 yards square". The maximum number of detained fliers was about 20. This was in early July 1945. The fliers were given substantially the same diet as the Japanese. Staple food consisted of a bowl of white rice about the size of a baseball (p 1). A supplementary dish of soy bean soup and pickled vegetables or cooked fish and vegetables was also given. There was no difference between the food given to the detained Japanese and the food given to the airmen. Since it was summer the airmen were always extremely thirsty, making constant requests for water. These requests were promptly granted by the guards. The cells were cleaned twice daily by the occupants. The corridor was cleaned by the Japanese orderly and then sprinkled with water. Before confinement the prisoners were given physical examinations. He once saw that a flier had had his injured hand treated. If a flier succumbed to sudden illness he had to report it to the Otemae sub-unit commander and the Foreign Affairs Section of the Central Kempei Tai Headquarters. Each flier was issued two blankets. Sick prisoners were permitted to keep their blankets during the day, other prisoners could use them only at night. He never saw any mistreatment of fliers. He heard that three of the fliers died of their injuries sustained in landing. Regulations prohibited conversation among the prisoners but he allowed the fliers to talk occasionally (p 2). During air raids all detainees were to be evacuated to air raid shelters. However, while he served as guard commander there were no actual bombings which necessitated evacuation of the detainees. On ordinary days the fliers were apparently bored as they requested to do clean-up work so that they could leave their cells. These requests were often granted (p 3).

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Rebuttal

Exhibit 97, a statement by the same witness, was introduced by the prosecution in lieu of cross-examination. The witness stated therein that his duty was to investigate and search Japanese soldiers and civilian employees. However, he served as sergeant of the guard at the Kempei Tai jail about four times, including twice in June 1945. He did not so serve in July and August 1945 (p 1). There were between 15 and 20 fliers in the jail in June or July 1945. Regulations provided that the prisoners were not allowed to talk, sing or smoke in their cells. Prisoners could not be taken from their cells without the written request of the Foreign Affairs Section, generally signed by Warrant Officer Wada. While he was on guard duty the fliers were not beaten; in fact sometimes he joked with them. Sometimes members of the Foreign Affairs Section came to see the fliers, including Anjoy, Mori and Wada (p 2).

Exhibit L is a statement by Koichi Nonaka. He served with the Otemae Kempei Tai Sub-unit from August 1944 to September 1945. He served as assistant to the chief of the Police Affairs Section. He was guard commander in the detention barracks about twice a month. There were no special regulations governing the treatment of the captured fliers (p 1). Guardhouse regulations provided that during air raids all prisoners were to be evacuated to the assigned air raid shelters except the detained fliers. "As for the detained fliers, they will be left in their cells with one guard who will contact the Central Kempei Tai Headquarters duty officer for further instructions." Regulations provided further that the fliers would be allowed to take short exercises twice daily. In case of sudden illness among the detainees the guard commander had to report same to the dispensary.

On two or three occasions while he was guard commander they were forced to evacuate the prisoners due to air raids. He did not actually evacuate the fliers. There was no necessity to actually evacuate the fliers because of Allied bombing in the immediate vicinity. Duty officers of the Otemae Kempei Tai (p 2) inspected the detention barracks at least once a day. He also saw Lt. Col. Anjo make one visit, Major Iwasaki make two visits and Warrant Officer Wada make two or three visits to the detention barracks. Fliers were released from their cells for interrogation or other purposes by written request from the Foreign Affairs Section of Kempei Tai Headquarters. He never saw nor heard of mistreatment of fliers. There was no distinction between treatment of Japanese prisoners and captured fliers. When a flier requested water it was given to him promptly. The airmen were given substantially the same rations as the Japanese detainees. Most of the Kempei Tai Unit guardhouses were much cleaner than other civilian jails. Because the detention barracks had been remodeled, most of the material (p 3) was still new when the airmen were detained there (p 4).

Exhibit M is a statement by Ryoshi Kondo. He was a Kempei Warrant Officer and served with the Otemae Kempei Sub-unit from August 1937 until September 1945. He was assigned to the Military Discipline Section. This section handled offenses committed by military personnel and Gunzokus. From April 1945 he served as a duty officer every 10 days (p 1). Whenever he inspected the Kempei Tai detention barracks it was clean and there was no sign of filth. He never had occasion to caution or reprimand the guard commander for unsanitary conditions in the detention barracks (p 2).

Exhibit N is a statement by Jotaro Deguchi. He served at the Central Kempei Tai Headquarters Medical Section from April 1945 to September 1945. On one occasion he treated a captured flier for leg burns by order of Medical Officer Yoshida. This was the only time that a flier was given medical treatment at the Headquarters Dispensary. However, on two or three occasions members of the Foreign Affairs Section requested Yoshida to treat the fliers. Yoshida then went out with the members of the Foreign Affairs Section as requested. They received their medical supplies from Osaka Hospital but never in sufficient quantities (p 1). The section was constantly short of supplies. Lt. Yoshida was in charge of the general sanitation. In order to maintain this high standard around the building necessary materials were issued to the janitors. Lt. Yoshida inspected the results. Due to a shortage, sanitary supplies were issued to the detention barracks guards on only two occasions. He never saw nor heard of mistreatment of captured fliers (p 2).

Rebuttal

Exhibit O is a letter from Father Scheiwiler, a Swiss Catholic missionary, on behalf of the accused Nagatomo. He was a missionary in Northern Korea for 10 years. He met Mr. Nagatomo in 1939 at Ranan. Nagatomo was head of the police while he was in charge of the Catholic parish. Mr. Nagatomo expressed deep sympathy for their missions and gave proof of his loyal attitude wherever he could. He also settled difficulties which handicapped the missionaries' work in Ranan, and when traveling endowed him with his special protection. In political matters Nagatomo criticised many restrictions inflicted upon the Koreans by the Japanese; for instance the violent oppression of the Korean language and literature. He also considered Japan's colonial policy too narrow and unwise compared with the British colonial policy. Later Nagatomo was transferred to Manchuria and invited him to Hsinking. He accepted and stayed a week. He was impressed with Nagatomo's absolute loyalty and open character. He never made a hostile remark about America, and expressed admiration for her institutions. He heard rumors of crimes inflicted upon American parachutists. From what he knows of Mr. Nagatomo he could not believe that he was the cause of any cruelty. If such a thing happened it was according to superior orders. Mr. Nagatomo was a faithful friend of true character.

Exhibit P is a statement by Kiyoshi Tanimoto. He was chief of the Osaka City water purification plant from July 1944. On 7 June 1945 during an air raid the first water pumping station was destroyed, stopping the water supply. Two purification basins were damaged. Overall purification was slightly affected. Six large water mains, including the Tobu pipe line were damaged. As for the Otomae vicinity, since this region utilized the Tobu pipe line it was without water until relatively high level it was difficult to supply it by makeshift means. Certain portions received no water until repairs were completed. During the 24 July raid five water mains were damaged in several places (p 2). Some of the repairs were considerably delayed. Pipe lines were damaged in 524 different places. All were repaired (p 3).

Exhibit Q is a statement by Sadao Kawamoto. He served in the Osaka Special Foreign Affairs Squad from March 1945 until September 1945. On 15 August 1945 at about 0800 hours he was told by Capt. Takayama that there was to be an important broadcast at noon and that if he went out on duty he should try to return and listen to it. Takayama ordered Master Sergeant Takashima and Hamada to go to Headquarters and help the Foreign Affairs Section. The remaining persons were to burn all of the documents. He listened to the Emperor's broadcast and learned about the unconditional surrender. He left the building a little after 1300 hours (p 1). He was certain that Takashima and Hamada returned to the office before he left. They told him that an execution had been carried out (p 2).

The same witness testified that he was present when Capt. Takayama ordered Takashima and Hamada to help the Foreign Affairs Section. Hamada was ordered to go. He first knew that Japan was going to surrender when he heard the Emperor's announcement. He heard on 13 or 14 August that someone said there was a short wave broadcast from America to the effect that Japan had accepted the terms of the Potsdam Agreement, but he did not believe it. He did not know why they started burning documents before the Emperor's announcement (R-2120). It took at least 4 hours to burn the documents. His office was on the 5th floor of the Itoman Building. Takayama merely told Takashima and Hamada to aid the Foreign Affairs (R-2122). It was the usual custom for a Kempei sergeant to wear his sword when in uniform. There was just as much occasion for Takashima to wear a sword when in uniform (R-2123). Hamada and Takashima returned to the office before noon. The Emperor's broadcast was to the effect that Japan had accepted the terms of the Potsdama Declaration. The voice was low but he understood it. He listened to the broadcast in the office (R-2124). Hamada "said something to the effect that executions had been committed" (R-2126). He did not recall seeing Hamamda cleaning his sword upon his return, nor did he recall what Takashima said when he returned. He did not recall hearing Takashima say anything about pistols on that occasion (R-2127).

Exhibit R is a statement by Majiro Shiokawa. He was employed by the Osaka Kempei Tai as a Gunzoku (civilian) driver from August 1944 to 30 August 1945. He transported captured fliers on two occasions. The first was in July 1945. He brought four or five fliers from the railroad station to headquarters. One

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flier was carried out on a stretcher from the electric train; his leg was injured. None of the others appeared wounded (p 1). The second time he transported fliers was on the morning of 15 August 1945. He was told to be ready with his truck about 0830 or 0900 hours at the Itoman Building. He was told to load some materials belonging to the fliers on his truck. Then four or five blindfolded captured fliers were loaded on the truck by some Kempeis. Then they proceeded to the Sanadayama Cemetery. They left Bamba-Cho Kempei Headquarters about 0930 or 1000 hours and arrived at the cemetery 10 minutes later. He went to a nearby school for a drink and on his return saw two groups of Kempei Tai men. One group was near a hole about 15 meters from the truck, and the other was burning the fliers' effects near the truck. He waited outside of the cemetery wall for the Kempei men to finish their job. He heard several shots (p 2). About an hour after arriving at the cemetery he returned with four or five Kempei Tai personnel. They arrived at the Itoman Building 15 minutes later. He then drove to the Bamba-Cho Kempei Tai Headquarters and arrived there 10 or 15 minutes before noon. Someone told him of the Emperor's broadcast which was to start immediately. He and about 3 Kempeis heard the broadcast. It was loud but he couldn't understand it due to static. He then went to the Itoman Building. There he ate his lunch and heard that the broadcast announced the end of the war. He assisted in burning documents near the Itoman Building until about 1600 hours. When he arrived at the cemetery the hole had already been dug. Every Kempei at the cemetery had a sword and auxiliary Kempeis were armed with bayonets. One or two of the Kempeis wore civilian clothes (p 3). He once saw a medical officer examining a flier (p 4).

Exhibit S is a statement by Isao Sasaki. He served with the Foreign Affairs Section of the Osaka (later Central) Kempei Tai Headquarters from July 1941 to 16 or 18 June 1945. His main duty was to "Watch over the unauthorized broadcasting of short-wave radio". His immediate superior officer in 1945 was Major Shiuchi. Sergeant Major Sugiura was in charge of his squad. He interrogated Nelson and Augunas and prepared an investigation report (p 1). He later prepared reports on Foley and Flanagan. The preliminary investigation and the intelligence interrogation had two different purposes. The main purpose of the intelligence was to obtain information for tactical operations. "The secondary purpose was the preparation of Gunritsu Kaigi interrogation to be used as a part of the preliminary examination records (Yoshin Chosho) of the Gunritsu Kaigi for the trial of captured airmen." He never saw nor heard of any Kempei Tai personnel mistreating the captured airmen. He once heard that an airman had died at the Kempei Tai Head - quarters from injuries sustained at the time of his capture (p 2).

Exhibit T is a statement by Toshio Nakase. He was assigned to the Foreign Affairs Special Section of the Osaka Kempei Tai in March 1945. The office was located in the Itoman Building. Their duties were to protect members of foreign consulates. They were under the direct command of Major Shiuchi. The chain of command was from Lt. General Okido through Col. Yamamura. Major General Nagatomo had limited command as to internal duties, subsistence and medical care (p 1).

About 1000 hours on 12 or 13 August 1945 he learned from Lt. Col. Fujioka that Japan had decided upon unconditional surrender. Prior thereto he had heard that the Foreign Affairs Section had burned all documents pertaining to the captured enemy fliers. On 14 August 1945 he saw various documents in the custody of the Foreign Affairs Section being thrown out of the window for the purpose of being burned. On 15 August he reported to the Itoman Building as usual. Five captured fliers were executed at Sanadayama Army Cemetery during the morning of 15 August 1945. Major Shiuchi ordered Capt. Takayama to send some members of his section to assist in the execution. Takayama sent Sergeant Majors Takashima and Hamada. Immediately after Takashima returned from the execution, he told him what happened (p 2). Takashima and Hamada returned from the execution during the fore- noon of 15 August 1945. He recalled seeing Sergeant Major Hamamda cleaning his sword at his desk soon as he returned from the execution. He heard the Emperor's address at the Osaka Railroad Station. Major Shiuchi made a farewell speech to the members of the Osaka Branch Office on the afternoon of the same day. Later he heard that Shiuchi had fled with the approval of the Commander, Nagatomo (p 3).

Exhibit 98, a previous statement by the same witness was introduced by the prosecution in lieu of cross examination. The witness therein stated that

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after the Emperor's speech Shiuchi called a meeting and told them among other things that when the Occupation Forces came they would probably be arrested or questioned, and they were not to talk too freely (p 1). On 16 August 1945 Capt. Takayama sent Hamada and Takashima to assist the Foreign Affairs Section. He heard that they were to participate in an execution of captured fliers. Takayama must have known this when he left. Hamada and Takashima returned to the office about 1400 or 1500 hours. Hamada then started to clean his sword and stated that five fliers had been beheaded at Sanadayama Cemetery (p 2). The last time he saw Shiuchi was in the afternoon of 15 August 1945. He heard that Shiuchi had run away. When the rumors started that Japan had accepted the terms of surrender, on 12 or 13 August 1945 the Foreign Affairs Section started to burn all the documents pertaining to the fliers. On 14 August 1945 the Foreign Affairs Special Section started to burn their documents (p 3).

Exhibit U is a radiogram which states that Capt. Richard H. Hamilton was a lone survivor of a B-29 which crashed 9 May 1945 near Takaida. He participated in a radar reconnaissance of an aircraft factory at Kobe. He was riding as an additional radar operator.

Exhibit V contains extracts from (Japanese) Higher Headquarters Service Regulations in Wartime. It states in part that the main duty of an Army Chief of Staff shall be to assist the Army Commander. He should always be familiar with the Commander's intentions, assist him at anytime concerning the command of the Army, and take responsibility for attaining the object of the Army. "The Chief of Staff of the Army shall lay before the Army Commander, as occasion demands, various plannings as to operations and draft measures regarding the command of the Army. The Chief of Staff of the Army shall command and supervise the business of the staff and control the general business of the headquarters in conformity with the intention of the Army Commander" (p 4). The Chief of the Medical Department of the Army is under direct command of the Army Commander. As to medical matters, he is under the instructions of the director of field medical affairs. The Chief of the Medical Department of the Army "receives notifications necessary for operation from the Chief of Staff of the Army" (p 10). The Chief of the Military Judicial Department is under the control of the Army Commander, takes charge of military judicial affairs and answers questions of the Army Commander concerning legal problems (p 11). The Chief of a Divisional Medical Section is under the control of the Divisional Commander. As to medical matters, he is given directives by the Chief of the Army Medical Department (p 16).

Exhibit W is an account of air raid damages sustained by Sakai City. Fifty percent of the shrines, 85% of the churches, 68% of the temples, 50% of the schools and 70% of the hospitals were damaged. Damage to industrial facilities were small. There were many casualties. Exhibit X is an account of air raid damages sustained by Amagasaki-shi. Nine shrines, two churches, eight temples, four schools and six hospitals were totally or partially destroyed.

Exhibit Y is a statement by Misaburo Yushima. Osaka was raided on 13 March 1945 and 7 June 1945. Some civilians who had evacuated to a park stated that they had been strafed by fighter planes. There were no military objectives in the near vicinity. Exhibit Z is a statement by Suejiro Omori. Osaka was raided on 7 June 1945. The closest military objective was 2300 meters from the raided area, therefore, he believed that the raid was indiscriminate. Exhibit AA is a statement by Chogoro Yuki. On 1 June 1945 Osaka was raided. The closest objective (anti-aircraft guns) was 5000 meters away. Exhibit BB is a statement by Katsumi Kondo. Osaka was bombed on 7 June 1945. A fighter plane strafed the area. The bombing was indiscriminate and cruel. The American bombers dropped incendiary and high explosive bombs over widespread civilian areas. To the same effect as to various raids are Exhibits CC, DD, EE (but military objectives were also damaged) and FF. In Exhibit GG, the writer stated "All bombs hit the Aichi factory area beautifully and approximately 95% of the factory was destroyed. * * This factory (which manufactured delicate ordnance material) was put entirely out of commission with this precision pinpoint bombing."

Exhibit HH is an extract from the United States Strategic Bombing Survey: "The Effects of Bombing on Health and Medical Services in Japan." It

states in part: "Unquestionably the greatest single factor which left its imprint on the Japanese people was the continued decrease of their food supply. On the other hand, the most direct effect of bombing on the civilian population was the severity and heavy toll of casualties. The destruction of the civilian population of any country, even if it occurs as an incident in the destruction of military objectives, is not pleasant to contemplate, especially when the majority of such casualties are women and children. The German report estimated there were approximately 500,000 fatalities from bombing during the war over a period of between 5 and 6 years. The estimated number of fatalities in Japan was approximately 333,000 in less than one year of bombing. The principal direct effect of bombing was actual destruction of hospitals. Exclusive of the atomic bombings, 969 hospitals were completely destroyed and 50 were partially destroyed, with a loss of 51,935 hospital beds. If demolition bombs had been predominant a far larger percentage of partly destroyed institutions could have been expected. However, high-explosive bombs played an almost insignificant roll in this picture. Only a few hospitals located near strategic industrial targets suffered from demolition bombs. Though a few high-explosive bombs were dropped in nearly every incendiary raid most of the hospitals were lost during the mass burning of cities by fire bombs." (p 1). "It may be noted from Table 10 that most of the schools and hospitals were burned and that there were relatively few casualties among the students and teachers. Hospitals and medical schools were not selected targets, however, they were located in the congested, highly combustible sections and it was impossible to avoid them in the mass burning of cities." (p 2). "The effect of bombing upon the sanitary environment, and this in turn upon the health of the people, extended beyond the area of the target cities. Directly and indirectly it extended to the whole country." (p 3). "Generally speaking, in the course of massive burning of the Japanese cities practically everything in the path of the fire was destroyed. In the residential areas where there were only a few scattered fire-resistant buildings literally everything was destroyed. The skeletons of brick or concrete buildings frequently remained erect but usually the interior was completely gutted by fire." (p. 6).

Exhibit II is an extract from the same source, entitled "Effects of Air Attack on Osaka-Kobe-Kyoto." It states in part: (During the last 8 weeks of the war) "Seven missions were dispatched to secondary cities in the Osaka region and, in each case, the level of damage was sufficient to eliminate the planned target area from further consideration. Nine hundred and forty-seven aircraft participated, dropping 7,480 tons of incendiaries, and only two planes were lost. These attacks were all carried out from 3 to 6 weeks before the surrender. But whether measured by power consumption or by contribution to war production the secondary cities were relatively unimportant except for a few distinct factories. Under conditions existing by July 1945, it is clear that the impact of these secondary urban attacks had as much psychological and political significance as it did direct effect on aggregate war production throughout the region." (p 1). "The March against Osaka was concentrated on the heart of the city including the areas of greatest housing density, the bulk of the commercial section and adjoining small industrial districts. The 1,732 tons of incendiaries dropped in a period of 3 hours burned over an area of roughly 8.1 square miles--by far the most effective per ton, in terms of casualties and gross physical damage, of the four area attacks. A third of the air raid deaths and roughly half of the totally burned-over areas in Osaka dated from this initial attack. The 1 June attack of 2,788 tons, which burned out a gross area of 3.1 square miles to the west and north of the March damage, resulted in 3,112 killed and total casualties of 14,084, with another 218,680 being dehoused. An estimated 66,817 structures were destroyed or seriously damaged." (p 2). "The water system suffered comparably from leakage and was completely inoperative for two weeks after damage to pumping equipment in the 7 June area attack. But many key plants had independent sources for industrial use, so the main effect of water shortages fell on individuals, who had to cue up the available wells or take their chances on the highly contaminated surface water." (p 4).

Exhibit JJ is also an extract from the same source, entitled "The Effects of Strategic Bombing on Japanese Morale." It states in part: "As

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estimated from the Morale Division sample survey, approximately 1,300,00 people were injured and approximately 900,000 killed as a result of the bombings. Bombing, or the threat of bombing, resulted in mass disruption of the lives of countless millions of people, including the evacuation of more than 8,500,000 persons from cities." (p 1). "The American attack against the civilian population of Japan was successful. In addition to enormous physical destruction, the strategic bombing of the home islands produced comparably great psychological and social disruption. The American air offenses, against Japan was characterized by three principal types of attack: The attack against industrial targets * *. The attack against the major urban areas, using incendiary bombs and large-scale, low-level tactics, mainly from June until August 1945. The physical devastation accomplished by these raids is generally known." (p 2). "More than 500 separate targets in Japan were subjected to bombing attacks during the period June 1944 to 15 August 1945. The large majority of these received precision bombing on specific industries or installations but 56 cities were subjected to urban area saturation tactics, attacks directed against whole areas of the city rather than specific targets. Of the 160,300 tons of bombs dropped on Japan, 128,000 tons were dropped on the 66 cities" (p 3). ". . . the influence of bombing was by no means confined to actual or potential target areas, and therefore had a general rather than a differential effect on morale." (p 6).

Exhibit KK shows damages inflicted by air raids on Kobe City.

Exhibit LL is a statement by Haruo Henmi, on behalf of the accused Uchiyama. He served as Staff Officer concurrently of the 15th Area Army and the Central District Army. Lt. General Uchiyama is a man with a strong and deliberate sense of responsibility. He was exact and fair whenever he gave his decisions. (p 1). He never gave vent to personal feelings. He was extremely warm-hearted toward his subordinates and other people (p 2). With reference to improprieties of his subordinates, he gave extremely prompt and just decisions. He had a strong sense of self-reproach. He was always greatly concerned about fair treatment of prisoners of war (p 3).

Exhibit MM is an extract from The United States Strategic Bombing Survey, entitled "Effects of Air Attack on Osaka-Kobe-Kyoto." It states in part: "Despite its shortcomings as a radar target, the urban area of Osaka obviously offered one of the most vulnerable and valuable objectives for large-scale incendiary attack. The densely built-up central core of the city was the commercial and administrative nerve center of central Japan and housed almost a third of the city's population. Surrounding this most congested central area--only a small section of which had fire-resistant ferro-concrete buildings--were Osaka's industrial sections, most of which also contained a high percentage of vulnerable residential and small factory areas" (p 4).

Exhibit NN is an extract from the same source, entitled "The Effects of Air Attack on Japanese Urban Economy". It states in part: "The vulnerability of the Japanese people to air attacks was never a primary consideration in basic Allied strategy. The Theater Air Command, however, while selecting urban targets primarily on the basis of their economic value, anticipated that, apart from the economic results of those raids, the impact of mass bombing on the people would seriously undermine the enemy's ability to continue the war. Generally speaking, the urban attacks resulted in a serious and widespread collapse in public morale which was reflected in all phases of the Japanese war economy" (p 1). "The air attacks against Nagoya had two broad purposes: (1) mainly by precision attacks to wipe out Nagoya's aircraft and (later) ordnance production and (2), mainly by area attacks, to eliminate the city's remaining industrial contribution and destroy the people's will to resist" (p 3).

Exhibit PP is an extract from the same source, entitled "Effects of Air Attack on Osaka-Kobe-Kyoto". It states in part: "Employment in very small workshops deserves particular attention because these units were the most common victims of incendiary attacks and formed the bottom layer of the local subcontracting pattern." It shows that as of January 1945 there were 8,872 plant units which employed a total of 51,903 employees.

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Exhibit QQ is a summary of the record of trial (and attached opinion of the Australian Adjutant General) of certain Japanese before an Australian War Crimes Commission. The accused had participated in the execution of 3 Allied prisoners and a Dutch civilian. The 3 prisoners had escaped from a Japanese prisoner of war camp in Batavia, Java, and joined an underground organization in Java operating against the Japanese. They were aided by a Dutch civilian. (p 1). All were arrested and executed after investigation, but without trial. Their sentences (except in the case of the Dutch civilian) were apparently imposed for their activities after they escaped from the prisoner of war camp. The Australian Commission acquitted the Japanese. It was held, inter alia, by the Adjutant General that: "The Prisoner of War Convention, which is an elaboration of the principles of the Hague Convention, lays down certain requirements in connection with the trial of POWs, but those are not all essential elements of a trial within the meaning of the Hague Convention. It would appear that no attempt was made to prove that Appleby and Powell were still prisoners of war at the time of their trial. Having escaped and joined a guerrilla organization and become spies, it would seem that they had lost their status as prisoners of war and being, therefore not entitled to the additional benefits of the Prisoners of War Convention, were tried in accordance with the general principles of the Hague Convention. Had it been established that the deceased had, at the time of their trial and execution, the status of prisoners of war or some other status in respect of which there exists some convention or conventions additional to the Hague Convention containing special provisions as to trial further matters would have to be considered. It would be necessary to determine not only whether the alleged trial was a trial within the meaning of the Hague Convention but also whether the alleged trial was conducted in accordance with all or any additional conventions having special application to the persons being tried. * * For a trial under Article 30 of the Hague Convention it is not necessary that the accused be present or represented before the tribunal which determines the verdict or sentence. If, however, on account of the special status of the accused or for any other reason any Convention additional to the Hague Convention becomes applicable to the case it must further b determined whether or not such additional convention prohibits the trial in absentia of persons subject thereto" (pp 4, 5).

Exhibit RR, a United States Strategic Bombing Survey Extract concerning bomb damage to buildings in Osaka City in 1945, indicates that on 1 June 65,086 residential units as against 1,629 industrial units, were destroyed or badly damaged. On 7 June the proportion was 55,527 residential units as against 1,022 industrial units. On 15 June, 51,715 residential units as against 1,479 industrial units. On 26 June, 10,745 residential units as against 155 industrial units. On 24 July, 654 residential units as against 15 industrial units. Exhibit SS is an extract from the same source. It shows that in raids on 1, 7 and 15 June 1945 far more incendiary bombs were used in raids on Osaka than high explosive bombs. However, in raids on 26 June, 24 July and 14 August 1945 only high explosiv bombs were used. Exhibit VV, an extract from "The War Reports" of Generals Marshal and Arnold and Admiral King shows that Osaka was 35.1% destroyed, Kobe 55.7% destroyed, and Wakayama 50% destroyed by air attacks.

Exhibit ZZ is a statement by one Tatsuhiko Takashima on behalf of the accused Uchiyama. It states in part that he served as Chief of Staff under Uchiya in Manchuria from about March 1943 until March 1944. "Lt. General Uchiyama has always been a man of fairness and impartiality who as a warrior tread the model path of righteousness in the eyes of the people. * * He was a man having a good sense of logic and discretion, being meticulous in his considerations (p 1). * * Since he was a most warm-hearted person, anyone who came in contact with his personality would feel the same sort of warmth and exhilaration as a day in spring * * He was very compassionate toward the weak. (p 2). * * On matters having to do with international relationship, let alone matters concerning the Japanese militar or the Japanese people, he endeavored especially in a very courteous manner to apply reasoning and logic, respecting humanity (p 3). * * The General strived to attain impartiality in the execution of military affairs regardless of whether it be day or night (p 4). * * I absolutely cannot believe that this sterling characte of the General was changed in any manner immediately prior to the cessation of hostilities" (p 5).

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Exhibit AAA is a statement by one Wataro Yoshinaka on behalf of the accused Kunitake. "He is a man of great common sense, courteous in manner, modest and has been extremely well liked, trusted and respected by his superiors, fellow men and lower ranking men since he was a child. There cannot possibly be anything in his character which would tempt him to overstep his authority by disregarding the intents of his superior. He was a man very strong in the sense of fairness, being gentle and magnanimous and ordinarily very quiet. However, he was obdurate and adamant whenever there was an opportunity to protect justice and from straying from the path of virtue, and for this reason, there was a side to him which was afraid of nothing." Exhibit BBB is also a statement on behalf of Kunitake, by one Hiromitsu Hashimoto. They have been intimate friends from the time of their youth. Kunitake's character is sincere and incorruptible. "One of the excellent points in Kunitake's character is his high sense of responsibility and earnestness. He was very faithful to his duty and very methodical, even to the extent of being too meticulous. * * However, in carrying out his duty, he always considered the limits of responsibility of his duty and constantly tried to comply with the intents of his superior, doubly checking lest he make a mistake (p 1). * * He is an honest man who cannot overlook even a small mistake. * * Kunitake is the owner of a warm, sympathetic nature who was truly kind (p 2). * * I was deeply impressed at his unchanged morality and his kind, sympathetic attitude towards humanity. * * He often stated: 'The position of a staff officer is not befitting my personality; I would rather remain an educator.' * * He is a truly respectable gentleman who has a profound love of humanity." (p 3). Exhibit CCC is another statement on behalf of Kunitake by one Eiichi Tatsumi. They were classmates at the Military Academy. "Lt. General Kunitake was loved and respected by all of his classmates as being a man of amiable and impartial character ever since Military Academy days. * * Kunitake was faithful to his duty and was a man with a high sense of responsibility. * * Kunitake has a very cordial character. He was especially considerate of the feelings of his superior. * * In short, Kunitake has an amiable and impartial character and is a man of righteousness. I am of the belief that he will not take any action which would not comply with the intents of his superior or make any false statements."

Extract DDD is a statement by Manjiro Tsukamoto. He served as an instructor in judicial affairs at the Kempei School from August 1940 to March 1944, at which time he became Chief of the Training Unit at the Kempei School. Kempei officers and NCO's were both authorized to serve as judicial police and military judicial police (p 1). The Kempei School was established to give the necessary training. Qualifications for selection were extremely strict. Those who graduated were qualified to carry out the technique of investigation. "The Kempei's judicial responsibility was not to try a case or to prosecute but to send the case to the organ of arraignment (koso kikan) by clarifying the outline of a crime. In order to carry this out, the education they received by the Kempei School was quite sufficient. * * On the other hand, in the practical sense, I believe that the Kempei has fulfilled its judicial responsibility very well for more than sixty years, since 1881. At the Kempei School the Kempeis were taught law, criminal science, psychology and so forth. My duty as a Kempei officer was to teach them how to investigate crimes, to compile documents and to send cases up to the Gumpo Kaigi or Gunritsu Kaigi" (p 2).

Exhibit HHH consists of extracts from "Military Internal Duties Ordinance". It states in part: "As military discipline is the soul of the Army, the Army must promote it constantly. When the officers and men, whenever or wherever they are, comply with the basic principles of the Army, enthusiastically attend to the duties and obey orders without fail, it demonstrates the promotion of military discipline. As obedience is necessary in maintaining military discipline, subordinates hould conscientiously obey superiors and unconditionally carry out orders until it becomes a habit. Obedience rises from a spirit of sincerity and loyalty, and even in a hail of bullets, it makes one devote one's life to the sovereign and country, and to obey wholeheartedly the orders of one's superiors. A superior himself should first obey the order and be an example of obedience. Article 9: Under all circumstances, subordinates should be strictly obedient to their superiors. The same shall hold in cases where persons receive orders from the commander but are not subordinates. Article 10: Senior officers and junior officers who have no relationship of superior and subordinate should follow the rules of obedience, as long as it does not interfere with their duties.

Article 11: Orders should be observed respectfully and executed immediately. It is not permitted to discuss whether the orders are justified or not, or question their cause or reason. When new orders contradict former orders, one should discreetly inform the commander to that effect and ask for his instructions."

Exhibit III is a statement by Saburo Takashima: "I, Takashima, Saburo, being duly sworn upon oath, state as follows: I would like to add the following fact, which I failed to state in my previous statement (Prosecution Exhibit 37). When Sgt.-Major Hamada and I were ordered by Capt. Takayama to assist the Foreign Affairs Section on 15 August 1945, there was absolutely no volunteering on our part; we were merely appointed and ordered for the detail. Sgt.-Major Hamada wore a sword on this day because he was in military uniform while I attended in civilian clothing. The foregoing statement is true to the best of my knowledge and belief, and I made this statement of my own free will."

4. Opinion

The commission was constituted by proper authority and had jurisdiction of the accused and of the offenses charged, except as hereinafter noted.

The motions for modification of sentence raise, among other assignments of error, (1) That the commission denied a motion for severance. (2) That the commission admitted confessions of the accused not only against the respective makers thereof, but also against other co-accused. As to (1) it has been held that the granting of such a motion is within the discretion of the commission. Accusations and counter-accusations would have been made regardless of whether the accused were tried individually or collectively, and such evidence would probably have found its way into individual trials if such were held. It is considered that in denying the motion for severance there was no abuse of discretion. (Yamanaka et al. No. 60; Ichinoe et al. No. 265). As to (2) the action of the commission is supported by precedent (Namba, No. 149; Ichinoe et al, No.265).

The defense moved to strike the charge and specification alleging a conspiracy to conceal information from the United States of America (R 37 et seq) on the ground, among others that SCAP rules do not embrace such an offense. It is considered that the motion should have been granted. The pertinent SCAP rules are as follows:

> "Military commissions established hereunder shall have jurisdiction over all offenses including, but not limited to, the following:
>
> (a) The planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.
>
> (b) Violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory; murder or ill-treatment of prisoners of war or internees or persons on the seas or elsewhere; improper treatment of hostages; plunder of public or private property; wanton destruction of cities, towns or villages; or devastation not justified by military necessity." (Par. 2b (1)(a)(b).)

In the Inoue case (No. 258) which involved (among others) specifications that the accused "acting jointly and in pursuance of a common intent, did willfully and unlawfully, in conjunction with" certain Japanese "mistreat, abuse and kill Warren H. Loyd, an American PW, and mutilate his dead body by bayoneting him" it was stated at page 106: "The prosecution charged each accused with separate charges and specifications and Letter Order, AG 000.5, dated 21 October 1947 from the Supreme Commander for the Allied Powers to the Commanding General of the

Eighth Army. Throughout the trial and in their closing argument the prosecution asserted that a conspiracy was charged. A conspiracy, which is a separate and distinct offense from the substantive offense (12 CJ 542), is made a crime only under Section 2b (1)a of SCAP rules, 5 Dec 1945, as amended. The offense here comes within Section 2b (1)b of SCAP rules, supra, and under this paragraph a conspiracy, as a separate and distinct offense is not made a crime. This is the reason no doubt why the SCAP letter of 21 October 1947 ordered that the accused be tried in a common trial and not in a joint trial."

The Ichioka case (No. 339) included a specification (among others) to the effect that the accused, officers or members of the Naval Ministry, Naval General Staff, Sixth Fleet, and Submarine Squadrons, acting jointly and in pursuance of a common intent did willfully and unlawfully plan and conspire with each other and with others to kill all survivors of torpedoed and otherwise destroyed Allied vessels, and with a common purpose and intent did order, direct and cause the mistreatment and deaths of certain prisoners of war and survivors, and also in furtherance of said conspiracy and as a part thereof, with the common purpose and intent, did willfully and unlawfully plan, agree and conspire with each other and others, to conceal said acts and to prevent the Japanese and Allied Nations Governments concerned from obtaining information as to the capture, indentification and killing, etc., of the said prisoners and survivors, and in furtherance thereof did willfully and unlawfully fail to maintain adequate records and did withhold, conceal and suppress knowledge relative to these matters and did compose fabrications designed to deceive the said governments relative to said prisoners and survivors and did publish the said fabrications to representatives and agencies of the governments concerned. It was said at page 54: "In the present case, under this specification, the accused were tried jointly. Conspiracy is made a war crime under Section 2B(1)a of SCAP rules, 5 Dec 1945, as amended. The Section bestows jurisdiction on military commissions as follows:

> "The planning, preparation, initiation or waging of a war of aggression or a war in vilation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing." (underscoring supplied).

It is considered that there was a compliance with this paragraph to the extent that it gave the commission jurisdiction. The following is set forth in support of this conclusion: a. There was a common plan and conspiracy for the destruction of enemy personnel that was initiated at a conference between Fuehrer Adolph Hitler of Germany and Ambassador Oshima of Japan in the presence of Reich Foreign Minister Von Ribbentrop (Ex 3). Oshima conveyed the decision to annihilate survivors of sunken ships to the Japanese Naval Attache (Ex 4). The evidence shows that the Naval General Staff passed the order on to subordinates, orally and secretly and finally it was published by the First Submarine Force as an order of 20 March 1943, according to a Japanese document which was captured at Kwajalein (Ex 8, par 5B4) (also see Ex 98B, p 1). b. This order was a violation of agreements and assurances. Japan informed the United States through the Swiss Government that she would follow mutatis mutandis the provisions of the Geneva Convention concerning the treatment of prisoners of war (Ex 1)." It is apparent, therefore, that the conspiracy to withhold information was for the accomplishment of the plan to wage war in violation of international agreements or assurances. The fact that the accused herein are being tried jointly and severally (Letters, GHQ, SCAP, dated 2 April 1948 and 22 July 1948) is, therefore, considered immaterial.

The Ichinoe case (No. 265) can be differentiated from the present one. There, Specification 3 charged Ichinoe with willfully and unlawfully disregarding and failing to discharge his duty to: "a. Establish identity of and furnish proper report of death of Leland P. Fishback, deceased American PW; ** c. Properly mark grave of Leland P. Fishback, deceased American PW." No conspiracy was charged.

As to Uchiyama and Kunitake, respectively Commander and Chief of Staff of the Fifteenth Area Army: These men were convicted of mistreatment, abuse and causing suffering to certain American prisoners of war in their custody during

the period from 27 April 1945 to 16 August 1945 (Specification 1) and of responsibility for the deaths of about 45 American prisoners of war in their custody during the same period (Specification 5). The evidence sustains the findings. Specification 1 included denial of prisoner of war status. The evidence established that this was done pursuant to superior orders. However, this is not a defense under SCAP rules. Article 4 of the Geneva Prisoners of War Convention provides that difference in treatment among prisoners is lawful only when it is based on the military rank, state of physical or mental health, professional qualifications or sex of those who profit thereby. Article 9 provides that prisoners of war may be interned in a town, fortress or other place and bound not to go beyond certain fixed limits. They may also be interned in enclosed camps; they may not be confined or imprisoned except as an indispensable measure of safety or sanitation, and only while the circumstances which necessitate the measure continue to exist. Perhaps the fact that Uchiyama was the commander of an operational unit during a period of imminent invasion caused the commission to sentence him to 40 years while his subordinate received a life sentence. In effect, the 40 years sentence is a sentence for life. Both men prevaricated in their statements and took part in plans to conceal evidence of the executions. Uchiyama finally admitted that he induced the accused Nagatomo to have the captured airmen executed by the Kempei Tai, and also that he induced Kunitake to conceal the matter and took part in concealing the matter himself. (Ex 83). Both of these men failed in their duty to properly guard the rights of the prisoners. They could not divest themselves of such responsibility by pleading, in the case of Uchiyama, the multitudinous and urgent duties of the commander of a combat unit, or, in the case of Kunitake, the mere carrying out of the intentions of a superior. Uchiyama did not take the stand. He previously stated that his Judicial Affairs Department was not so busy that it could not take on other cases. (Ex 82, p 31).

As to Nagatomo and Anjo, respectively Commander and Senior Staff Officer (as well as Chief of the General Affairs Section) of the Central District Kempei Tai: These men were convicted of mistreatment and causing suffering to certain American prisoners of war in their custody during the period from 5 June 1945 to 16 August 1945 (Specification 1). Nagatomo was also convicted under Specification 5 of responsibility for the deaths of about 45 American prisoners of war in his custody during the same period. Anjo was acquitted of this specification. The evidence sustains the findings. Nagatomo received a life sentence; Anjo was given 4 years confinement. Nagatomo's sentence is considered inadequate. Both took part in plans to conceal evidence of the executions. Anjo stated that if he had been more assiduous in carrying out his duties and had inspected the detention cells often, he might have known the captive airmen's need for hospitalization or medical treatment, and have been able to give them better treatment. He admitted responsibility for any mistreatment the airmen may have received during interrogation. (Ex 55, p 14). Nagatomo approved the executions of the airmen (Ex 85, p 16). Nagatomo knew on 13 or 14 August 1945 that a conference was being held concerning unconditional surrender. Yet when the accused Fujioka reported that several captive airmen remained alive, he (Nagatomo) stated " * * I was shocked and slightly raising my voice ordered "Are they still there? Dispose of them immediately.!". Just before noon on 15 August 1945 Fujioka reported that the airmen had been executed. (Ibid, p 19).

As to Fujioka and Shiuchi, respectively Chiefs of the Police Affairs Section and Foreign Affairs Section of the Central District Kempei Tai: These men were convicted under Specification 1 of mistreatment and causing suffering to certain American prisoners of war in their custody during the period from 5 June 1945 to 16 August 1945. Fujioka and Shiuchi were also convicted under Specifications 5 to 11 of responsibility for the deaths of respectively 45 and 15 American prisoners of war. Each personally shot 4 of these prisoners to death. The evidence fully sustains the findings. Each was sentenced to life imprisonment, which they richly deserve. The sentences are considered inadequate. After the surrender both fled. They also participated in plans to conceal evidence of their crimes.

Fujioka stated that Shiuchi (his subordinate) told him "We cannot do anything for the wounded air crew members and besides they will die anyway re-

gardless of the medical treatment we give them." Shiuchi was "disinclined in giving them care." He (Fujioka) had little interest in treating wounded air crew members. He was not responsible for that. Shiuchi was self-confident and resented any handling of foreign national affairs contrary to his opinion. Because of this and since he was inexperienced in foreign national affairs, he (Fujioka) did not persist in carrying out his intentions or interfere in foreign national affairs. (Ex 53). Shiuchi stated: "I feel ashamed that I am unable to give a satisfactory explanation as to why the airmen were brought to the unit headquarters in serious condition, why they were not hospitalized immediately after being brought in, or why, after their capture, they were not transferred from the detention barracks to a hospital when it was learned that they were in serious condition." (Ex 54, part 1).

As to Specifications 5 to 11, involving the deaths of the captive American airmen: Although there were superior orders neither offered any real objections to carrying out the executions. Both participated as executioners. The poisonings were instigated by these accused. As to Specification 5: Fujioka admitted giving permission to Shiuchi to poison an airman on the verge of death, after first securing the approval of Nagatomo. Shiuchi stated that he knew that nothing could make Fujioka change his mind so he did not say anything. As to Specification 6: Nagatomo told them he had received permission from the Army Chief of Staff (Kunitake) to proceed with the executions. Five airmen were executed. Each accused shot an airman. Fujioka stated that it was necessary to keep the executions secret as there was danger that the United States might use poison gas "in retaliation for this crime against humanity." Fujioka gave the order to fire. (Ex 53). Shiuchi stated that the accused Yamanaka (of army headquarters) said to him "Haven't you killed the airmen yet? Don't you realize that food is precious at the present time? Kill them at once." Shiuchi stated that he tried to avoid being implicated. Col. Oba (of army headquarters) said they would not do anything to charge the Kempei Tai with the responsibility. Shiuchi knew that he and others were to be executioners and that Fujioka would be in command. (Ex 54, part). As to Specification 7: The accused each shot one and possibly two of the airmen. Fifteen airmen were executed. Fujioka gave the order to fire. As to Exhibit 8: Fujioka stated that Shiuchi told him that he "had them (the airmen) take the chemical with the same purpose as the previous case." Fujioka simply thought of him as a hopeless fellow. Since the unit commander and the senior officer had approved it and since he felt diffident toward Shiuchi, he did not make further inquiries. He nonchalantly told Nagatomo that Shiuchi made them take poison. (Ex 53). Fujioka ordered Shiuchi to tell Wada to poison them because they would be executed sooner or later. (Ex 54, part 3). Kenzo Nagao stated that both of the accused admitted responsibility for the poisoning of the fliers and further admitted that such poisonings were illegal. (Ex 106). As to Specification 9: Fujioka stated that he knew nothing of the poisoning although he realized the responsibility of a supervisor. Neither Nagatomo nor he ordered the executions, although they "approved a part of it. I am ashamed of myself and I particularly feel responsible for the occurrence for these incidents because I failed in my duty to stop Shiuchi's proposals." (Ex 53, p 28). Shiuchi stated that he reported to Fujioka that three airmen were very weak and ill. Fujioka then said that undoubtedly they would be ordered executed and if they should die of malnutrition they might be accused of mistreatment. He, therefore, ordered Shiuchi to have them poisoned. He saw the poison being given to the airmen. (Ex 54, part 3). As to Specification 10: Fourteen airmen were to be executed. Nagatomo approved. Fujioka and Shiuchi each shot two airmen. Fujioka gave the order to fire. (Exs 39, 53, 54). As to Specification 11: Fujioka stated that on 13 August 1945 he heard that Japan had decided to surrender. However, he believed that the army would fight to the last. There were rumors of peace and war from 13 August to 15 August. About 0900 hours on 15 August 1945 Shiuchi told him that the remaining airmen would be executed. At that time due to confusion and disappointment he (Fujioka) was not concerned, and gave his approval without question. When it was almost noon Shiuchi reported completion of the execution. After hearing the Emperor's broadcast they believed the decision to surrender. (Ex 53, p 21). Shiuchi stated that about 0900 hours on 15 August 1945 Fujioka told him that Japan would surrender and that this would be proclaimed at 1200 hours. He was called about

1100 hours. Fujioka told him to dispose of the remaining airmen. Shiuchi passed the order to Sugiura. (Ex 54, part 2). Jiro Hamamoto stated that the execution took place after the Emperor's broadcast. (Ex 95). Corroborated in Exhibits 31 and 37.

Fujioka further stated that the army headquarters order and approval were the basic cause of the executions and the Kempei Tai GHQ's letter was the incentive. Nagatomo issued the order for the executions. Apart from the legal aspect of the case he did not think that he could escape responsibility for the executions, regardless of the motive. He thought he should be given the severest punishment. (Ex 53, pp 28, 29). Shiuchi stated that he delayed preparations for the executions until the section chief exerted pressure upon him. He thought the executions were unavoidable because the Kempei Tai Headquarters, the Central District Army Headquarters and the unit commandant were in accord on the matter. (Ex 54, part 3).

As to Ishida and Yamamura: These men were acquitted of responsibility for the executions and poisonings of the airmen. They were convicted under the "additional specification" of conspiring to prevent the United States Government from obtaining information regarding certain prisoners of war and in furtherance thereof concealing and suppressing such information from the Japanese and United States Governments and fabricating and transmitting false and misleading information concerning such prisoners of war. As previously stated, it is considered that the commission was without jurisdiction as to this specification. Even if the specification is upheld, however, the evidence adduced by the prosecution as to these two accused is very weak. As to Ishida apparently all the evidence against him consists in a statement by Nagatomo (Ex 85, pp 32, 33) that Ishida stated he "had no objections to carry out suppression activities in connection with the disposition of the captured airmen, however, some measure must be taken with regard to the actual number of captured airmen. * * Any activity connected with the disposal of the airmen must be within reason, furthermore, it must follow a logical path" and be based upon the number of prisoners. Nagatomo further stated that he explained to Ishida and Yamamura about some changes made in the concealment scheme. "What I told them was that the scheme being considered by the Army Headquarters involved approximately 50 airmen (which I believe is the actual number.) My report to Central Headquarters stated that of the number, two each were sent to Central Army Headquarters and to TOKYO from KEMPEI TAI Headquarters; 15 died of illness or injuries and the remaining 30 airmen died aboard ship when bombed and sunk enroute. ISHIDA first objected to this scheme on the ground that two KEMPEI were connected with it as guards, however, as a result of YAMAMURA's declaration that 'I will submit a report to make it appear as though I received a formal report during the war from the Central KEMPEI-TAI Headquarters that the two KEMPEI had gone down with the ship along with the airmen', ISHIDA reluctantly agreed." (Ibid 41). Ishida categorically denied these statements (R 1671, 1672) and was supported by Yamamura. Yamamura testified that on 16 November 1945 he and Ishida had a meeting with Okido in Tokyo. "Nagatomo stated the following: That the captured fliers, while en route by ship from Osaka to Shikoku, had been bombed and the ship sunk and the captured fliers lost. He also stated that two Kempei NCOs who were at that time escorting the fliers were also lost when the ship sunk. He stated that there should have been a telephone report in connection with this and he expressed a desire that he wanted the Kempei Headquarters to acknowledge that telephone call. I do nd recall exactly what Lieutenant Ishida replied to this, but I recall that he disagreed. At the time that Major General Nagatomo talked about this matter, because I was not in connection with personnel, I think I told him that he had come to the wrong person. However, I think I also told him that I would either consider or think about this matter. I recall that there was no spdical further talk and that we parted after this." (R 1734). "When I said that I would think it over I had not as yet decided definitely. When I made that reply it was with the idea in mind that I would decide definitely at a later time. I recall that the attitude and talk between Lt. General Ishidaand Major General Okudo had caused an air of unpleasantness and it was in order to soften this unpleasantness that I said that." (R 1671, 1672). Yamamura testified that he first heard about the executions in mid-September 1945. Both Ishida and Yamamura gave statements and testimony in a straightforward way. Their credibility has not been impeached. Nagatomo, however, pre-

varicated time after time. The prosecution stated in reference to the "additional specification": "Now, we are trying these people (including Ishida and Yamamura) on murder charges and as part of our case we are going to prove that these people sought to cover up what they had done. * * If men flee from the scene of a crime and attempt to cover up evidence or destroy evidence, such evidence is highly valuable in establishing consciousness of guilt." (R 52). It, therefore, appears that the primary reason for the "additional specification" against the accused therein was not that they had committed a war crime, but rather to establish "consciousness of guilt." Both Ishida and Yamamura were acquitted of the "murder charges". (R 2489, 2490).

As to Oba and Yamanaka, respectively Senior Staff Officer and Chief of the Intelligence Section of the Fifteenth Area Army: These men were found guilty of advising, inciting and aiding personnel of the Central District Military Police (Kempei Tai) to execute 39 American prisoners of war. They were absolved of the poisonings. Both participated in the conspiracy to conceal the executions. Oba was sentenced to 10 years confinement at hard labor and Yamanaka was given 8 years. Oba stated that due to the cramped condition of the place of confinement and for other reasons the Tokyo Kempei Tai GHQ directed (shishi) Nagatomo to consult with the Chief of Staff, obtain his approval, and execute the airmen. Nagatomo received permission from Kunitake. Oba, therefore, ordered Yamanaka to arrange for a place for the executions and fuel for transportation. Other reasons for his order were that Shiuchi told him there was positive proof of indiscriminate bombing by all of the captured airmen, and because Capt. Ono of the Army Judicial Department told him that if the proof were beyond a doubt it would be all right to execute them without trial, since they would be sentenced to death anyway. Uchiyama said that, with the increase of captured airmen, a method should be considered of executing the airmen without trial if the Kempei Tai produced evidence. Uchiyama then asked Kunitake for his opinion. Kunitake stated that since indiscriminate bombing was usually obvious, it would probably be all right. In early July 1945 Shiuchi told him that the airmen held by the Kempei Tai would be executed. Oba said "What, haven't you done it yet?". This was not said in the sense of prompting the execution but was in the "teasing" sense, implying that the Kempei Tai, despite public opinion which demanded the execution, faithfully continued to follow regulations. He (Oba) advised Shiuchi to keep the matter secret. If the matter should become an issue he would like to assume responsibility. (Ex 69). Yamanaka stated that early in July Shiuchi told him that he had talked with Oba and that it had been decided to execute the airmen. It was to be kept secret. He made arrangements for use of the Shinodayama Maneuver Area, also for fuel. He participated in the conspiracy to conceal the executions. (Ex 68). Shiuchi stated that after Major Yamanaka and Lt. Col. Oba "urged" him at army headquarters, he thought the execution was unavoidable because the higher authorities such as the Kempei Tai Headquarters, Central District Army Headquarters and the Unit Commandant were entirely in accord in the matter. Neither Oba nor Yamanaka offered any objection to the order for the execution of the airmen. The fact that both participated in the concealment conspiracy indicates that they were aware of the illegality of the executions.

As to Okido, former commanding general of the Kempei Tai GHQ: He was convicted of advising, inciting and permitting his subordinates to kill the airmen, except for the first one poisoned, and was sentenced to life imprisonment. The evidence supports the findings. The sentence is considered inadequate. It is considered that the letter ordered to be sent out by Okido over the protests of Ishida and Yamamura set in motion the chain of events which resulted in the execution of the airmen, with the exception of the first one poisoned. There is evidence that Okido originally intended that the airmen should be executed, even though the tone of the letter as finally sent out was "lukewarm". (Ex 87, p 3). The evidence does not establish any urgent necessity for such disposition of the captive airmen. In fact, Kempei Tai GHQ seems to have been fully informed on the number of airmen detained by its respective districts. It was not an operational unit; furthermore the number of personnel required to handle the prisoners is not considered to have been so large as to have seriously interfered with normal functions. In spite of the fact that Ishida and Yamamura advised against sending the letter Okido, in his customary manner, imperiously overrode them. Okido stated that he is very sorry if the trouble was caused by the letter he insisted on sending through his lack of prudence, and against Ishida's kindly advice. If he had investigated when he first heard of the atrocities he feels

that he could have prevented subsequent atrocities. However, his duties were too pressing. Another reason was that he was too tender-hearted to all of his subordinates and was unable to carry out the investigation. (Ex 88, part 3, pp 3, 4).

As to Wada, former subordinate of Shiuchi and Fujioka: He was convicted of unlawfully causing the deaths of certain captive airmen by ordering his subordinates to poison them; and unlawfully executing or participating in the executions of certain other airmen. "Willfully" was deleted from all of the specifications. He was sentenced to 5 years confinement. The evidence supports the findings and justifies the sentence. What he did was pursuant to superior orders. He was reluctant at all times. When he tried to avoid poisoning the first airman, Fujioka summarily ordered him to carry out the order. When he tried to avoid poisoning some of the other airmen Shiuchi ordered him to "hurry up". (Ex 39, pp 14, 16). The accused was a warrant officer in charge of administration in the Foreign National Section of the Central District Kempei Tai. Wada stated that it might have been better if he had refused to carry out the orders. If he had done so he could not have saved the airmen's lives. What he did was athorrent to him and against his will. It was done because of absolute orders. (Ibid p 32).

As to Mori, former sergeant major under Wada: He was convicted of participating in the unlawful killing of a prisoner of war by poison. He was sentenced to 2 years confinement. The evidence supports the finding and the sentence. It was done pursuant to superior orders. He fled after the surrender.

As to Hamada, former Kempei Tai sergeant major under Capt. Takayama (acquitted) who in turn was under Major Shiuchi: He was found guilty of participating in the unlawful killing of two American prisoners by decapitating them, and was sentenced to 2 years confinement. The evidence supports the findings and would have justified a much heavier sentence. Perhaps the testimony of a character witness served to lighten the sentence. The execution took place on 15 August 1945. There was evidence that the execution was undisciplined. Hamada was the only one to execute a prisoner by decapitation. He did not take the stand.

As to Nakano, former interpreter for the Central District Kempei Tai: He was found guilty of mistreating and abusing certain American prisoners of war by beating them and was sentenced to 2 years confinement. The evidence sustains the findings and sentence. The accused did not take the stand.

In general: The executions in this case were devoid of justification from either a military or legal standpoint. The poisonings were no less illegal. What makes these murders all the more revolting is that the victims were on the threshold of a new life, the years of war about to end in victory for the Allied Powers. The evidence indicates that the last execution of 5 men did in fact take place after the Emperor's broadcast announcing the surrender. Many of the accused took pains to fix the time of the completion of the execution as before the broadcast. Others retracted previous statements that the execution took place after the broadcast. Whether it took place in the morning or afternoon of 15 August 1945 is of little moment. It was known at least two or three days before that a conference was being held relative to surrender. Rumors of surrender were also prevalent at this time. The killing of these last 5 victims was especially wanton and inexcusable.

As to deletion of the word "willfully" by the commission in some of its findings, the actions of the commission are supported by precedent. In the Uchiyama case (No. 123) wherein the commission deleted the words "willfully and unlawfully" from some of its findings, it was stated on review: "In construing a verdict the object is to arrive at the intention of the military commission, and when this can be ascertained, if it is consistent with legal principles, such effect should be given to their findings as will conform to their intent. In arriving at the intent of the Commission, the verdict should receive a liberal rather than strict construction. The findings and sentence are not to be construed as strictly as a pleading, but are to have reasonable intendment and construction. It should be construed with reference to the charge and specifications, the evidence, the proceedings at the trial, and the entire records, and if

6. Action:

Forms of action designed to carry the foregoing recommendations into effect are attached hereto.

CYRIL E. MORRISON
Reviewer
Judge Advocate Section

CORRECTION

THIS DOCUMENT

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when so construed, it is definite and clearly expresses the intention of the military tribunal and if otherwise legal, technical objections or mere inaccuracies of expression will not render it void. The reviewing authority is vested with sound legal discretion to see that substantial justice may be done and no sentence need be disapproved solely because a specification, as affected by the Commission's findings, is defective if the facts alleged therein and reasonably implied therefrom constitute a criminal offense. The reviewing authority is not at liberty to indulge in conjecture respecting the grounds of the findings and sentence and to add to its terms by inference or reference to extrinsic facts (See '23 CJS, pp 1107, 1108' and 'A Manual for Courts-Martial, US Army, 1928, p 74'). (pp 24, 25). "Specification 4 should be approved. "(Willfully and unlawfully were deleted in the commission's findings). The actions of which Ogiya was properly convicted, under Specification 2, resulted in the illegal killing of the fliers. The offense under this specification, taken by itself, amounts to an equivalent of involuntary manslaughter, inasmuch as the commission deleted the word 'willfully'." (p 51).

Whether the executed airmen were guilty of indiscriminate bombing is considered immaterial. Some of the accused made half-hearted attempts to show that investigations had proved the airmen to have been guilty of indiscriminate bombing. Such investigations, of course, do not constitute a trial. Due process of law, as prescribed by the Geneva Prisoners of War convention, requires that at the opening of a judicial proceeding directed against a prisoner of war, the detaining power shall advise the representative of the protecting power thereof as soon as possible, and always before the date set for the opening of trial. (Article 60). No prisoner of war may be sentenced without having an opportunity to defend himself. (Article 61). A prisoner of war shall be entitled to the assistance of qualified counsel of his choice, and to the services of a competent interpreter. He shall be advised of his rights by the detaining power in due time before the trial. (Article 62). Sentence may be pronounced against a prisoner of war only by the same courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining power. (Article 63). Every prisoner of war shall have the right of appeal against any sentence rendered with regard to him, in the same way as individuals, to the protecting power immediately. (Article 64). Sentences pronounced against prisoners of war shall be communicated to the protecting power immediately. (Article 65). If the death penalty is pronounced against a prisoner of war, a communication setting forth in detail the nature and circumstances of the offense shall be sent as soon as possible to the representative of the protecting power, for transmission to the power in whose armies the prisoner served. The sentence shall not be executed before the expiration of a period of at least three months after this communication. (Article 66). All of the executions in this case were patently illegal.

5. Recommendations:

There were no recommendations for clemency from any members of the commission. The petitions for clemency have been read and considered. It is recommended that all of the sentences with the exception of those imposed upon Ishida and Yamamura, be approved. It is recommended that the findings and sentences as to Ishida and Yamamura be disapproved. In accordance with established policy, it is recommended that confinement be remitted as indicated against the following accused: (All were sentenced 3 January 1949).

NAME	CONFINED	SENTENCE	TO BE REMITTED
Anjo	21 Jan 1947	4 years	20½ Months
Hamada	12 Sept 1947	2 "	12½ "
Mori	24 Apr 1946	2 "	Unserved portion
Nakano	4 Jun 1946	2 "	" "
Oba	8 Mar 1947	10 "	19 Months
Uchiyama	29 Jan. 1946	40 "	32 "
Wada	29 Apr. 1946	5 "	29 "
Yamanaka	30 Mar 1946	8 "	30 "

All findings of guilt as to the "Additional Specification" should be disapproved.

6. Action:

Forms of action designed to carry the foregoing recommendations into effect are attached hereto.

CYRIL E. MORRISON
Reviewer
Judge Advocate Section

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Reviewed

1. I concur in general.

2. The complaint by defense that the advisory counsel were not present in numbers sufficiently to represent those with antagonistic defenses properly has been presented in other cases involving similar facts and decided adversely to the assertion of the defense (Cf Review US v. Inoue No. 258, pp 137, 138). Able Japanese counsel were supplied gratis for the accused in adequate quantity and it is apparent that their contributions to the defense were satisfactory. Full defenses were presented for each of the accused and the defenses were separately presented, argued, and briefed when antagonistic to each other. The accused were at all times at liberty to secure additional lawyers if they so desired. They were in their own country and a large and well qualified group of Japanese lawyers was available for selection. It is recalled that in the early days of the War Crimes trials when cases involving similar facts were tried separately, defense lawyers often complained that their clients were prejudiced by failure to include others with them in the same trial.

3. The assertion as to Kunitake to the effect that because he was the Chief of Staff he had no responsibility for actions taken in the name of the commander does not recognize the actual facts in this case. He was a voluntary accessory and participant. He was given the power to act in certain respects by the Commanding General and he did so act. His participation throughout was not solely that of a mere advisor or assistant to the commander but was that of an aider and abettor who used his own judgment and moral choice in bringing about the illegal deaths of the victims. His sentence, like those of the accused referred to by the reviewer in this regard, is considered lenient.

4. As to Yamamora and Ishida it is concluded that the sentences should be disapproved because the proof was not convincing beyond a reasonable doubt that they participated in the concealment. Whether or not the charge of conspiracy contained in the Additional Charge and Specification states a war crime need not be discussed here because the specification also contains an allegation of an affirmative act of concealment aliunde any conspiracy. While this pleading is inartificial since it contained matter which could well have been separated into two specifications, it is clear and accused could not have been misled as to the offenses with which they were charged; in view of the SCAP rule enjoining liberal construction of pleadings no prejudicial error can be discovered (Review of US vs. Ichinoe, #265, Review of US vs. Tashiro, No. 78 pp 70, 71, 91, 92). Comment upon the question of concealment may be found in the review in United States vs Tomomori, Case 288, pages 54, 55.

5. Kunitake's wife complains that Japanese counsel agreed during the trial that he would probably get a death sentence and that from the overall view he should take the responsibility for others, thus gaining sympathy and a probable lighter sentence. She indicates that Kunitake with full knowledge elected to take this course but she now considers that it was an improper action. In view of the strong evidence involving her spouse and the lenient sentence, it is plain that the plan (if there was such a plan) succeeded and that Kunitake's election, and his counsel's actions benefited him. No prejudice to his rights can therefore be ascertained.

6. Where the word "executions" is used in the foregoing review it is considered that it refers to illegal homicides and not legal executions.

7. There is substantial evidence which proves that Uchiyama, Kunitake, Nagatomo, Oba, Yamanaka, Shiuchi, Fujioka and Okido knew that the summary killings of the prisoners was unlawful. Uchiyama and Kunitake knew that regulations provided for trial of airmen, suspected of indiscriminate bombing, by Military Disciplinary Conference. (Exhibit 8, pp 2, 18-20). Uchiyama did not take the stand. Oba, senior Staff Officer, stated in Exhibit 69 that the 15th Area Army had set up a military commission to decide whether captured airmen had violated regulations. This was in accordance with the "stipulations" from the high authorities. The head of the commission was the Area Army Commander. The Kempei Tai did not have the authority to decide whether airmen had committed a crime nor to punish them without the permission of Army Headquarters. (p 3). Oba further stated -

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"In the early part of July 1945, I had a talk with Maj SHIUCHI of the Central District KEMPEITAI Headquarters. The details of our talk were as follows:

"a. Maj SHIUCHI called at the Operations Department of the Army Headquarters and then visited my office along with Maj (KEMPEI) HIRANO who was attached to the Army Headquarters. On this occasion, Maj SHIUCHI said that the air crew members in the custody of the KEMPEITAI would be executed in accordance with the directive (SHISHI) from the Tokyo KEMPEITAI Headquarters and because approval had been obtained from Chief of Staff KUNITAKE by Commander NAGATOMA. Whereupon, I said, 'What, haven't you done it yet?' (This expression of mine was not in the sense of prompting the requested execution, and there had been absolutely no previous request made to the KEMPEITAI concerning executions. My expression was in the teasing sense and was directed to mean that the KEMPEITAI, despite the trend of the general public which demanded the execution of air crew members, faithfully continued to follow the existing regulation. To this, SHIUCHI just smiled and remained silent.)

"b. Since I was not thoroughly familiar with the military regulations (military regulations on air attack) in regard to illegal acts of indiscriminate bombing, I sent word to Capt ONO of the Judicial Department to bring me the said regulation. After ONO came, I glanced through the regulations and told ONO that the KEMPEITAI was going to executed the air crew members under their custody, and asked him whether air crew members who committed acts of indiscriminate bombing could be executed. ONO replied that ordinarily when acts of indiscriminate bombing by air crew members were obvious, the air crew members would be committed to a military commission and would be executed according to the result of the trial. ONO further stated that although the two air crew members who were about to be tried by the military commission were not bombardiers, but for reason that the act of bombing was the joint liability of the entire crew, the War Ministry approved the Judicial Department Report which demanded capital punishment. Therefore, if the proof of indiscriminate bombing was evident, the result would be the same even though the steps of a formal trial were taken. (I did not interpret this as ONO's personal opinion but as the opinion of the Judicial Department which comprehended the intentions of the Army Commander and the Chief of Staff.)" (pp 7, 8). It is noted that the Chief of the Judicial Department was Major General Otahara, who was succeeded by Yamagami in July 1945. (R-1774). Capt. Ono denied that he ever talked to Oba about omitting Military Discipline Conference procedure. They discussed only simplification of procedure so that in the event that an execution was expected, approval of the War Ministry "would be more simply gotten". (R-1780, 1781). Oba in Exhibit 69 (p 12) further stated - "* * I think the KEMPEITAI is attempting to justify the execution by presenting the difficult situation at the time. If they were truly having difficulties with the internment of the air crew members, they would have been many ways to overcome the situation by such method as to construct additional structures to detention barracks, to utilize the guard houses of other units, Police Detention wards, department, or transfer them to the Ishikiri Prison. Consequently, if the difficulties in internment of the air crew members were used as excuses for carrying out the executions, without the benefit of usual procedure, then it was an extremely unreasonable way of settling the problem. It is also said that the investigation of the air crew members was difficult. If a really difficult situation was known to the Army the Army Headquarters would have selected officers and men from each subordinate unit and ordered them to assist the KEMPEITAI. In case the above method failed, a change could have been effected by using the next-best measure, in which the Army Headquarters itself would carry out the investigation and have the KEMPEITAI discontinue their investigation."

Shiuchi stated in Exhibit 54, part 1: "Once, when I begged YAMANAKA to do something about the airmen, he replied evasively, 'I know it but Army Headquarters, too, cannot do much without going through the War Ministry. Why doesn't the KEMPEITAI dispose of (SHOBUN) airmen as it pleases after they have been questioned for intelligence information?' I told him, 'I cannot do such a crazy thing'. I did not give much thought to this remark,

thinking that YAMANAKA's words merely reflected the general attitude of the Army Headquarters in regard to the airmen."

"13. Once, I went to the 15 Area Army Headquarters and saw OTAHARA, Chief of the Judicial Department. On that occasion, I asked him to do something at once about the airmen by taking some action, such as trial by military tribunal, to take them away from our hands. His reply was, 'We are stuck, too. Action regarding the airmen is delayed because any matter concerning them must be referred to the Minister of War'."

"17. Later, I called on Maj HIRANO in the staff room of Army Headquarters in connection with matters not related to the airmen. (I had been asked previously by Maj. HIRANO to make an investigation). Maj YAMANAKA, who stood leaning against a window in the staff room at the time, said suddenly to me, 'Haven't you killed the airmen yet? Don't you realize food is precious at the present time? Kill them at once'. Since I wanted to avoid being complicated in this matter, I fabricated an excuse on the spot by saying 'We haven't any gasoline'. To this YAMANAKA replied, 'The KEMPEITAI has charcoal-burning vehicles, has it not? I'll supply you with even a hundred sacks of charcoal'. Col OBA, who was writing something continuously at a desk in the staff room, added, 'We won't do anything to have the KEMPEITAI held responsible, so do it at once'."

"27. I cannot recall clearly the complete details of the liaison conducted to obtain charcoal. But I recall that, when I first went to see YAMANAKA, he urged me to dispose of (SHOBUN) the airmen quickly and he said he would deliver even a 100 sacks of charcoal for transportation fuel. Later when I inquired of YAMANAKA if we could depend on getting the charcoal, I remember that he replied, 'Certainly, you can depend on it. I've spoken to Staff Officer TANI about it'. (I recall that he positively said Staff Officer TANI)." (pp 7, 8, 12).

Fujioka stated in Exhibit 53 that: "d. Of course, I am fully repentent over the actions I took in this case and my heart is filled with sorrow for the American soldiers who died because of us. I am confessing everything because I am ready to face the matter squarely and accept my punishment that is due to me. I am not trying to slander others nor am I trying to protect my superiors or subordinates with this statement. I have merely stated what I believe is the truth being fully aware of the fact that it may be used against me. Apart from the legal aspect of the case, I do not think I can escape the responsibility for the execution and other things regardless of the motive. I think I should be given the severest punishment and I am ready for it. I do not have any intention of having my punishment reduced by making clever excuses. I would rather be punished as soon as possible and pay for my crime and apologize to those who were killed and their families." (pp 28, 29).

Both Fujioka and Shiuchi prevaricated in their statements and participated in the conspiracy to conceal evidence of the killings. Shiuchi fled after the surrender. Both he and Fujioka knew on the morning of 15 August 1945 that the Emperor's rescript on surrender was to be proclaimed at 1200 hours. Nevertheless Shiuchi carried out Fujioka's order to kill the 5 remaining airmen. (Exhibit 54, part 2, pp 8, 9).

Okido participated in the conspiracy to conceal and concealment of evidence of the homicides. He did not take the stand. He was warned by his subordinates, Ishida and Yamamura of the potential danger of the "letter" but he insisted that it be sent out over their protests. Even after discovering that some killings had followed receipt of his "letter" he stated that he did not make an investigation because his duties were too pressing; he was tenderhearted to all his subordinates; and was unable to carry out the investigation. When Tamura jokingly asked Okido if there was some simple way of disposing of the captured airmen Okido answered in the negative. On the same day at a meeting of section chiefs at Kempei Tai Headquarters Okido mentioned Tamura's question. No one favored Tamura's idea. He sent the letter or circular because of the crowded condition of the Kempei Tai Head-

quarters' compound, the Army's delay in deciding the status of the airmen, and the fact that the Kempei Tai was busy with its other duties.

Nagatomo also conspired to conceal evidence of the homicides. On 13 or 14 August 1945 he knew that a cabinet meeting concerning unconditional surrender was being held yet when Fujioka reported that several captured airmen still remained alive he ordered that they be killed. He stated that he believed that the Army would carry on a fight to the finish, but the nature of his information regarding the cabinet meeting was official in character. Nagatomo stated that he considered that it was not the intention of the higher authorities that it was unnecessary to take the time to pass the fliers through a Military Discipline Conference, but rather that there was no alternative but to omit that procedure. (R-2061). Nagatomo admitted that in his previous service as a Kempei officer he never ordered the execution of any persons without first giving them a trial by military or civil tribunals. (R-2062). After the war's end he heard that in America there were occasions where all procedure was omitted and after the formality of a trial of prisoner was executed and this was called a Summary Court-Martial. "At that time I recall that it was exactly as I thought, and I recalled that it made me feel a bit more at ease." At first he did not regard the airmen as having received a trial akin to the American Summary Court-Martial, "but looking at it from the results, I think so." (R-2064). Asked what he considered to constitute such a trial, Nagatomo answered: "The discovery of the true facts of the criminal offense, agreement with that, and the sentence that was given." He admitted that with the exception of 4 or 5 airmen no investigation reports were prepared on any of the remaining airmen, but only operational intelligence reports. However, he stated that most of the airmen were killed on the basis of information in such intelligence reports which showed the commission of criminal acts. (R-2065). The authority to decide the guilt of the airmen was in the hands of the army commander. He admitted that when he talked with Kunitake he was given permission to kill airmen captured in the future without submitting any reports to the Army Headquarters where the information in such reports was repetitious. (R-2066). "That I received permission from Kunitake is true, ** but I should like to add to that that reports were actually submitted and they should have been looked at by the Army and the Army should have made their determination as to the guilt." (R-2067). It is true that thereafter he did not submit any duplicate information.

The accused Wada fled after the surrender. He also participated in the conspiracy to conceal evidence of the killings. Wada admitted that he had heard and knew that all captured airmen were to be tried by military court. (Exhibit 39, p 10). He obeyed orders to carry out killings with reluctance. It was abhorrent to him and against his will. He further stated "I believe some of the high ranking officers in Osaka, because of their position, could have done something about the matter at that time if they had wanted to. I am certain that there were some of them in Osaka who could have strongly rejected such a disposition, (summary execution of the airmen) on the grounds that it was unlawful, even if the execution had come from Tokyo. Notwithstanding, they were perhaps pleased to receive such an order, or perhaps, they did not have the courage to refuse it; but at any rate, we had to participate in the executions only because we understood they had been ordered by the higher officers in Osaka." (Exhibit 39, p29). "Like I was able to understand clearly the position of the American soldiers - who had carried out acts which they themselves might have considered illegal, only because they had been ordered to do so - I ask of the judges to understand my position, that I acted only because of orders from my superiors." (Ibid, p 32).

The accused Mori knew of the existence of the military tribunal, having interrogated fliers, including Nelson and Augunas, in preparation for trial. (Exhibit 38, p 1). Shiuchi told him that an army staff officer had stated that it was too much trouble to try airmen and it had been decided by the Army to kill all the other fliers without a formal trial, since all fliers would without doubt be given the death sentence if tried by military court. He was also told by a prosecutor that Army Headquarters would not have time to bother with the trials of fliers (Other than Nelson and Augunas). (Ibid, p2). He did previously state that he learned that the Central Army

authorities did not want to take the time and trouble of holding trials any more because it was very troublesome and took a long time to prepare the trial of the first two fliers, about 3 months having been spent in preparation. He further previously stated that it was necessary to get permission from the high authorities in Tokyo in order to try captured fliers and the procedure was very troublesome, hence the army authorities wanted to save the time and trouble involved in trying each of the captured airmen. (R-2380). Mori admitted that in his statement of 27 July 1947 he originally stated "without trial" and thereafter inserted the word "formal" between these two words. (R-2381).

Hamada, a sergeant major, beheaded two airmen on 15 August 1945. According to the weight of the evidence the killing took place after the Emperor's announcement of the surrender. Hamada was the only accused who killed airmen by means of a sword an illegal method under Japanese Army regulations. The others were shot or poisoned.

8. The following excerpt from the clemency petition of Fujioka's wife is gratifying to those charged with the conduct of War Crimes trials:

> "Thanks to the efforts of the defending attorneys, and the fair judgement of the commission his life was saved."

ALLAN R. BROWNE
Lt Col JAGC
Army Judge Advocate