50.5 In his June 24, 1968 letter to his wife Commander Meacham wrote, in part, that:

"The types from DIA were here and badgered me endlessly trying to pry the truth from my sealed lips. They smell a rat but don't really know where to look for it. They know we are falsifying the figures, but can't figure out which ones and how."

RESPONSE:

The document quoted speaks for itself.

50.6 On or about July 1, 1968, Commander Meacham wrote a letter to his wife which has been marked as JX214L.

RESPONSE:

Undisputed but not material fact in this litigation.

50.7 In his July 1, 1968 letter to his wife Commander Meacham wrote, in part, that:

"I had a talk with the CICV director today and let him know the truth about the doctoring of the strength figures. Now my conscience is clear. He knows the score—whether or not he acts to straighten things out is now his concern. It's out of my hands. (One's conscience isn't much, I think, when it can be assuaged that easily!) Anyhow, that's over with."

RESPONSE:

The quoted document speaks for itself.

50.8 On or about July 3, 1968, Commander Meacham, about to leave Vietnam, wrote a letter to his wife which has been marked as JX 214M.

RESPONSE:

Undisputed but not material fact in this litigation.

50.9 In his July 3, 1968 letter to his wife Commander Meacham wrote, in part, that:

"I finished up fitness reports on my officers and wrote a long memorandum for the director on how the estimates bunch has lied in the past on strength figures."

RESPONSE:

The quoted document speaks for itself.
51. In or about 1969, the United States Military Academy published a textbook by General (then Lt. Col.) Dave Richard Palmer entitled Readings in Current Military History, which has been marked as JX 327.

RESPONSE:

Undisputed but not material fact in this litigation.

51.1 In his book Readings in Current Military History Palmer wrote, in part, that by November 1967 "the monthly infiltration figure had reached some 30,000" and that

"The first thing to understand about Giap's Tet Offensive is that it was an allied intelligence failure ranking with Pearl Harbor . . . ."

RESPONSE:

The quoted document speaks for itself.

52. In or about June 1971, The New York Times published excerpts from the so-called "Pentagon Papers", which had been commissioned by Secretary McNamara on June 17, 1967.

RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

53. In or about 1972, Pulitzer Prize-winning author David Halberstam's book, The Best and the Brightest, was published. That book has been marked as JX 321.

RESPONSE:

Undisputed but not material fact in this litigation.

53.1 In his book The Best and the Brightest Halberstam wrote about the Tet Offensive:

"... it was hard for domestic American critics to make the case against the war, to make the case for the success of the enemy ... it was the word of General Westmoreland against the word of a bunch of snot-nosed kids.

"The Tet offensive changed all ... The credibility of the American strategy of attrition died during the Tet offensive ... The Tet offensive began in earnest on January 31 and it would be felt for weeks; but within two days of its beginning, on February 2,
Johnson held a press conference saying that the offensive was a failure, that the Administration had known all about it, in fact the Administration had the full order of Hanoi's battle. It was demonstrably untrue, and the public was aware of it."

RESPONSE:
The document quoted speaks for itself.

54. On January 11, 1973, Sam Adams wrote a memorandum to the U.S. Inspector General requesting a full investigation into charges that General Westmoreland may have originated orders imposing a ceiling on the official MACV Order of Battle in 1967 and alleging that such orders violated Section 207, Article 107 ("false official statements") and Section 881, Article 81 ("conspiracy") of the Uniform Code of Military Justice.

RESPONSE:
Undisputed that substantially or approximately accurate.

55. In or about March 1973, Sam Adams testified on behalf of Daniel Ellsberg and Anthony Russo, charged with espionage involving the release of the "Pentagon Papers", including classified estimates of enemy strength.

RESPONSE:
Undisputed but not material fact in this litigation.

55.1 On or about February 26, 1973, The New York Times contained an article which has been marked as JX 330.

RESPONSE:
Undisputed but not material fact in this litigation.

55.2 An article in the February 26, 1973 New York Times stated in part:

"Mr. Adams specifically contended that the deliberate downgrading of Vietcong strength estimates began at a Saigon conference of CIA and MACV intelligence experts in September, 1967, and continued for months."

RESPONSE:
The document quoted speaks for itself.

55.3 On or about March 9, 1973, The New York Times contained an article which has been marked as JX 334.
RESPONSE:

Undisputed but not material fact in this litigation.

55.4 That New York Times article stated in part that Sam Adams sought an investigation “to see if three high ranking officers, including General William C. Westmoreland, one-time army commander in Vietnam, could not be charged with conspiracy in the fabrication of the statistics”.

RESPONSE:

The document quoted speaks for itself.

55.5 In or about May 1973, Patrick J. Sloyan wrote two nationally syndicated articles which have been marked as JX 336 and 337.

RESPONSE:

Undisputed but not material fact in this litigation.

55.6 In a May 1973 nationally syndicated article Patrick Sloyan quoted Sam Adams as saying:

“The army was under orders from Westmoreland to keep the figures at 300,000 even though some of the Army intelligence men told me later that I was right”

RESPONSE:

The document quoted speaks for itself.

55.7 Plaintiff believes that Adams’s testimony at the Ellsberg trial was false and defamatory of plaintiff.

RESPONSE:

Undisputed but incomplete.

55.8 Plaintiff took no action as a result of Adam’s Ellsberg trial statement.

RESPONSE:

Undisputed but incomplete.

56. On or about April 17, 1975, the Washington Post contained an article which has been marked as JX 339.

RESPONSE:

Undisputed but not material fact in this litigation.
56.1 On April 17, 1975 article in the Washington Post stated in part that Rep. Paul N. McCloskey had written a letter to then President Gerald Ford in which he charged that "U.S. Military policy planners deliberately concealed the true nature of Vietcong strength months before the crucial Tet offensive of 1968".

RESPONSE:

The document quoted speaks for itself.

57. In or about May 1975, Harper's Magazine published Sam Adams's article, "Vietnam Cover-Up: Playing War with Numbers", which has been marked JX 340.

RESPONSE:

Undisputed.

57.1 The Harper's article charged in part that MACV's reports of progress in Vietnam in late 1967 were based on "fabricated" estimates of enemy troop strength.

RESPONSE:

The document quoted speaks for itself.

57.2 Plaintiff believes that Adams's May 1975 Harper's article was false and defamatory of him.

RESPONSE:

Undisputed but incomplete.

57.3 Plaintiff took no action as a result of Adams's May 1975 Harper's article.

RESPONSE:

Undisputed but incomplete.

58. In mid-1975, the U.S. House of Representatives Select Committee on Intelligence (the "Pike Committee") was formed.

RESPONSE:

Undisputed.

58.1 The investigation of the Pike Committee was based in part on the charges published in Adams's May 1975 Harper's article.
RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

58.2 On or about September 18, 1975, Sam Adams testified before the House Select Committee on Intelligence in part that the:

... Tet surprise stemmed in large measure from the corruption in the intelligence process. In the months before the offensive, U.S. intelligence had deliberately downgraded the strength of the enemy army in order to portray the Vietcong as weaker than they actually were.”

RESPONSE:

The document quoted speaks for itself.

58.3 On or about September 19, 1975, the New York Daily News ran a picture of General Westmoreland, and an article which has been marked as JX 343.

RESPONSE:

Undisputed but not material fact in this litigation.

58.4 A September 19, 1975 Daily News article stated in part that: “among those Adams accused were Gen. William Westmoreland....” and that Sam Adams had testified “that U.S. officials—to please their superiors—knowingly underestimated enemy forces in Vietnam before the 1968 Tet Offensive and that as a result, American troops ‘were killed because of the ineptness of American intelligence.’ ”

RESPONSE:

The document quoted speaks for itself.

58.5 On or about September 22, 1974, Anthony Lewis wrote a column in The New York Times which has been marked as JX 345.

RESPONSE:

Undisputed but not material fact in this litigation.

58.6 A September 22, 1975 New York Times article by Anthony Lewis stated in part:

“Very briefly, what happened to Mr. Adams is that his accurate intelligence estimates of Vietcong military strength were
deliberately reduced—falsified. Before the Tet offensive of 1968 he told his superiors and the military that there were 600,000 guerrilla soldiers. The higher-ups kept the figure below 300,000 for both public and official consumption.

“The reason for the duplicity was simple enough. President Johnson wanted everyone to think he was winning the war, and perhaps wanted to think it himself. So his underlings did not want it to be known that the Vietcong had such large numbers after years of American warfare.”

RESPONSE:

The document quoted speaks for itself.

58.7 Plaintiff believes that Adams’s testimony before the Pike Committee in 1975 was false and defamatory of him.

RESPONSE:

Undisputed but incomplete.

58.8 Plaintiff took no action as a result of Adams’s Pike Committee testimony.

Response:

Undisputed but incomplete.

58.9 On or about December 3, 1975, the House Select Committee on Intelligence heard testimony from Richard McArthur that while he was serving as an intelligence analyst in Vietnam, his enemy strength estimates were arbitrarily cut in half and he was then told to “Lie a little, Mac, lie a little”.

RESPONSE:

The document quoted speaks for itself.

59. On or about October 18, 1975, The New York Times published a letter from John T. Moore, which has been marked as JX 346.

RESPONSE:

Undisputed.

59.1 In a letter published in The New York Times of October 18, 1975, John Moore wrote of Sam Adams’s charges: “As a CIA analyst working on
the Vietcong in Saigon and in the Pentagon from 1965 to 1970, I can confirm the entire thrust of Sam’s charges.”

RESPONSE:

The document quoted speaks for itself.

60. On or about December 1, 1975, Congressman Dale Milford of the Pike Committee wrote a letter to General Westmoreland that has been marked as JX 311E.

RESPONSE:

Undisputed.

60.1 Congressman Milford’s letter to General Westmoreland offered Westmoreland the opportunity to give testimony before the Committee and informed him of Sam Adams’s charges that General Westmoreland and others had “conspired to produce false estimates of the strength of the enemy forces in South Vietnam”.

RESPONSE:

The document quoted speaks for itself.

61. In or about January 1976, the House Select Committee on Intelligence completed its report, which concluded, in part, that:

“The numbers game not only diverted a direct confrontation with the realities of war in Vietnam, but also prevented the intelligence community, perhaps the President, and certainly Members of Congress, from judging the real changes in Vietnam over time”.

—“The Saigon Order of Battle Conference dropped numbers that had been used since 1962, and used those that were left in what appears to have been an arbitrary attempt to maintain some ceiling.”

—“The validity of most of the numbers was significantly dubious. Unfortunately, they were relied on for optimistic presentations... General Westmoreland used such figures to support his contentions in the fall of 1967, that the enemy’s ‘guerrilla force is declining at a steady rate’”.

—“In the context of the period it appears that considerable pressure was placed on the Intelligence Community to generate numbers, less out of tactical necessity than for political purposes”.
—“The April 1968 post-mortem done by a collection of intelligence officers... concluded that while units in one corps area were on alert, allied forces throughout the country generally were caught unprepared for what was unfolding. Certain forces even while ‘on a higher than normal state of alert’ were postured to meet ‘inevitable cease-fire violations rather than attacks on other cities.’ In other areas ‘the nature and extent of the enemy’s attacks were almost totally unexpected.’”

—“With nearly all provincial capitals under siege, the American embassy compound was penetrated by the Viet Cong, and the pacification program set back in all areas; predictions of success, announced scant months before, had turned into one of the greatest misjudgments of the war.”

RESPONSE:

The document quoted speaks for itself.

61.1 Plaintiff took no action as a result of the Report of the House Select Committee on Intelligence or as a result of any of the statements made in the Report.

RESPONSE:

Undisputed but incomplete.

62. In or about 1976, Twenty Years and Twenty days, a book by General Nguyen Cao Ky, former South Vietnamese Vice President and Prime Minister of South Vietnam, was published; that book has been marked as JX 325.

RESPONSE:

Undisputed but not material fact in this litigation.

62.1 In his book published in 1976 General Ky, noting that Westmoreland now claims to have been surprised by the magnitude of the Tet attack, wrote:

“That just isn’t true. Of course Westmoreland must have known all about the strength of the impending attack. I am convinced the White House did not, but that was for a very good reason. It was clear that some of the American leaders in Saigon deliberately issued a string of lies to the White House, in an effort to maintain the impression that the Americans were getting on top of the Viet Cong.”
RESPONSE:

The document quoted speaks for itself.

62.2 Plaintiff took no action as the result of the publication of General Ky's
book Twenty Years and Twenty Days or as a result of any of the statements
made in the book.

RESPONSE:

Undisputed but incomplete.

63. In or about 1977, President Lyndon B. Johnson's book, The Vantage
Point, was published. That book has been marked as JX 326.

RESPONSE:

Undisputed.

63.1 In his book published in 1977 Johnson wrote about the Tet offensive:

"This is not to imply that Tet was not a shock in one degree
or another, to all of us. We knew that a show of strength was
coming; it was more massive than we had anticipated. We knew
that the Communists were aiming at a number of population
centers; we did not expect them to attack as many as they did. We
knew that the North Vietnamese and the Viet Cong were trying to
achieve better coordination of their country-wide moves; we did
not believe they would be able to carry out the level of coordina­
tion they demonstrated. We expected a large force to attack; it
was larger than we had estimated."

RESPONSE:

The document quoted speaks for itself.

64. In or about 1977, Herbert Y. Schandler's book, The Unmaking of a
President, was published. That book has been marked as JX 322.

RESPONSE:

Undisputed but not material fact in this litigation.

64.1 In his book The Unmaking of a President published in 1977 Schandler
described the recognition by President Johnson's senior advisors after the
Tet Offensive that the military's enemy, strength figures "did not hold up".
Schandler quoted Justice Arthur Goldberg's recollection of the briefings the
“Wise Men” had received from General William E. DePuy following the Tet Offensive:

It just did not hold up in my mind. The briefing indicated that the enemy had lost 80,000 men killed in the Tet offensive. I asked the general what the normal ratio of killed to wounded would be. He said, as I recall, ten to one. And I said that that was a big figure and that, assuming that the Vietnamese were not as solicitous about their wounded as we were, and would not treat their slightly wounded or would put them back into combat when we would not, could we consider three to one to be a conservative figure for those rendered ineffective by wounds? And he said yes. And then I asked the question, ‘How many effectives do you think they have operating in the field?’ And he said something like 230,000. And I said, ‘Well, General, I am not a great mathematician but with 80,000 killed and with a wounded ratio of three to one, or 240,000 wounded, for a total of 320,000, who the hell are we fighting?’ It didn’t make any sense to me, and I didn’t think that it was a very good briefing. I like facts laid out. I thought there was a great obligation to tell the President the facts.”

RESPONSE:

The document quoted speaks for itself.

64.2 Plaintiff took no action as the result of the publication of Schandler’s book The Unmaking of a President or as a result of any of the statements made in the book.

RESPONSE:

Undisputed but incomplete.

65. In or about 1979, Pulitzer Prize-winning author Thomas Powers’s book, The Man Who Kept the Secrets: Richard Helms and the CIA, was published; that book has been marked as JX 323.

RESPONSE:

Undisputed but not material fact in this litigation.

65.1 In his book published in 1979 Powers wrote that in the late spring of 1967

“... General Westmoreland was supposed to be winning the war. Now CIA wanted to say the enemy army, far from slipping toward the brink of defeat, was twice as big as we’d been figuring all along. Quite a problem. Rumors of the struggle were already
beginning to circulate within official Washington, and the word from the White House was that this had to be cleared up.

“In September 1967, Adams, Carver, and William Hyland... flew to Saigon to fight over the numbers directly with the military. In one dispute... a military colonel admitted he got his number by ‘scaling down the evidence’—arbitrarily dropping the number in a given unit on the grounds they represented ‘hangers-on’ or civilians. With such techniques the military could obtain an OB just about any size it liked, and later that same day an Army officer privately told Adams what the size was. ‘You know, our basic problem is that we’ve been told to keep the numbers under 300,000.’

“The deadlock was finally broken on September 11, 1967, when the CIA station in Saigon received a cable for Funaro (Carver’s code name) from Knight (Helms’ code name) which directly ordered Carver to reach agreement. That meant accepting the military’s figures... Thus the Pentagon proved we were winning the war.

“The battle over the OB might have disappeared into the files if the real war, in this instance, had not been following so hard on the heels of the paper war. At the end of January 1968, major units of the NLF and North Vietnamese Army burst into Saigon and Hue and attacked just about every provincial capital and major town throughout South Vietnam, catching both the CIA and the American military almost totally by surprise.

RESPONSE:

The document speaks for itself.

65.2 Plaintiff took no action as a result of the publication of Powers’s book *The Man Who Kept the Secrets: Richard Helms and the CIA* or as a result of any of the statements made in the book.

RESPONSE:

Undisputed but incomplete.

66. Between 1973 and November 1980, Sam Adams conducted approximately 200 interviews with more than 60 people, more than 50 of whom were military or government officials, in connection with his research of the 1967-1968 Order of Battle controversy.
RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

67. In or about November 1980, work began on what would become the CBS broadcast, "The Uncounted Enemy: A Vietnam Deception".

RESPONSE:

Undisputed.

67.1 George Crile interviewed John Barrie Williams on several occasions in 1981. JX 45A represents part of George Crile's notes of his interviews with Colonel Williams.

RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

67.2 JX 45A accurately reflects the substance of statements made by Colonel Williams to Crile during the preparation of the broadcast.

RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

67.3 During the preparation of the broadcast George Crile, Sam Adams and Mike Wallace together conducted more than 160 interviews of more than 80 persons.

RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

67.4 JX 15 to JX 46 are notes prepared by George Crile of interviews he conducted during the preparation of the CBS broadcast.

RESPONSE:

Disputed.

67.5 JX to JX 196 are notes prepared by Sam Adams of interviews he conducted during the preparation of the CBS broadcast or prior thereto.
RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

68. On or about January 26, 1982, General Westmoreland and his supporters held a press conference at which they attacked the CBS broadcast, "The Uncounted Enemy: A Vietnam Deception", using language including "a star chamber procedure—with distorted, false, and specious information", "plain lies derived by deception", "vicious, premeditated attack", a "sham perpetrated by the unscrupulous and arrogant Mike Wallace", "a preposterous hoax", "an inquisition, with all the trappings of a star chamber", "egregious falsehoods and distortions", "petty complaints", "downright malicious", a "crude hoax" and a "disgrace to American Journalism", to attack the broadcast and its preparation.

RESPONSE:

The document quoted speaks for itself.

68.1 Westmoreland's press conference on or about January 26, 1982 was reported by newspapers and broadcasters across the country.

RESPONSE:

Undisputed but incomplete.

69. At the time the CBS broadcast was aired the persons who were responsible for determining the statements of fact made in the broadcast believed those statements were true.

RESPONSE:

Disputed.

69.1 At the time the CBS broadcast was aired George Crile believed that the statements of fact made in it were true.

RESPONSE:

Disputed.

69.2 At the time the CBS broadcast was aired Mike Wallace believed that the statements of fact made in it were true.

RESPONSE:

Disputed.
69.3 At the time the CBS broadcast was aired Joe Zigman believed that the statements of the fact made in it were true.

RESPONSE:
Disputed.

69.4 At the time the CBS broadcast was aired Roger Colloff believed that the statements of fact made in it were true.

RESPONSE:
Disputed.

69.5 At the time the CBS broadcast was aired Sam Adams believed that the statements of fact made in it were true.

RESPONSE:
Disputed.

69.6 At the time the CBS broadcast was aired Howard Stringer believed that the statements of fact made in it were true.

RESPONSE:
Disputed.

69.7 At the time the CBS broadcast was aired Alex Alben believed that the statements of fact made in it were true.

RESPONSE:
Disputed.

69.8 At the time the CBS broadcast was aired Robert Chandler believed that the statements of fact made in it were true.

RESPONSE:
Disputed.

70. Prior to July 15, 1982 Van Gordon Sauter received letters praising and supporting the CBS broadcast.

RESPONSE:
Undisputed but incomplete.
70.1 In or about February 1982, Congressman Paul N. McCloskey wrote a letter to George Crile, which has been marked as DX 8, a copy of which was furnished to Van Gordon Sauter prior to July 15, 1982.

RESPONSE:

Undisputed but not material fact in this litigation.

70.2 In his February 1982 letter to Crile, McCloskey stated in part:

... 

"General Westmoreland and the MACV that he commanded consistently and deliberately engaged, from the very beginning, in providing only 'favorable' information to visiting congressmen, and in deliberately withholding unfavorable information."

...

"...MACV's strategy was to persuade the U.S. people and Government that we must stay in Viet Nam and win. This, of necessity, required that only favorable information be revealed to the decision-makers.

"Any way you label it, this was indeed a conspiracy amongst Westmoreland and others to not only provide false information but to withhold the truth from their superior."

RESPONSE:

The document quoted speaks for itself.

70.3 In or about July 1982, Samuel Adams wrote a letter to Burton Benjamin, which has been marked as DX 6, a copy of which was furnished to Van Gordon Sauter prior to July 15, 1982.

RESPONSE:

Undisputed.

70.4 In his July 1982 letter to Benjamin, Adams stated in part:

"I do not have, nor have I ever had, serious reservations about the CBS documentary, 'The Uncounted Enemy: A Vietnam Deception.' On the contrary, I think it was a service both to United States Intelligence and to the American public.

"The people most knowledgeable about the program's main charges still attest to their validity. Among many others, these
include Colonel Gains Hawkins (Chief, MACV J-2 Order of Battle Branch); Colonel John Barrie Williams (head of the OB component for the Defense Intelligence agency in the Pentagon); and Colonel George Hamacher (chief observer for OB matters for Commander-in-Chief, Pacific—that is, Westmoreland’s immediate superior). This is no random sample of disgruntled Colonels. Together with myself, it represents the main Order of Battle officials for all the U.S. Intelligence agencies directly charges with making enemy manpower estimates during the second half of 1967.”

RESPONSE:

The document quoted speaks for itself.

70.5 In or about June 1982, Gains Hawkins wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 2.

RESPONSE:

Undisputed.

70.6 In his June 1982 letter to Sauter, Hawkins stated in part:

“I reiterated to a Newsweek reporter a week or so ago that I was perfectly satisfied that none of the information stated by me during my two or two-and-one half hour interview with George Crile was taken out of context. Indeed, I was amazed at the skill of the documentary editors in preserving the text and flavor of my remarks.”

As the officer with the primary responsibility for estimating the total enemy strength, I misused the available information to establish a figure on the irregular and political categories of enemy forces to meet what I had no doubt was the command requirement. Even though this requirement was not stated to me bluntly and baldly through command channels, there was no doubt in my mind before I attended the NIE conference in the Washington, D.C. area that a ceiling existed and that the bottom line figure was not to exceed that ceiling. This had become clear to me after two briefings in the USMACV briefing room to General Westmoreland, the first of such briefings having been attended by General McChristian. During the latter days to the concluding conference in Saigon this ceiling was confirmed on a piece of paper given to me by Colonel Morris. Colonel Morris stated to me at that time that this was to be absolutely the top figure acceptable. I must add that during my final two months of duty in
Saigon, the atmosphere within the USMACV headquarters was highly charged with sensitivity to a ceiling figure.”

RESPONSE:

The document quoted speaks for itself.

70.7 In or about June 1982, George Allen wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 3.

RESPONSE:

Undisputed but not material fact in this litigation.

70.8 In his June 1982 letter to Sauter, Allen stated in part:

“I believe 'The Uncounted Enemy' was a reasonably fair and accurate depiction of the 1967 controversy over the enemy 'order of battle' in Vietnam, that the thrust of the story was basically sound, that it was presented in a legitimate fashion.”

RESPONSE:

The document quoted speaks for itself.

70.9 In or about June 1982, George Hamscher wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 10.

RESPONSE:

Undisputed.

70.10 In his June 1982 letter to Sauter, Hamscher stated in part:

“As a professional intelligence officer and a responsible player in that MACV numbers game, it hasn’t been easy to acknowledge and describe my role. It's even more difficult to fix blame on others who might have acted as they did because they also thought they were doing what was best at the time. In more recent circumstances it seemed best to tell what happened in the hope that for once history won’t be repeated. This is what CBS News tried to do, and as far as I’m concerned the documentary was produced as well as the events and people under examination would or will allow. I have no complaint about George Crile's conduct, or his product, which is more than I can say for Don Cowet. The CBS documentary did expose briefly some guilty personalities, which is what such productions do, but it wasn’t a 'smear'. In my view, CBS owes no apology to anyone.”
RESPONSE:

The document quoted speaks for itself.

70.11 In or about June 1982, Richard McArthur wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 7.

RESPONSE:

Undisputed.

70.12 In his June 1982 letter to Sauter, McArthur stated in part:

"... this letter is to advise you that all statements made by me in the telecast were absolutely accurate.

"Mr. Sauter, the CBS Special portrayal of Vietnam Intelligence deception that I have seen to date. The entire story has not yet been told, but from my viewpoint you can be extremely proud of your fine staff and their efforts to reveal the truth to the public.

"every employee of CBS that I had contact with, secretaries, cameramen and your producer impressed me with their honesty and integrity. All statements made by me were extemporaneous.

"As I see it, your staff broke no rules, but only displayed exemplary behavior."

RESPONSE:

The document quoted speaks for itself.

70.13 In or about June 1982, Richard Moose, who from 1966 to 1968 served as special assistant to Walt Rostow, President Johnson's national security advisor, wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 278.

RESPONSE:

Undisputed but not material fact in this litigation.

70.14 In his June 1982 letter to Sauter, Moose stated in part:

"There were so many games going on with numbers during that period in question that I don't wonder General Westmoreland, Dr. Rostow and General Graham can't remember what they said from one time to the next. I doubt if anyone of them can keep straight what he said and wrote at various times or reconcile any of it with the facts as they became clear afterwards."
RESPONSE:

The document quoted speaks for itself.

70.15 In or about June 1982, Thomas Powers, Pulitzer Prize-winning author of *The Man Who Kept The Secrets: Richard Helms and the CIA*, wrote a letter to CBS News President Van Gordon Sauter that has been marked as DX 11.

RESPONSE:

Undisputed but not material fact in this litigation.

70.16 In his June 1982 letter to Sauter, Powers stated in part:

"I am writing in praise—and to my amazement, in defense as well—of the CBS documentary *The Uncounted Enemy: A Vietnam Deception*, which you broadcast last January 23. I understand that Mike Wallace and George Crile have been criticized by General Westmoreland, Walt Rostow and others for their reporting in that story. I myself thought the program a model of journalistic technique—tight, scrupulous, lucid and convincing. I am sure Westmoreland and Rostow would not trouble themselves with CBS' reporting techniques, if they had a persuasive case to make against the substance of the story."

"The politicization of intelligence has been a common place of the postwar world, but examples of it are extremely difficult to pin down in detail. Thanks to Sam Adams and CBS, the 1967 battle over the Vietcong order of battle is now the single best documented case of a chronic failing of the intelligence business. I have no doubt whatever that CBS's story is substantially correct."

...CBS, it seems to me, has pinned the case down beyond the possibility of decent denial. The military men who fudged the figures have admitted it. What more can you ask?"

..."I think CBS' documentary made an important contribution to the integrity of the intelligence process, and I hope you will express the unreserved pride in your reporters which their work deserves."

RESPONSE:

The document quoted speaks for itself.

70.17 In or about June 1982, Gregory Rushford, who in 1975 was the principal investigator of the Order of Battle controversy for the House Select
Committee on Intelligence, wrote a letter to CBS News President Van Gordon Sauter, which has been marked as DX 12.

RESPONSE:

Undisputed but not material fact in this litigation.

70.18 In his June 1982 letter to Sauter, Rushford stated in part:

"Sam Adams was the best intelligence analyst I ran across. His research was brilliant, and how he worked should be a classic primer in how to get good intelligence. And he was correct."

..."I hardly think it is necessary for me to remind the President of CBS News that the attempt to discredit Sam Adams is the standard, bureaucratic dodge to force attention away from the substantive charges. What I can tell you, is that I found Sam Adams to be a fairminded, intellectually honest man who stood up to the most critical questions with good grace.

"As for George Crile. I think you should know that if it were not for his interest in the subject as a Harper's editor, nobody in Congress would have seriously investigated the Sam Adams story. And try as hard as it could, the CIA was unable to tear down that piece. It still stands."

..."What a tragedy it will be for journalism if your internal investigation—like the shallow ones the CIA ran against Sam Adams—forces the George Criles out of the business."

RESPONSE:

The document quoted speaks for itself.

70.19 In or about July 1982, Pierre Sprey, who served as Special Assistant to the Assistant Secretary of Defense, Systems Analysis, from 1966 to 1971, wrote a letter to CBS News President Van Gordon Sauter, which has been marked as DX 279.

RESPONSE:

Undisputed but not material fact in this litigation.

70.20 In his July 1982 letter to Sauter, Sprey stated in part:

"First, based on all the information available to me from Pentagon documents and from military and civilian participants, the CBS documentary accurately represents the process by which
enemy order of battle intelligence estimates were falsified. Fur­
ther, the program is correct and fair in characterizing General
Westmoreland as having ordered that falsification to serve the
political purposes of President Johnson.”

“Second, I am convinced that The Uncounted Enemy is the
most important historical documentary yet produced for TV
because it shows the consequences of promoting to senior com­
mand offices of weak character and excessive political ambition.
Such compliant officers may be easy for politicians to live with in
peacetime, in wartime, they serve our soldiers and our country
poorly.”

“There is no doubt in my mind that The Uncounted Enemy is
historically accurate and raises an issue of vital importance to the
defense of the nation. Further, TV Guide’s distortions and
omissions make it clear that The Anatomy of a Smear is in itself a
smear intended to browbeat CBS into never again questioning the
Department of Defense’s military (or civilian) leadership.”

RESPONSE:

The document quoted speaks for itself.

71. On or about July 12, 1982, Roger Colloff wrote a memorandum to CBS
News President Van Gordon Sauter, which has been marked as JX 367.

RESPONSE:

Undisputed.

71.1 In that letter to Sauter, Colloff stated in part:

“In sum, the broadcast documented a planned series of acts,
extending over a considerable period of time, undertaken covertly,
whose purpose was to keep critical intelligence information from
relevant policy-makers at a crucial period of the Vietnam war. In
some of these actions, General Westmoreland was directly in­
volved. In others, high-level members of the intelligence com­
mand were involved. In each instance, the broadcast ascribed
involvement to those individuals who were believed, given the
facts developed, were responsible for the particular action.

“Compare this to what was said at the beginning of the
broadcast—that a conspiracy (‘a planning or acting together
secretly’) existed at the highest levels of American military
intelligence to suppress and alter critical intelligence information.
All of us who discussed this matter felt that the actions described above warranted the language used at the beginning of the broadcast.

"The broadcast did not name General Westmoreland at the beginning, in connection with the word 'conspiracy', though as illustrated above, a number of his actions were directly in pursuit of, or directly caused actions to be taken by others in pursuit of, a joint, covert plan to keep critical intelligence information from American policy-makers, the press and the public.

"Though it was a collective judgment call, based on our knowledge of the facts—coordinated planning by a number of individuals, including General Westmoreland, done in a covert manner, and for a harmful purpose, to keep critical intelligence information secret—the broadcast was justified in using the word 'conspiracy'."

RESPONSE:

The document quoted speaks for itself.


RESPONSE:

Undisputed.

72.1 Burton Benjamin believed the statements made in his July 7, 1982 report were true at the time he submitted that report to Mr. Sauter.

RESPONSE:

Insufficient information to state whether disputed or undisputed and therefore disputed.

73. On or about July 15, 1972, CBS News President Van Gordon Sauter issued an eight-page memorandum, which has been marked as JX 372.

RESPONSE:

Undisputed.

73.1 At the time Sauter's July 15, 1972 Memorandum was issued Sauter believed that the statements of fact made in it were true.

RESPONSE:

Disputed.
Plaintiff submits the following statement of material facts as to which there is no dispute. These facts establish the falsity of the Broadcast and the actual malice of the defendants. Even if defendants should dispute these facts in whole or in part, the existence of disputed material facts would require denial of defendants’ motion for summary judgment.

1. General Westmoreland’s chain of command while he was COMUS MACV was to Ambassador Bunker, who was the American Ambassador to Vietnam, and to Admiral Sharp, who was Commander-in-Chief Pacific.

2. At no time during the period starting before 1966 and ending after mid-1968 did MACV withhold from other intelligence agencies any evidence relating to the enemy order of battle.

3. During the period late 1966 through January 1968, the intelligence community was in agreement with respect to estimates of enemy main and local forces and combat support.

4. The enemy’s main and local forces and combat support had substantially greater military capabilities than self-defense militia, secret self-defense militia and political cadre.

5. Within the intelligence community there was disagreement in 1967 over the military capabilities and importance of the self-defense militia, secret self-defense militia and political cadre.

6. Traditionally, the enemy order of battle was confined to organized military units and did not include home guard or partisan elements or the enemy’s political leadership.

7. In or before January 1967, the following agencies, departments or entities, among others, knew that MACV was reviewing its estimates of irregulars (guerrillas, self-defense militia and secret self-defense militia) and political cadre and that its estimates would be increased:

   a. the White House
   b. the Department of Defense
   c. the Joint Chiefs of Staff
   d. the CIA
e. the State Department
f. CINCPAC
g. the Defense Intelligence Agency

8. JCS Chairman General Earle Wheeler summoned the Honolulu intelligence conference in early February 1967 at the suggestion of the President’s National Security Advisor, Walt W. Rostow.

9. The directive issued by General Wheeler to summon the Honolulu conference was contained in a January 20, 1967 cable which read in part as follows:

   I am becoming increasingly concerned over the contradictory order of battle (OB) and infiltration statistics which are contained in the numerous documents currently being circulated throughout Washington. Recently, there have been specific inquiries by members of Congress, White House representatives and others calling attention to these discrepancies.

10. At the Honolulu Conference in early February 1967, attended by representatives of the intelligence community, MACV J-2 advised the participants that it was in the process of reviewing its estimates of irregulars, which would probably be approximately 198,000.

11. At the Honolulu Conference in early February 1967, attended by representatives of the intelligence community, MACV J-2 advised the participants that it was in the process of revising its estimates of political cadre, which would probably be approximately 90,000.

12. In 1967 MACV could not make major changes in the format, criteria or content of its enemy Order of Battle Summaries without the concurrence of the Defense Intelligence Agency, which was the intelligence arm of the Joint Chiefs of Staff and the Secretary of Defense.

13. In late April 1967, General Westmoreland met with President Johnson, Secretary of Defense McNamara, Deputy Secretary of Defense Vance, Secretary of State Rusk, Undersecretary of State Katzenbach and JCS Chairman Wheeler and National Security Advisor Rostow.

14. The substance of the April 1967 meeting is contained in published accounts of President Johnson (The Vantage Point), Dr. Rostow (CBS interview) and General Westmoreland (A Soldier Reports).
15. In early or mid-March 1967 General McChristian learned that he would be transferred from Vietnam to the United States.

16. In or before mid-March 1967, General Westmoreland had requested that General McChristian extend his tour in Vietnam for a third year as Westmoreland's intelligence chief, but General McChristian declined, preferring to command a division rather than remain an intelligence officer.

17. After the Honolulu Conference, MACV J-2 communicated its best estimates of enemy strength to other members of the intelligence community, including DIA and CIA, and these estimates were that irregulars were approximately 180,000 to 200,000 and the political cadre were approximately 80,000 to 90,000.

18. As of April 1, 1967, both the DIA and the CIA had considered a DIA proposed to separate the self-defense militia from the military order of battle, and both agencies were receptive to the proposal.

19. In or about early May 1967 the intelligence community started preparations for a Special National Intelligence Estimate for Vietnam (SNIE 14.3-67) that would involve the entire intelligence community in a review of the enemy's capabilities.


21. On or about May 18, 1967, General McChristian completed a report on irregulars, which stated in part:

   g. The self defense and secret self defense forces (Tu Ve and Tu Ve Bi Mat), on the other hand, are predominantly concerned with village and and hamlet defense. They are poorly led and consist of both the old and the very young members (many of them women) of the village or hamlet. US and ARVN tactical unit commanders and intelligence personnel do not consider them an effective fighting force.


   a. The strength estimate for guerrillas is valid, and these forces are the only category of VC irregulars which constitute a real military threat in SVN.

   b. The strength estimate for self defense and secret self defense forces is not as well supported as the guerrilla strength estimate,
and these forces do not constitute an aggressive enemy threat within SVN.

22. The estimates for irregulars contained in General McChristian's May 18, 1967 report were as follows:

1) guerrillas—60,750
2) SD—101,150
3) SSD—23,400
4) Total—185,300

23. The increase in estimates did not reflect a sudden upsurge in the number of enemy in the respective categories but rather an improvement in the ability of MACV to estimate the Viet Cong.

24. General Westmoreland expressed skepticism to General McChristian over the military significance of certain of the members of the political cadre and irregulars, particularly the irregulars other than full-time guerrillas.


26. Ambassador Komer, who was President Johnson's nominee to be Deputy COMUS MACV for Pacification and was a former White House assistant for Vietnam matters, was a member of the Embassy Mission Council and reported to both Ambassador Bunker and General Westmoreland.

27. On or about May 19, 1967, within a few days of his meeting with General McChristian, General Westmoreland ordered his J-2 to provide him and his senior staff, both military and civilian, with a full briefing on May 28, 1967, of the new McChristian estimates of irregulars and guerrillas.


29. Following the briefing, General Westmoreland directed Colonel Hawkins to brief a representative of the Embassy on his briefing.

31. General Westmoreland never told General McChristian, General Davidson or Colonel Hawkins that they could not report their best estimates of enemy strength.

32. MACV did not participate in the June 1967 session of the SNIE which was held in Langley, Virginia.

33. Before the August session of the SNIE, General Davidson ordered Colonel Hawkins, Lieutenant Colonel Weiler, Lieutenant Robinson and Lieutenant McArthur to engage in a field survey in order to obtain the best available intelligence on enemy irregulars and political cadre.

34. MACV and the CIA did not use the same methodology in estimating irregulars, political cadre and administrative services.

35. MACV relied principally on analyses of each separate geographical area, based on field reports and other sources, while the CIA relied principally on extrapolations from a limited number of examples.

36. Colonel Hawkins disagreed with Sam Adams' methodology.

37. The estimates made by Sam Adams for elements other than the main and local forces and combat support consistently were substantially higher than the estimates made by MACV J-2.

38. Prior to the departure of the MACV delegation to the August 1967 session of the SNIE in Langley, Virginia, Generals Davidson and Godding briefed General Westmoreland.

39. Generals Davidson and Godding briefed General Westmoreland with MACV's best estimates at the time of enemy strength, which were similar to the estimates arrived at in May 1967 by General McChristian.

40. General Westmoreland accepted the briefing and directed that the MACV delegation present those estimates of enemy strength at the August session of the SNIE.

41. The MACV delegation to the August 1967 session of the SNIE in Langley, Virginia, presented MACV's best estimate of enemy strength.
42. The MACV position at the August session of the SNIE is reflected in Vu-Graphs which showed MACV's position as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulars</td>
<td>120,400</td>
</tr>
<tr>
<td>Administrative Services</td>
<td>17,000 to 35,000</td>
</tr>
<tr>
<td>Guerrillas</td>
<td>65,200</td>
</tr>
<tr>
<td>SD</td>
<td>95,075</td>
</tr>
<tr>
<td>SSD</td>
<td>22,025</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>83,000 to 92,000</td>
</tr>
<tr>
<td>Total</td>
<td>402,700 to 429,700</td>
</tr>
</tbody>
</table>

43. During the second half of August 1967, the following people among others sent or received cables which discussed the nature and substance of the issues in the dispute between the CIA and MACV:

   a) Presidential Advisor Walt Rostow;
   b) Ambassador Ellsworth Bunker;
   c) Assistant Secretary of State William Bundy;
   d) Ambassador Robert Komer;
   e) Chairman of JCS General Earle Wheeler;
   f) CINCPAC J-2 General Chesley Peterson.
   g) Director of Central Intelligence Richard Helms
   h) CINCPAC Admiral U.S. G. Sharp

44. In late August 1967 General George Godding, who led the MACV delegation to the August 1967 SNIE session, briefed JCS Chairman General Wheeler on the nature and substance of the issues involved in the dispute between the CIA and MACV.

45. General Westmoreland suggested resuming the SNIE discussions in Saigon in September 1967.

46. During the September 1967 Saigon sessions of the SNIE George Carver approached General Westmoreland with a proposal to resolve the dispute between CIA and MACV, which included listing an enemy combat order of battle consisting of main and local forces, combat support, administrative services and guerrillas, an enemy political order of battle consisting of the political cadre, and containing a discussion of other elements of the enemy, including self-defense militia, secret self-defense militia, assault youth and political cadre.

47. General Westmoreland accepted Carver's proposal.
48. The participants agreed at the September session of the SNIE that the self-defense militia would be described and discussed in the text of the SNIE and that the SNIE would state that “in early 1966 the aggregate size of the self-defense force was on the order of 150,000.”


50. The September 1967 Saigon session of the SNIE resulted in a resolution that the principal participants considered satisfactory.

51. The result of the SNIE was explained to the President, as reflected in a November 15, 1967 memorandum which the CIA, principally George Carver, drafted for the President.

52. The result of the SNIE, including the treatment of self-defense militia, was explained in a Department of Defense document, the December 1967 Southeast Asia Analysis Report, which was circulated to senior officials in the Administration.

53. On November 24, 1967, the Department of Defense and MACV simultaneously held press briefings on the revised order of battle format and totals.

54. Sam Adams described the press briefing as a relatively straightforward rendition of the SNIE.

55. The press briefing summarized the principal changes in the Order of Battle.

56. There were a number of substantially accurate press accounts of the changes in the MACV Order of Battle Summary, including ones in the Washington Post of November 25, 1967, the New Republic of December 16, 1967, and the New York Times of December 20, 1967.

57. Neither General Westmoreland nor MACV had primary responsibility for briefing Congress.

58. Starting in late 1966 or early 1967 MACV advised members of Congress periodically of the fact that it was in the process of reviewing and revising its estimates of enemy irregulars and political cadre.

59. In October 1967, the CIA advised members of Congress of the changes in the enemy order of battle that were included in SNIE 14.3-67.
60. The unit primarily responsible for estimating infiltration at MACV in 1967 and 1968 was the Current Intelligence Indications and Estimates Division of MACV intelligence.

61. CICV analysts did not have full access to the highly classified intelligence sources on which CIIED relied for making estimates of intelligence in late 1967 and 1968.

62. Senior MACV intelligence officers would have been justified in late 1967 in rejecting estimates of enemy infiltration made by junior CICV analysts.

63. The most reliable and important source of real-time intelligence relating to infiltration in the fall of 1967 was disseminated from an agency in Washington to a number of other agencies, including MACV, the Department of Defense and the White House.

64. CIIED gave General Westmoreland its best estimate of enemy infiltration.

65. General Westmoreland never communicated to his superiors anything other than MACV's best estimate of enemy infiltration.

66. There was no infiltration in the order of magnitude of 100,000 to 150,000 NVA infiltrators into South Vietnam in the fall of 1967 over and above what was reported to Washington.

67. The MACV order of battle summary carried a relatively low classification, "classified," which meant that enemy units ascertained from highly classified sources of intelligence were not listed in the OB Summary until their existence was confirmed by lower level collateral intelligence sources.

68. The identity of units that were ascertained from highly classified sources was transmitted to United States forces and others on a need to know basis through secure channels.

69. General Westmoreland sent cables to his superiors in December 1967 and January 1968 that indicated his belief that the enemy would mount a country-wide offensive at or around the time of Tet.

70. General Westmoreland put all his troops on a high level alert shortly before Tet.

71. Tet was a military defeat for the enemy.

72. No NVA units of a battalion size or larger that had not been identified before Tet surfaced in South Vietnam during the Tet Offensive.
73. Aside from a small number of unknown VC units of 300 or fewer that were created out of existing units, no VC units of a battalion-size or larger surfaced at Tet.

74. The official KIA-WIA ratio was prepared by General McChristian and was adopted at the February 1967 Honolulu Conference.

75. The official ratio utilized in Vietnam in 1967 and 1968 was 150 enemy wounded in action for every 100 killed in action. Of the 150, 35 were considered as died of wounds or permanently disabled.

76. The ratio employed to one-half of the enemy casualties during the Tet Offensive was approximately 17 enemy wounded in action for every 100 killed in action because of the nature of much of the fighting which was in the cities.

77. The established procedure at MACV was to ascribe unidentified losses that could not be ascribed to a particular unit to guerrillas, with the result that a sudden major enemy loss would cause a temporary reduction in the estimates for guerrillas.

78. In estimating enemy casualties for purposes of computing deductions from the enemy order of battle during the Tet offensive, U.S. intelligence attempted to avoid including civilians and others not included in the OB.

79. The MACV procedure in effect at Tet accounted in part for the large reduction of guerrillas in early February 1968.

80. Nothing was improperly altered, erased or destroyed in the MACV computer in the months after Tet.

81. Prior to January 23, 1982, the following CBS employees associated with the making of the Broadcast believed or entertained serious doubts whether the central thesis of the Broadcast, namely, that General Westmoreland participated in a conspiracy or deception to suppress intelligence from his superiors, including the President and the Joint Chiefs of Staff:

   a. The first Executive Producer of the Broadcast, Howard Stringer;
   b. The Senior Producer and second Executive Producer of the Broadcast, Andrew Lack;
   c. The Correspondent of the Broadcast, Mike Wallace;
   d. The Producer of the Broadcast, George Crile;
   e. The paid Consultant of the Broadcast, Sam Adams;
f. The Editor of the Broadcast, Ira Klein;
g. The first Researcher for the Broadcast, Alex Alben;
h. The Secretary to the producer and the second researcher for the Broadcast, Carolyne McDaniel; and
i. The Assistant Film Editor of the Broadcast, Phyllis Hurwitz.

82. Between January 1, 1981 and January 22, 1982, the following people told defendants that their thesis was wrong or that CBS was on the verge of making a serious mistake in its planned documentary:

Walt W. Rostow, National Security Advisor to President Johnson;
Robert S. McNamara, Secretary of Defense;
Paul H. Nitze, Deputy Secretary of Defense.

83. As of January 22, 1982, defendants had in their possession the following documents, among others, which Sam Adams had purloined from the CIA or which defendants had obtained from some other source:

a. Hawkins' Vu-Graph's of MACV's Langley Conference position in August 1967. (JX 248)
b. CIA April 1, 1967 cable reporting DIA initiated suggestion to break out guerrillas from other elements in the category. (JX 895)
d. Hawkins' letter home of May 31, 1967 acknowledging briefing of Mr. Zorthian on new strength figures. (JX 213)
e. Honolulu Conference Report. (JX 227)
f. SNIE 14.3-67. (JX 273)
g. MACV Press Release of November 24, 1967. (JX 277)
i. Memo, 3/12/67, from McChristian's Sandine re captured notebooks (JX 229)
j. CIA cable, 6/2/67 (JX 239)
k. CIA cable 6/9/67 (JX 240)
l. Cable, 7/10/67, from Carver to Helms (JX 245)
m. Cable, 8/19/67, from Kromer to Carver (JX 250)
n. Cable 8/6/67, from Abrams to Wheeler, Sharp, Westmoreland (JX 252)
o. Cable, 8/20/67, from Westmoreland to Wheeler Sharp. (JX 253)
p. Memo 9/15/67, from Carver to Bunker (JX 261)
q. Cable, 10/28/67, from Bunker to Rostow (JX 767)
r. Memo 11/9/67 by Adams (JX 269)
s. CINCPAC/MACV dissent to the CIA OB analysis, South Vietnam. (JX 312)
t. House of Representatives Hearings before the Select Committee on Intelligence: testimony of Daniel O. Graham, William Colby, George Carver, George Allen, James Graham (JX 311)
u. 5/23/67 extract from CIA publication (JX 217A)
v. 4/2/68 cable re Tet (JX 373).
w. 1/16/68 Adams news of conversation w/Hawkins’s (JX 379)
x. 2/20/68 Halpin memorandum (JX 382)
y. 2/11/67 Scorburg cable (JX 395)
z. 1/14/68 Westmoreland cable to Sharp (JC 399)
aa. 1/15/68 Westmoreland cable to Sharp (JX 400)
bb. 1/25/68 Westmoreland cable to Sharp (JX 401)
cc. 1/21/68 Westmoreland cable to Sharp (JX 402)
dd. Taylor & Graham letters to Harper’s (JX 407)
eee. 6/23 draft memo by Adams on NIE session (JX 421)
ff. 1/19/68 Westmoreland cable to Sharp (JX 423)
gg. 1/23/68 Westmoreland cable to Sharp (JX 424)
hh. 1/23/68 Westmoreland cable to Sharp (JX 425)
i. 12/16/70, MACV infiltration study (JX 444)
Because of their biases, memory lapses, lack of access to reliable information or providing inherently improbable or contradictory information, defendants had reason to doubt the reliability of information relating to events in Vietnam provided by the following, among others:

a) Sam Adams
b) Gains Hawkins
c) George Allen
d) George Hamscher
e) J. Barrie Williams
f) Russell Colley
g) Bernard Gattozzi
h) Richard McArthur


Prior to July 15, 1982, Van Gordon Sauter was familiar with, among other things, the substance of the press conference held by General Westmoreland, Ambassador Bunker, General Davidson, General Graham, Colone Morris and George Carver on January 26, 1982; the TV Guide Article, "Anatomy of a Smear: How CBS Broke the Rules and 'Got' General Westmoreland; "the Benjamin Report; and the views of those who participated in making the Broadcast.