MR. MURRY: General Daniel O. Graham.

DANIEL O. GRAHAM

called as a witness by the plaintiff defendant, having
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MURRY:

Q. General Graham, where do you currently reside?

A. I live in Arlington, Virginia.

Q. Are you currently employed?

A. Yes. I am the director of a public affairs

project called High Frontier.

Q. With whom do you reside in Arlington, Virginia?

A. With my wife.

Q. Do you have any children?

A. I have seven children and seven grandchildren.

Q. Could you tell me a little bit about your

educational background?

A. Yes. I graduated from public schools in the

state of Oregon, went in the Army in 1943, graduated from

West Point in 1946 and since then normal military schools

including Command and General Staff College and the Army
Q. When did you go to the Command and General Staff College?
A. That was 1956 and 1957.

Q. When did you attend the Army War College?

Q. What was the purpose of your attending the Command and General Staff College?
A. Well, that's one of the normal things that happens to you in your military career if you are getting anywhere.

Q. What sort of subjects are taught?
A. Well, at the Command and General Staff College it's mostly tactical command work and staff work for division and corps level staffs and at the Army War College you learn about more general military policy.

Q. What positions have you held -- strike that. How long did you serve in the United States Armed Forces?
A. 33 years.

Q. What branch of the service did you serve in?
A. I was in the United States Army. Actually, in my career I was in three branches: Army, the Quartermaster Corps, the infantry and the military intelligence.

Q. What rank did you have when you graduated from
West Point?

A. Second lieutenant.

Q. At what rank did you retire, sir?

A. Lieutenant general.

Q. How many stars does a lieutenant general have?

A. Six, three on each shoulder.

Q. Let me ask what positions you held during your career with the Army.

A. I graduated second lieutenant and went to Germany and served in the 1st Infantry Division as a quartermaster officer then served on the Berlin Air Lift as a supply officer, loading up aircraft to be flown up to Berlin.

Then I worked at commanding various companies of quartermaster type troops until I returned to the United States where I was assigned to the 11th Airborne Division as a parachute maintenance officer and from there I went to the -- to Russian language school in Monterey, California, was assigned from there to Special Forces at Fort Bragg, North Carolina.

From Fort Bragg I went to the infantry school. By that time I had transferred to infantry. I was shipped out to Korea. I commanded an infantry company in Korea for 16 months. I came back to the United States and was assigned to the 101st Airborne Division, went from there to
the command and general staff school.

From command and general staff school I was assigned for the first time to the Pentagon as an intelligence officer.

Q. Let me interrupt you for a moment. When you were assigned to the Pentagon what rank did you hold?

A. I was a major at that time, a brand new major. When I was assigned to the Pentagon I became estimator on the Soviet affairs and I was the chief staff officer on that matter for the Army Chief of Staff Intelligence during the Cuban Missile Crisis.

I stayed in Army intelligence in the Pentagon until 1962 when I went to the Central Intelligence Agency as a staff officer in the Office of National Estimates.

I left to go to the Pacific to command a military intelligence battalion, part of which I took to Vietnam to set up -- to increase the U.S. military intelligence capabilities in Vietnam, returned to my battalion headquarters in Hawaii in 1966, then was sent to the Army War College at Carlisle Barracks, in Pennsylvania.

In 1967, in early July, I reported out to Saigon, where I became the chief of a newly merged, two divisions newly merged, the current intelligence and the estimates division in Vietnam.
I stayed out there until August 1968, returned to the United States and was reassigned to the Central Intelligence Agency, again in the estimates -- national estimates shop at the central intelligence and by 1970 I had made brigadier general. They moved me to the Pentagon where I was chief of military estimates for Defense Intelligence Agency.

In 1972 I was reassigned to CIA and became the deputy at CIA for the intelligence community and then went to the Defense Intelligence Agency in 1974 as the director of Defense Intelligence Agency and retired from that job in 1976.

Q. You mentioned a number of times that you were in offices in which you were an estimator. Could you tell us what an estimator does in the offices that you held?

A. Estimates are something one makes in the intelligence business when you can't state something as an assured fact and that you have to make some judgements about it. In particular, estimates involves -- usually involves -- predictive kinds of intelligence. You estimate what the situation is and you also predict what's going to happen in the future. That's essentially what estimates are all about.

Actually, it's the top of the intelligence...
business because the estimator takes information from all various parts of whatever organization he's in, or in some cases from all over the intelligence community, from CIA, DIA, NSA, the services, FBI and others and put it together and see what it all means or try to state what it all means. That's essentially estimates.

Q. Did you write any estimates?

A. I have written many, many estimates, national estimates on the total Soviet conventional force capability, estimates on Soviet long-range ballistic missile capabilities, bomber capabilities, estimates on the number of warheads they have in their inventory and in Vietnam estimates of totals of enemy strength, estimates of what enemy actions capabilities would be or estimates of what the enemy was capable of doing and might do in the future.

Q. Let me focus on the period in which you served in Vietnam.

When were you assigned to Vietnam, if you can recall?

A. In early July.

Q. When did you leave Vietnam?


Q. Could you tell me again what your assignment was?

A. My assignment -- well, General Davidson, who was the newly assigned J-2 -- that's the intelligence officer --
in Vietnam called me while I was at Carlisle Barracks at the war college, toward the end of the war college term, and offered me one of two jobs in Saigon, either chief of estimates or chief of current intelligence.

I told him I wanted to be the chief of estimates because that's my real specialty. But when I arrived there General Davidson had combined both jobs and gave me both of them.

So on the current intelligence side it was a matter of trying to keep up with what the enemy forces were doing at any given time and making short-term estimates of what they might do tomorrow, the next day, next week.

On the estimates side, it was compiling their total strength, their total capabilities and what was more likely over the longer term to happen.

Q. Did you have subordinates working under you when you were at MACV in Vietnam?

A. Yes. In both shops I had a chief. I had a Commander Neen who ran my current intelligence shop. He was a first-rate naval officer.

And then I had an estimate shop and the first chief of that was a Colonel Leo O'Shea. There were about I would say 16, 18 people in the estimate shop and there were a good 40 or 50 people in the current intelligence shop.

Q. To whom did you report when you were chief of
current intelligence indications and estimates?

A. I reported through a Colonel Charlie Morris to General Phillip Davidson, formally.

In fact, I had a lot of personal contact with General Davidson himself.

Q. What were your duties as the head of current intelligence indications and estimates?

A. Well, my job was to insure that the current intelligence developed in Vietnam was disseminated to all other interested parties, both in Vietnam and back in Washington, and it was -- the biggest job was to run four corps desks in which we had young officers who would keep track of what was going on in each of the four corps areas in Vietnam and stay in close contact with the commanders or at least of the intelligence people of the commanders of the four corps area to keep the Commander in Chief and the rest of the MACV staff, the command's rest of the staff, informed as best he could of the intelligence situation.

Q. What were your duties with respect to the estimates division?

A. As chief of estimates, my duties were to make sure that matters that had an impact on trends in enemy strength, enemy capabilities and so forth, were thoroughly researched and reported out, again, for the use of the staff and for the information of people outside the command,
Q. Could you describe for us what the typical daily routine was while you were head of current intelligence indications and estimates?

A. Well, first of all, it started out very early in the morning because the current intelligence shop worked all around the clock and the first thing we had to do was to get to prepare a morning briefing for the J-2, General Davidson, and the assistant J-3, a marine General Chasson and then to prepare a report that was disseminated, after that brief, disseminated to all of the recipients of the intelligence that we produced.

Q. What was the name of that report that was disseminated?

A. A daily intsum, intelligence summary. Weekly, we prepared an intelligence estimate update where we took everything that happened that week and put it into a cable that -- a message -- went out to the same recipients, including back in Washington, of what we considered to have happened that week and what was likely to happen in the near future.

Q. Have you heard that referred to as the WIEU?

A. The WIEU is what we called it, W I E U, WIEU.

Q. That stands for?

A. Weekly Intelligence Estimate Update.
Q. I interrupted you, sir.

You were telling me about your duties and your typical day. I'm sorry.

A. Well, the staff officers that put together both those reports it was my responsibility to make sure they did it right. I reviewed that material as it was produced. If I had questions about it, I would question them. That's essentially what I did.

Q. In a normal working day for yourself, back in 1967, what types of things did you do after the morning briefing you've described was completed?

A. Well, for one thing in order to keep myself sufficiently informed as to what was going on I myself would read large stacks of captured enemy documents, POW interrogations, reports from the commands in the field, studies that had come in from other headquarters or from other parts of MACV pertinent to the enemy situation. So there never was a time that I didn't have something -- if I wasn't doing something else there was something that I had to be going over in order to stay on top of the situation in order to do my job the way it had to be done.

Q. Is what you described as the WIEU an oral or a written presentation or both?

A. It was both. Every Saturday morning we had what we called we briefed the WIEU. The commanding general and
his chief staff officers and usually every one of the corps commanders would be in Saigon. They would assemble in my briefing room. One of my officers would brief them on what we had -- on the contents of the WIEU and any other special intelligence subjects we might have to present at the time.

Then the staff -- the intelligence staff -- stood by for questions from the commander or any of his staff and subordinates.

Q. Did you attend these WIEU's yourself in 1967?
A. Yes.

Q. How often did you attend the WIEU's?
A. Every week.

Q. Did General Westmoreland attend the WIEU's?
A. Almost every time. Sometimes General Westmoreland would be on a trip somewhere and in that case his deputy, General Abrams, would be there.

(Continued on next page)
Q. Did the WIEU's contain enemy strength figures?
A. Yes, sometimes they did, particularly if there were changes in enemy strength, changes in rates of infiltration, or something like that. Those would be reported in the WIEU.

THE COURT: You said the WIEU was both oral and written. I think you described the oral form.

THE WITNESS: Oh, that's right, your Honor. We wrote it first and the cable was sent out and then we had a briefing afterwards and the contents of the WIEU in, you know, a little more oral form was briefed to the commander and staff.

But the written part went back by teletype and by secured -- secure communications that we had to other parts of the world.

Q. You mentioned a moment ago reading captured enemy documents. How did you obtain these captured enemy documents to read?
A. Well, one of the organizations of the J-2 -- that's the intelligence officer -- in Vietnam was the Combined Document Center, and all of the documents captured in the field were delivered there and first read to determine the importance of the content by Vietnamese. If it was immediately important to the rest of us in intelligence they would be translated very quickly into
English and delivered to all of us in the command who needed to know what was in those documents. If some of the documents were lengthy and purely historical it might take some time for them to find their way through the priority system at the document center, but eventually those documents would be translated and reach my box.

Q. Who did these translations of documents that were captured in the field?

A. For the most part, they were bilingual Vietnamese and under the command of a Colonel Ajima, a Nisei, who had set up and operated that document center.

Q. Do you know who else besides yourself received copies of these translations of captured documents?

A. Well, large packets would be sent back to Washington, to the Army, the Navy, the Air Force, the Central Intelligence Agency, at a minimum, and perhaps others that I don't know of offhand.

Q. Do you know whether CINCPAC received copies of these translations?

A. Yes. CINCPAC, Commander in Chief Pacific, the J-2 also got those documents.

Q. Do you know whether DIA got copies of these translations?

A. Yes, I am sure DIA did get copies.
Q. Is the term --

THE COURT: Are you speaking of your own distribution list or are you saying that you assume that somebody else transmitted the documents to each of these agencies?

THE WITNESS: Well, I didn't have to assume it, your Honor, because at the bottom of each page would be the distribution list, as to where they were going. But my shop did not make the distribution. My shop just got our bunch of the documents. It was up to the document center itself to make distribution of the documents.

THE COURT: And you say that the distribution list on those documents included each of the agencies that you just mentioned?

THE WITNESS: That's right. If not on each document, at least on the cover letter per package that we got.

Q. You mentioned a moment ago, I believe, an organization called CICV. If you didn't perhaps I should just ask you a question. Are you familiar with an organization called CICV?

A. Yes. CICV was the Combined Intelligence Center Vietnam. That was a combination of U.S. and Vietnamese personnel who worked on order of battle problems and other intelligence matters, relying primarily on the kind of
information that we call collateral, that is, intelligence
information that is not highly sensitive.

Q. Did you make an effort when you arrived in
Vietnam to familiarize yourself with the functioning of
CICV?

A. I went to CICV for a briefing tour after I had
been there about a week or ten days. I am not quite sure
when. However, I did not spend much time with CICV as a
matter of fact.

Q. Did you come to an understanding during your
tour in Vietnam of the relationship between CICV and CIIEC?

A. Yes. As a matter of fact, both CICV and my
organization reported to the same boss, who was Colonel
Morris, and occasionally people would come over from CICV
to my shop, because some of them were cleared for these
more sensitive types of information, some of the U.S.
personnel were.

Q. You said a moment ago that you did not spend
much time at CICV. Can you tell me why you did not?

Well, to be perfectly frank, CICV was to me bean
counters. They were the people who tried to assess bits
and pieces of the force, and while there was some
requirement to do that, that was not what I needed in the
intelligence -- in the estimates business or the current
intelligence business.
All I needed was to know in gross terms what they considered enemy strength to be, in gross terms how many maneuver battalions there were, and some of my staff officers from time to time would need to look at the detailed order of battle to find out or to check and see whether a given enemy unit that had been reported in contact someplace in Vietnam was in fact anyplace near that place in order to make reporting -- the current intelligence reporting correct.

However, I had some real difficulties with the CICV product. For one thing, their strength figures would had a lot of mock certainty in it. You would see a figure like a total in Vietnam of 246,113 people, or something like that, as if we knew there weren't 246,112 or 246,114, and that was preposterous.

The fact of the matter is we couldn't tell. You know, if we made an estimate and said that we could tell within 10,000 we were probably stretching the reality of our ability to count individuals, individual members of an enemy force.

So looking at this mock certainty that came out in the top figures that I had to deal with coming out of CICV, I didn't feel it was of much value to go plunging on into the document and see what all the little detailed figures were down at district and province and so forth.
Q. General Graham, I want to show you a document that has previously been marked as Exhibit 198 R. Can you identify this document, General?

A. Yes. It is an order of battle summary and it is the primary product of CICV. It has the Vietnamese patch and our MACV patch on top. It was a document prepared by the Vietnamese and U.S. analysts at CICV.

Q. You say it has the Vietnamese patch and I think you said the U.S. patch.

A. That's correct.

Q. Do you know why it has those two patches on the cover?

A. Because this organization was set up to coordinate the order of battle data and to make sure that both sides had a common base on order of battle and where you could combine the Vietnamese intelligence people in with our own.

For that reason CICV and my organization were physically separate, because much of the information coming into my organization was such that we simply could not share with the Vietnamese nationals.

MR. MURRY: May I approach the witness, your Honor?

THE COURT: Yes.

Q. General Graham, I want to show you a page of the
document that's been marked as Exhibit 198 R, and let me just show it to counsel for defendants before I show it to you.

General Graham, could you read the heading on that page for us?

A. The heading says "Recapitulation of Accepted Enemy Order of Battle in the Republic of Vietnam." "RVN" it says. "Section 1, total accepted personnel strength," with an asterisk, and the asterisk says "North Vietnamese Army strength shown in parentheses."

Q. Was your office on the distribution list to receive copies of documents such as Exhibit 198 R?

A. Yes.

Q. Did you ever read the entire contents of documents like Exhibit 198 R when you were in Vietnam?

A. No, I did not.

Q. Did you read --

A. All I required for my work was to just read the recaps. It was of no particular value to me. It would have been a waste of my time to plunge on farther into this very heavy document.

Q. When you say you just read the recap, to what are you referring?

A. Well, the sort of recap that is on this page.

As a matter of fact, hitting my personal desk would only be
a few pages of this full document. Some of my analysts might have occasion to go through the full document and therefore had them available.

Q. What does this recap that you are referring to contain?

A. Well, it breaks down the personnel strength of the enemy in Vietnam by the total within ARVN, Republic of Vietnam, and then subtotals by each corps area, and it has essentially three categories. One is combat, one is administrative services, and the other is guerrillas. And then there is a grand total.

Q. Are there figures given for the categories listed in that recap?

A. Yes, there are. Under combat there are three subcategories, or there are two subcategories under combat, maneuver -- that is battalions and companies and so forth -- and combat support -- which is like engineering, sapper units, or something like that -- and there are totals under administrative service and there are totals under guerrillas.

Q. What's the figure in Exhibit 198 R for the category called combat?

A. 116,552, in this particular document.

THE COURT: What's the date as of which that document speaks?
THE WITNESS: And this document is from 1 October through 31 October 1974.

No, no, it isn't. That's the degrading date. October 1967. Excuse me, sir.

Q. General Graham, did you ever attempt to ascertain why CICV published an order of battle that contained a figure such as the one you have recited there?

I think it was 116,552.

A. I knew how this happens. I didn't have to ask.

Q. How did you know how it happened?

A. Well, I had seen it happen so many times when --

in classic order of battle, where you do have a few units where you actually know there are say 22 people in it, and then you have another category, such as, in this case, say guerrillas, where you didn't know within 10,000, and you make a guess at say 81,000, but then you add the two things together and you have 81,022, which is a ridiculous figure to me. At least, it's ridiculous for estimating purposes.

Q. Is that document you have in front of you an estimate?

A. Not in my terms, it is not an estimate. This is an order of battle summary, and so long as it's treated as such, then these mock precision-type figures I guess are acceptable.

You see, if you really knew that there were --
if you really knew down to the last man, of course, you
don't require an estimate.

THE COURT: I don't understand your last answer
to the question. When you say "Not according to me, this
is not an estimate," are you referring to your own personal
terminology or are you referring to terminology that is in
general use in the military?

THE WITNESS: Well, to both, your Honor. To me
it is no estimate, and I don't believe anybody in the
estimating field would consider this document an estimate.

Q. Were you familiar with an entity called the SSO
at MACV in 1967?

A. Yes. That is an entity that distributes highly
classified materials through secure communications and
receives it from other headquarters.

Q. Was there an entity designated as an SSO in MACV
J-2 during your tour in Vietnam?

A. Yes, there was. It was in my area of the
headquarters.

Q. Did you have reason in the course of performing
your duties at MACV to communicate with persons in this
entity?

A. Yes.

Q. Do you know from what agency or entity the SSO
obtained its information?
Q. And what was that agency or entity?
A. NSA.

Q. If I could direct your attention again to that recap, which I believe is section 1-1.
A. I got it.

Q. Is there a category there for guerrillas?
A. There is.

Q. Did you make any effort during your tour at MACV to ascertain the nature and capabilities of what are referred to as guerrillas in that document?
A. Yes, I did.

Q. Let me ask you first, sir, how did you go about doing that?
A. Well, I looked at the various kinds of documents that pertained to indications of guerrilla strength, including this kind of document. I don't know whether this one -- I am sure not this one, because this is October '67. But I could tell by looking at this document that this was probably incorrect, because it says that there were 81,300 guerrillas, and if there was one area where you couldn't tell within 10,000, it certainly was guerrillas.

I also looked at other documents that had been -- other analyses of guerrilla strength in Vietnam, and I looked at the operational reports to see if there -- if the
number of guerrillas bore any relationship to guerrilla activity, and I found, for instance, that 50,000 guerrillas at that time were supposed to have been in IV Corps, which is the southernmost corps in South Vietnam, and yet guerrilla-type activities were quite rare.

In other words, in a week's time there might be six incidents or a dozen incidents of guerrilla activity, and yet I was supposed to believe that there were 50,000 guerrillas down there.

To me that meant one of two things; either that there weren't that many, or if there were that many, they weren't very important, because they weren't doing anything. The other kind of thing that I found out in my research was that the Vietcong used the guerrilla force as a replacement base, that if they lost people in combat or were captured or for some other reason the number of people in a battalion went down, then they would pull guerrillas up to fill up the ranks, and that this had been going on for a very long time.

So my suspicion was that, within -- after a couple of weeks of study in Vietnam, was that we were probably overstating the case with regard to guerrilla strength.

THE COURT: In your last answer you said, with respect to the IV Corps area, that you were supposed to
believe there were 50,000 guerrillas there.

What do you mean when you say you were supposed
to believe? You were supposed to believe according to what,
according to what document or what piece of information?

THE WITNESS: Well, your Honor, I am not quite
sure of that figure, but it was around 50,000, and it was
in this kind of document, in the recapitulation, which
shows the number of guerrillas by corps. In this
particular October one it has 25,800 in IV Corps, but as I
recall, when I first came to Vietnam the number was 50 --
very close to 50,000, if not 50,000.

THE COURT: When you say in this kind of
document, you mean in a CICV OB summary?

THE WITNESS: A CICV monthly order of battle
summary.

Q. You mentioned a moment ago that you were reading
operational reports. Could you tell me what that means?

A. Well, both on a daily basis and a less frequent
basis other parts of the MACV staff, the J-3, for instance,
who is the operations officer, and the J-5, who is the
plans officer, would produce operational reports that told
you how many contacts had been made because they were
initiated by us, how many enemy contacts that occurred that
were initiated by the enemy, how many incidents of mining
of roads, how many incidents of armed people coming in and
taking the villagers off and making them listen to some propaganda lecture, and so forth.

All these various types of incidents were broken down and reported on a daily basis by the operations side at MACV headquarters and then they were compiled in a statistical report that I believe was on a monthly basis.

It was that kind of reporting that I looked at and determined that guerrilla activity was far too low to be in any way -- that it could relate properly to the total numbers of guerrillas that others thought to be available in Vietnam.

Q. What time frame are we talking about?
A. Well, I am talking about an effort that started very shortly after I got to Vietnam, say within a week after I got my feet on the ground with the two divisions put together. I can't tell you how long it took, but it didn't take me more than I would think two weeks to come to the conclusion that there was something rather wrong with those figures.

Q. Would you turn to the very last page of the document that's been marked as Exhibit 198 R.
A. All right.

Q. Can you tell me what the heading on that page says?
A. It says "Vietcong Political Infrastructure,"
Total Political Strength, RVN and CTZ."

Q. What does CTZ stand for?
A. I can't remember. I don't know what CTZ stands for.

Q. How many CTZ's are there?
A. Oh, yes. It's our own zones. Corps tactical zones I guess that stands for. I never ever used that term myself. When it says I, II, III, IV, that's obviously the four corps areas.

Q. Is there an estimate of the numerical size of the political infrastructure on that page?
A. Yes, there is. It's 84,000.

Q. Are you familiar with the term Special National Intelligence Estimate 14.3-67?
A. Yes, I am.

Q. Do you know whether any discussions relating to that particular estimate were held in September of 1967?
A. Yes, they were.

Q. Did you participate in any of the discussions relating to this particular estimate?
A. Yes, I did.

Q. And what participation did you have?
A. I mostly listened to argumentation one way and another about how many people there were in administrative services, how many people there were in the guerrilla force,
and whether or not certain categories of guerrillas should be counted separately, such as assault youth, secret self-defense guerrillas and self-defense guerrillas.

Q. Where did these discussions about the NIE in September of 1967 take place?

A. In September those discussions took place at MACV headquarters in Vietnam.

Q. You mentioned listening to discussions about the guerrillas, the assault youth, the secret self-defense and the self-defense. Did you have, in the course of your duties at current intelligence indications and estimates division, an opportunity to make an assessment of the relative military capabilities of each of those types of enemy?

A. No, and I would -- it was my opinion that it could not be done, that the way we determined whether or not there were guerrillas, even our not very precise ways of attempting to count guerrillas, none of it would allow you to break them out by what kind of guerrilla.

For instance, if you saw a Vietcong guerrilla and counted him in a district there was no way for you to tell whether that was one kind or another of a guerrilla.

So it was my opinion from the very beginning that no attempt should be made to try to differentiate between one kind of guerrilla and another.
Q. Do you know whether there were discussions
during the September NIE sessions that focused on the
question of whether you could differentiate between types
of guerrillas?

A. Yes, that's right. Documentation from the enemy
documents indicated that they could probably tell the
difference between one kind and another, and attempts had
been made, both in Vietnam and elsewhere, to take documents
that suggested maybe there were X number of one kind as
opposed to another kind for a district and then extrapolate
those documents and say that you could do this throughout
the country.

To me that was a pedantic exercise that bore
very little connection to reality. In reality a guerrilla,
dead or alive, you couldn't tell whether he was secret
self-defense or self-defense or assault youth or whatever.

(Continued on next page)
BY MR. MURRY:

Q. Who engaged in these discussions in the September NIE sessions over various types of guerrillas?

A. Well, I myself expressed my opinion; a Mr. Carver from CIA expressed his opinion; Mr. Adams from CIA and any number of other analysts from MACV; Colonel Morris expressed his opinion and other junior analysts whose names I do not recall.

Q. You said Mr. Carver was from what agency, sir?

A. Central Intelligence Agency.

Q. Do you recall what Mr. Carver -- I'm sorry -- Mr. Adams said about these types of irregulars?

A. Mr. Adams was convinced that you could extrapolate from documents and count them separately and furthermore add about 200,000 to the total strength figures as a result.

I argued strenuously against that for reasons I've already told you that we could scarcely account for the numbers of guerrillas we already had given the low level of activity and that I would certainly be opposed to trying to make a specious argument, specious to me, that somehow you could tell one guerrilla from another in the way that we counted guerrillas.

If there were secret self-defense guerrillas that were in fact of sufficient military potential that
they should be counted we would be counting them in a total guerrilla figure. It was not a matter of saying they don't exist. Yes, they exist, but let's count that whole batch of guerrillas and such secret self-defense forces and self-defense force guerrillas who were valuable militarily would be counted as guerrillas.

THE COURT: Hold on just a second, please.

(Pause)

THE COURT: Excuse me. You may proceed.

Q. In the discussions that you had in September or that you observed in September -- I'm sorry -- regarding the SNIE, did you have occasion to learn whether the participants, such as Mr. Adams and Mr. Carver, used the term guerrilla to mean the same things that you used the term to mean?

A. I don't know. I can't really answer the question.

Q. What, in your opinion, made the type of irregular a significant military threat?

A. Well, what made a guerrilla a significant military threat was that if he bore arms and if he did military things that were a danger to the accomplishment of the mission of the command.

To me there were a lot of people in Vietnam that would wash the VC's socks or perhaps carry a bag of rice
for them or something like that but they should not be
counted as part of the military order of battle. They
should not have been counted as part of the military threat
that needed to be overcome in Vietnam.

So that in my view — in my view — many of the
people that Mr. Adams and others wanted to add to the order
of battle were people who did not deserve to be in the
order of battle and did not deserve to be counted as a
military threat.

On the other hand, if we carried just a solid
group of guerrillas, a figure that I personally believed
already to be too high, we certainly would have included
any self-defense or SSD or assault youth that was, in fact,
a danger to the command.

Q. During the SNIE conferences in September, were
you ever told that there was any kind of ceiling on total
enemy strength that could be estimated by MACV?

A. No.

Q. At any time during your tour in Vietnam were you
ever told that there was any kind of ceiling on total enemy
strength that you would be allowed to report?

A. No.

Q. Did you ever hear the phrase "the command
position" during your tour in Vietnam?

A. Yes. The command position on matters of
importance to me, which was in intelligence, was the position arrived at on any given subject by the entire staff of MACV and presented to the Commander in Chief if he bought our collective wisdom or foolishness, whatever it happened to be, that was a command position.

There's sometimes a suggestion that if you are talking about a command position it's something the commander says that's your position.

It really works the other way around. We tell, the staff people say, commander, this is our position. Please, buy it.

It certainly works that way in intelligence because no commander is able to make his own -- pull together all the bits and pieces that go into the intelligence bit and say, I hereby declare this is the command position.

Command position doesn't mean it came down by command. Command position means it is the position of the total command.

Q. Was the phrase "command position" something that you heard on more than one occasion in Vietnam?

A. Oh, yes, and having to do with operations logistics, plans and intelligence, personnel too.

MR. MURRY: Your Honor, I'm about to start into a new area. Would this be a convenient time to break?