Q. One of the things that you say in the language that you read was that "Evidence has recently come to light which suggests the VC may be further blurring this distinction to the point where our rather arbitrary U.S. breakout may be more misleading than helpful."

What was the evidence that had recently come to light that you were referring to?

A. There were a couple of documents which had been recently unearthed, I think in IV Corps, if I remember correctly, and attached to this memorandum is a cable exchange of two cables, one coming out from headquarters to the Saigon station, calling attention to the documents or evidence in question, regarding the Saigon station's comment.

The Saigon station, in a cable authored I believe by Mr. Louis Sandine, came back in and said, "Well, the particular thing you're worried about, the blending of guerrillas and militia, has only come up in the IV Corps. The problem, as you know, is a complex one," and then went on to suggest other ways of addressing it, using the concept of population control, as I recall.

But there was an exchange of cables on this particular subject. I thought this ought to be flagged to the director's attention, although I do go on to say in paragraph 4 of the same memorandum that I am not suggesting...
that the estimate should be withheld nor am I advocating that the bidding should once again be reopened on this whole complex issue, or actually that the bidding should be reopened on the paragraphs which relate to this very sticky and complex problem, to use the exact words that I used.

Q. As long as you read that sentence you might as well read the next sentence.

A. "You should be aware, however, of the potential import of recently acquired evidence and of the station's views on this matter which are expressed in paragraph 6 of the attached Saigon cable."

Q. When you refer to our rather arbitrary U.S. breakout, which you say may be more misleading than helpful, you were referring to the breakout that was reflected in SNAE 14.3-67, were you not, sir?

A. Well, I am referring --

THE COURT: One second.

Sustained as to form. I think in your paraphrase you somewhat altered the sense of the sentence.

Q. The sentence that we have been referring to says or refers to "our rather arbitrary U.S. breakout." Do you see that, sir?

A. I do.

Q. And refers to that as something that "may be more misleading than helpful." Do you see that, sir?
Q. Now, where you refer to "our rather arbitrary U.S. breakout" it is clear that you are referring to the breakout that was reflected in SNIE 14.3-67, are you not, sir?

THE COURT: Just a second. The reason that I stopped you as to that last question is that the sentence speaks about evidence having come to light which suggests that the VC may be further blurring this distinction to the point where our rather arbitrary U.S. breakout may be more misleading than helpful.

Q. And it is clear, is it not, Mr. Carver, that that breakout that is referred to there, that is described in the words that the court has just read, was a breakout that was reflected in SNIE 14.3-67?

A. Well, actually it refers not only to that, but to the whole U.S. approach. The communists in their own internal documentation referred to three different tiers of organization structure. We never adopted that conceptual approach or that nomenclature, and hence there was always a disconnect between the way we described the communist structure, we being the U.S., and the communists themselves described their own structure.

Q. You say this breakout referred not only to 14.3-67 but to everything else, but it at least referred to
1. 14.3-67 in part, correct, sir?
   A. Yes. The 14.3-67 division was an example of the larger question that I was just flagging.

2. Q. And indeed, it was the 14.3-67 issue that had caused you to write this cable, correct, sir?
   A. Excuse me. It wasn't a cable.

3. Q. Memorandum.
   A. Right.

4. Q. It was the impending publication of SNIE 14.3-67 that caused you to write this memorandum?
   A. That's right. The memorandum is entitled "More Vietnam numbers problems," and believe me, there was never a paucity of numbers problems connected with Vietnam.

5. Q. And those numbers problems continued in September and October and November and December of 1967, after the Saigon conference, correct, sir?
   A. They continued for several years thereafter, until the war became almost entirely a North Vietnamese show.

6. Q. Let me turn to another subject, Mr. Carver, and that is the question of something called Chieu Hoi that you referred to. You recall that?
   A. Yes.

7. Q. In the paragraph that was included in your proposal that followed the MACV take it or leave it
proposal you had a paragraph that referred to Chieu Hois, did you not, sir?

A. I believe so. If we could look at the document I could be more sure.

Q. I will try to find that document for you, sir. I think it's Exhibit 258 B.

A. Do you have an extra copy?

Q. I do. I have hand you Exhibit 258 E sir, which is a retyped version of that cable, and I think that on page 7, at the bottom, you will see a reference to Chieu Hois. Do you see that, sir?

A. Yes.

Q. I think that you say there that the self-defense forces, and perhaps the secret self-defense forces as well, but in any event, something that you refer to as the self-defense group, account for a small percentage of the Chieu Hois. Do you see that?

A. Yes. What we actually say -- the groups is plural, making clear we are referring to the self-defense, secret self-defense and assault youth, and we actually say "They," meaning these groups, "are not offensive military forces and should not be included in the military order of battle total, even though some of their members are probably included in our casualty figures and they account for a small percentage of the Chieu Hois."
Q. And did you believe that at the time, sir, that
the self-defense groups accounted for a small percentage of
the Chieu Hois?
A. I did. Precisely what percentage they accounted
for, no one actually knew.

Does everyone understand what a Chieu Hoi is?
THE COURT: Why don't you say what a Chieu Hoi
is.

Q. Why don't you say. We talked about it before,
but I think it's a confusing term. Why don't you explain
it.
A. Chieu Hoi was a generic label, Vietnamese, for
ralliers, in other words, people who had been associated
with the communist side or lived under communist control
who decided that they wanted to live under government
control and/or come over to the government side.

It was a very imprecise label because it at
times included both people who actually defected from some
organized communist military unit and transferred their
allegiance to people who happened to live in VC controlled
areas, got tired of paying taxes to VC tax collectors, and
moved over to government areas.

So it was never a very precise label and it
covered quite different groups and types of people.

Q. You referred to Chieu Hois in SNIE 14.3-67, did
you not, sir?

A. I believe we probably did, yes.

Q. And you had an estimate of the number of Chieu Hois for 1967, did you not, sir?

A. Well, I simply don't recall. We may well have, but I don't recall.

Q. Do you recall whether your estimate of Chieu Hois for 1967 was subtracted from the military total to show losses for the period?

A. In SNIE 14.3?

Q. Yes.

A. No, I don't. I would have been surprised if there had been any straight subtraction.

Q. I am not sure what you mean by straight subtraction. There were calculations of military losses in SNIE 14.3-67, correct, sir?

A. To the best of my recollection, yes.

Q. And did those military losses include Chieu Hois?

A. To some extent, though precisely how or what percentage of Chieu Hois should be applied to military forces was a subject that was quite arcane and was much debated and there was never any total resolution or agreement on how that should be done.

Q. My question now is just a simple one, whether or not in SNIE 14.3-67 Chieu Hois were included in the
calculation of military losses, if you recall.

A. I simply do not recall one way or the other. We can certainly turn to the operative paragraphs to find out if you want to.

Q. If you can do that quickly, I would like to have you do it. If you can't do it quickly, I will move on until after the break.

A. With luck, I can do it quickly.

THE COURT: Is this question designed to test the witness' familiarity with the document? Because if it's not, and you know the part that he should look at, perhaps you can just direct his attention to what you have in mind.

MR. BOIES: Your Honor, there may be an issue of definition. Let me ask the witness.

Q. There is something called military returnees. Is that the same as Chieu Hoi?

A. I am not sure that it is. Can you show me where that -- it may be a subset of Chieu Hois.

Q. Military returnees is referred to on page 20 and also on page 21 in a table.

A. No, military returnee is something different from Chieu Hoi. Military returnee would be a subset of Chieu Hois, of people who came from an identifiable military unit, as many Chieu Hois didn't. As I said, Chieu
Hois were just people living under communist control who wanted to move into other areas.

MR. BOIES: That was one of the reasons I was reluctant to point the witness' attention to it, your Honor, because I am not sure what this means exactly.

Q. Is there any reference in here to what you refer to as Chieu Hois?
A. Well, not to the best of my recollection.

Q. So your testimony is that there is no reference to Chieu Hois in SNIE 14.3-67?

MR. BURT: Objection.

THE COURT: He said "Not to the best of my recollection."

Q. To the best of your recollection, there is no reference?
A. I can't recall any specific reference to Chieu Hois. There may well be, but I can't recall it. All military returnees would be Chieu Hois, but all -- not conversely, because many Chieu Hois would not be military returnees.

Q. What percentage of Chieu Hois would be classified as military returnees as you use that term?
A. After 17 years, I haven't a clue.

Q. Not even an approximate clue?
A. No. Any attempt at approximation would be
likely to be misleading and erroneous.

Q. You mentioned the fact that it has been 17 years. Have you done anything to prepare your memory or try to refresh your recollection before coming here to testify?

A. I read a fair number of documents, yes.

Q. And did you have discussions with people about those documents?

A. A few, yes.

Q. Who did you have those discussions with?

A. I had some with Mr. Burt, plaintiff's counsel, some with a few of his associates, I called a couple of my own associates to refresh my recollection and theirs, but I spent most of my time reading documents on my own, since I thought I had a better recollection of what the documents involved than anybody else was likely to.

Q. How many times did you meet with Mr. Burt or his associates to discuss these issues prior to testifying?

THE COURT: Meet or talk?

MR. BOIES: Let me say first meet and then I will come to telephone conversations, your Honor.

A. By prior to testifying you mean prior to coming to testify in this court?

Q. Yes.

A. Okay. I don't know how to fix a number.

Q. Approximately.
A. Over the course of a little over a year, since
before my deposition last fall, maybe a dozen or maybe two
dozens. I just don't remember.

Q. Now, during the course of your direct testimony
you gave a fair amount of testimony about a conference that
took place in August of 1967. You recall that?

A. You mean a conference at Langley?

Q. Yes.

A. Yes.

Q. And do you recall testifying about some
viewgraphs that were presented and discussions you had
about those viewgraphs with Mr. Adams and attending various
sessions and meeting various people there?

A. Yes. I think I said I attended fairly few
sessions myself.

Q. But you attended some that you recalled and you
recalled talking to Mr. Adams about other sessions that he
attended?

A. I do.

Q. And did you say that you recalled meeting some
of the people that came back from MACV to that meeting?

A. I did.

Q. Now, your deposition was taken in this action a
little bit less than a year ago?

A. Yes.
Q. You recall that, sir?
A. I do.
Q. And at that time you didn't even recall that a conference had been held in August on order of battle issues, correct, sir?
A. I don't remember what I said in my deposition last fall. If you have the pages I would like to see them.
Q. Let me direct your attention to pages 402 and 403 of your deposition. The portion I am particularly interested in is the portion that begins at line 18 of page 402, where I say:
"Q. There has been a very substantial amount of testimony in the record about a conference that was held in Washington in August of 1967 that related to order of battle. Are you familiar with that?"
MR. BURT: Objection.
THE COURT: Overruled.
Q. "A. Off the top of my head, no. There was a whole continuing series of discussions on order of battle questions. I don't recall a conference in Washington in August of 1967, although there may well have been."
You want me to read on for context?
A. Would you, please?
Q. "Q. Okay.
"A. I am certainly not saying that there
wasn't. I am just saying that I don't recall one."

THE COURT: I think the answer should continue
with the question "Okay," answer, and then the next portion.

MR. BOIES: May I go up and read over the
witness' shoulder, your Honor?

THE COURT: Yes.

Q. "Q. Okay.

"A. But this is one of the reasons that I had
a little problem with your question as you phrased it.

These issues were being constantly discussed among the
people responsible for them, exchanges of memoranda, cables,
visits, et cetera, and therefore trying to remember who
gathered in precisely which forum at what time is something
that I cannot now recall."

MR. BURT: Your Honor, I would like the reading
to commence on page 401 with the question beginning at line
21.

MR. BOIES: I will let Mr. Burt read in whatever
he wishes to read in, your Honor, if the court wishes. I
think I have read enough for context.

THE COURT: Just one second, please.

MR. BOIES: I am prepared to read in as much of
this starting back in February conference --

THE COURT: Well, what is the question that you
are asking the witness?
MR. BOIES: Well, what I want to know, your Honor, is the extent to which his current memory of conversations that he had or says he had with Mr. Adams relating to the August --

THE COURT: I am sorry. Let me interrupt you. You have just read a portion of a deposition. Now, what I am asking you is what is the question that you are putting to the witness. Having read a portion of the deposition, what is your question?

MR. BOIES: My question is at the time his deposition was taken --

THE COURT: I am sorry. The usual question after reading a witness a portion of his deposition is to ask him was that your testimony at the deposition.

MR. BOIES: Yes. I thought I had asked him that. If I hadn't I apologize, your Honor.

THE COURT: You may have. I am not sure.

MR. BOIES: I may not have because we got into the reading of the various things.

THE COURT: Let's start with was that your testimony.

Q. Was that your testimony?

A. Yes, but the operative testimony begins on page 400.

Q. Page 400?
A. Yes.

Q. We started at page 402.

A. That is correct.

Q. Okay. Why don't we begin at the first question on page 400, and we will read all the way through.

MR. BOIES: Mr. Burt, how long would you like us to read?

MR. BURT: It's not my examination, Mr. Boies. Certainly through page 402 and the top of 403.

MR. BOIES: All right.

A. No, I think we ought to go on to page 404.

MR. BURT: Mr. Boies, may I suggest that we have been going an hour and a half. Perhaps we can take a break and resolve this between you and me.

MR. BOIES: I am happy to take a break, your Honor.

THE COURT: All right. The jury may go in the jury room.

(Recess)

(In open court; jury not present)

THE COURT: Have you got it worked out?

MR. BURT: Yes, your Honor.

THE COURT: Call the jury, please.

(Jury present)

THE COURT: Members of the jury, I received a
note from you saying that it was too cold. I am afraid
that the choice seems to be too hot or too cold.

The windows have been closed a little bit since
you went out for this recess and I hope that will be
satisfactory. Maybe you should try to bring scarfs to put
over your shoulders. It was a triumph that we got away
from the staggering heat of the last two sessions.

All right. You may proceed, Mr. Boies.

MR. BOIES: Thank you, your Honor.

BY MR. BOIES:

Q. Let me read in, Mr. Carver, beginning at page
400 and continuing for the next four pages, which will
encompass everything that anybody has asked to have read.

"Q. Let me begin it this way. There was an
order of battle conference in Saigon in September of 1967,
correct?

"A. Almost. The term order of battle
conference keeps getting used. There was a particular
session in September of 1967 designed to -- keyed to the
preparation of NIE 14.3-67. It is not quite the same as
the two specific order of battle conferences which drew on
a much larger -- which were considerably larger in
composition, but substantively order of battle was
discussed at three formal conferences, two moderately large
ones, one relatively small one, one held in Honolulu,
whenever it was, I think in early 1967, I believe" and that would have been the Honolulu conference that we talked about earlier today, correct?

A. I believe so, yes.

Q. Continuing from your deposition:

the second being the NIE session, where I took out a Washington intelligence community delegation in September of 1967, the third being held I think in Washington, although I am not positive, I believe in February or it might have been early March of 1968.

Q. When you refer to the September conference, is it the case that the September conference was actually a continuation of something that had begun in August of 1967 in Washington, that is, that there had been discussions of order of battle in Washington in August of 1967, had there not?

A. There had been a -- but it -- under one interpretation of your question, Mr. Boies, the answer would be yes. If you would be to -- and another interpretation --

Q. Let me define what is confusing me, okay?

A. Yeah.

Q. You say there were three conferences, two big ones and one small one, at which order of battle was discussed, and you identify a Honolulu conference, which I
think the record will show was in February of 1967, a conference in February of 1968 that you say you believe was held in Washington --

"A. That's right.

"Q. -- and a September 1967 conference?

"A. That's right.

"Q. And there has been a very substantial amount of testimony in the record about a conference that was held in Washington in August of 1967 that related to order of battle. Are you familiar with that?

"A. Uh, off the top of my head, no. There was a whole continuing series of discussions on order of battle questions. I don't recall a conference in Washington in August of 1967, although there may well have been.

"Q. Okay.

"A. I am certainly not saying that there wasn't. I am just saying that I don't recall one.

"Q. Okay.

"A. But this is one of the reasons that I had a little problem with your question as you phrased it. These issues were being constantly discussed among the people responsible for them, exchanges of memoranda, cables, visits, et cetera, and therefore trying to remember who gathered in precisely which forum at what time is something that I cannot now recall.
"Q. I am talking about a little bit more than just discussions and exchange of cables. There has been testimony that there was a conference in Washington to which MACV sent a delegation and there was a head of that delegation and they met with the CIA people, the DIA people.

"A. Then you are probably correct. I mean, I am certainly not saying that there wasn't. I am just saying that I don't have any clear recollection of an August conference, though there may well have been.

"Q. Okay.

"A. I was doing a lot then and a lot has happened since then."

Do you recall being asked those questions and giving those answers?

A. I recall a very difficult session during which those questions were asked and those answers given, yes.

Q. And is it fair to say that although you were not necessarily disputing that an August conference had taken place, at the time this deposition was taken you didn't recall that conference?

A. Yes, but I think I need to explain what I mean by yes. That deposition was taken in November of last year, during a very busy time. Among other things, my wife was having surgery, from whose complications she is still suffering. You kept pressing me to set a time, even being
rude enough to supplement your pressure with a subpoena.

We sat and we met and I had had little chance to reflect on the matters that you wanted to cover.

We got into a problem that has bedeviled all of our conversations, other than personal ones, since then, including some of our discussions here in this courtroom. You keep talking about order of battle. I never thought of it in order of battle terms. I was trying to think of what I considered an order of battle conference and I was not thinking of the SNIE conference in that context.

After our November deposition session, which was followed by three or four days in, if I remember, January --

THE COURT: Just a second. You're not being asked about a subsequent session. The question was did you give this testimony.

A. I gave that testimony, yes, and at the time that I gave it I was not thinking of the August SNIE conference as an order of battle conference, and I was trying to remember what order of battle conferences there had been, and the only ones I could recall were the one in Honolulu in February, the one in either Washington or Honolulu in March, and then the discussions that I participated in in connection with the SNIE, which did discuss order of battle questions. I was not thinking of the August SNIE conference at the time that we talked as an order of battle
Q. Were you thinking of the September 1967 conference as an order of battle conference?

A. Well, not primarily. I think if you will go back over the answer you will see I was scratching my head a little bit and was saying order of battle issues were discussed, but that conversation was keyed to the SNIE.

Q. And you remembered that and you listed that as one of the three conferences even though it was an SNIE conference, correct, sir?

A. I did list that as one of the three. I was not at that time thinking of the August SNIE conference at all as an order of battle conference, though that was an error on my part, I should have been.

Q. Let me go on to another portion of your deposition, page 470.

A. May I take a look at it?

Q. Yes. The portion that I am particularly interested in is the question and answer that begins at line 3 and ends at line 14.

If Mr. Burt would like to have me read in any other portions or if the witness would like to have me read in any other portions, please tell me, after you have had a chance to look at.

A. Tell me which lines you're talking about.
THE COURT: 3 through 14.

THE WITNESS: 3 through 14 on 470?

THE COURT: Yes.

Q. When you have completed reviewing it let me know.

A. Okay.

Q. Is there anything else that you want me to read in for context, either Mr. Burt or you, Mr. Carver?

MR. BURT: Can you tell me where the reference is to this conference referred to on page 470 at line 3? Do you know where that first appears?

MR. BOIES: Mr. Burt, the reference is to the September 1967 order of battle conference, a reference that --

THE COURT: Do you have any objection to the reading of page 470, lines 3 to 14?

MR. BURT: No, your Honor.

THE COURT: All right.

Q. Is there anything else you wanted me to read in for context, Mr. Carver?

A. Give me one moment.

Q. When you're ready just let me know.

A. Would you pick up on page 468 at line 14, please, and then read through page 471, line 13?

THE COURT: Mr. Carver, the question is going to be whether the portion that Mr. Boies designated -- the first question will be whether you were asked those
questions and whether you gave those answers at your
deposition --

THE WITNESS: Fine.

THE COURT: -- whether that was your testimony.

Now, answering that question, if you feel that it's
necessary to make reference to adjacent or other portions
of your testimony that you think are necessary for an
understanding of those, you may do that yourself in your
answer.

THE WITNESS: All right, fine.

A. In that case, go ahead, Mr. Boies, please.

Q. Beginning at line 3:

"Q. Okay. With respect to the preparation for
its September 1967 order of battle conference in Saigon,
between your July cable that we have here and the opening
of that conference in I think the 6th or 7th of September --

"A. I think it was actually the 10th, but
we've got the date here someplace.

"Q. -- did you have any further discussions
with any MACV representatives?

"A. I do not recall any. If any came to
Washington I probably talked to them, but I just don't
recall it."

Do you recall being asked those questions and
giving those answers?
Q. And was it the case that at the time you gave these answers you did not recall any MACV representatives coming to Washington between your July 10 cable and the September conference?

A. I did not recall the MACV representatives coming to Washington in connection with an order of battle conference, no.

Q. Are you suggesting, sir, that at the time you gave this testimony you recalled MACV representatives coming to Washington between July and September but gave this answer that you gave because you didn't recall that they came on order of battle?

A. At the time that I gave the answer I was coming at this quite cold, I had not had a chance to review and read the documents that I have since, and I simply was not connecting up the August NIE conference with the order of battle issue and the order of battle discussion, which was an error on my part.

Q. When did you first recall that there was a - if you can remember - that there was an August conference that dealt with order of battle issues? And by August I mean August of 1967.

A. As you will remember, we had I think four days of deposition in November and then another three or four
days in January. During that process I began researching
my memory and looking at documents and I began remembering
the NIE conference.

Then at some point in approximately May or June,
or it may have even been later, the summer, I was given by
Mr. Burt a copy of a document that I refer to as Appendix B.
I don't know if you know the document. It was something
like plaintiff's statement of undisputed material facts
plus an appendix with documents, a buff colored document
about an inch and a half thick.

As I read through all those documents in
Appendix B preparatory to coming at some point to testify I
saw my own cables, I saw General Godding's cables, I saw
the MACV viewgraphs, and then my memory came back about the
August 1967 conference and the fact that our departure for
Vietnam in September with the delegation that I chaired had
been a direct fallout from that conference, though I had
not so recalled when I spoke to you the preceding November.

Q. Was there anything in these documents that Mr.
Burt gave you that you read that discussed or referred to
conversations that you had with Mr. Adams?

A. There was nothing in the documents, Mr. Burt --
excuse me -- Mr. Boies -- my apologies to you both --

Q. Thank you. Accepted.

A. -- but as I went over this ancient history a
great deal came back. For example, I had not remembered when you and I talked in November, even January, about Mr. Allen's 5 July memorandum that we have discussed here. And particularly when I saw viewgraphs and I recalled the discussions about them, I recalled the MACV briefings in August as they had been reported to me by Mr. Adams and Mr. Allen, as I recalled not having attended the August NIE conference, except a couple in a pro forma way, because I didn't want to seem to be poaching on my ONE colleagues' turf, I recalled my distress in Saigon at MACV's not adhering during our intensive discussions there to precisely the positions or some of the positions that they had tabled in Washington only a week or two before, a great deal of memory came back, and it was that refreshment of my memory, prompted by the documents, which led me to testify the way that I testified on my direct examination.

I had a much better recollection of events when I came up to this courtroom than I had when we met in CBS' office in Washington in November.

Q. Prior to your deposition that we have been talking about you had met with Mr. Burt and discussed the case, had you not, sir?

A. I had, on several occasions, yes.

Q. That is, you were not coming into this deposition, as I think you put it a moment ago, cold,
correct, sir?

A. I was coming into it a lot colder than I wanted to. As you remember, during our own discussions at the time you were always civil, but they got a little sharp on occasion. Particularly, I take umbrage at people who keep slapping subpoenas on me. I told you that I wanted to prepare for it, but it was a very inconvenient time, and we scheduled a time at which I had not yet had a chance or was not able, because of my wife's surgery and demands at the office and other things, to do the amount of review that I had hoped to be able to do prior to our sitting down for our first deposition session.

Q. Although prior to sitting down for these deposition sessions you had had an opportunity, had you not, to meet with Mr. Burt a number of times, and during those discussions he had showed you some documents?

A. I had met with him --

MR. BURT: Objection.

THE COURT: Overruled.

A. ** on several occasions. He had showed me some documents, he had sent me some more, most of which I had not had a chance to even glance at at the time we met in November. With three children in college, I had to spend my time earning a living, not going back to Vietnam in 1967.

Q. So do we all.
Prior to the time that you met with Mr. Crile to discuss matters in I think January of 1982 had you had an opportunity to review documents and have your memory refreshed?

A. I don't believe that I had prior to the time that I met with Mr. Crile. At some point either before or after the broadcast I did get hold of and look at a copy of the estimate, but I can't now recall whether that was before or after I had seen Mr. Crile.

But I had done no documentary research before my 12 January 1982 meeting with Mr. Crile, I had no done no documentary research of any significant consequence that I can remember.

Q. Let me return to the subject of Chieu Hois.

A. I wish you wouldn't. But go ahead.

Q. It will be very brief.

You recall that in the document that you drafted in the middle of the September conference you had this paragraph that said that Chieu Hois accounted or the self-defense groups accounted for a small percentage of the Chieu Hois? You recall that?

A. I do.

Q. Now, I think in an earlier cable, just before the conference, you had indicated that the self-defense groups were the principal source of Chieu Hois, correct,
Q. Do you have a cable there?

A. It's cable 220 C. This was a cable that was received during your direct examination. You may recall that paragraph 5 on page 3 was read to you. In fact, two sentences in particular were read to you, the second and third sentences of paragraph 5, and I think Mr. Burt asked you whether that was the institutional position of the CIA. Do you recall that?

A. That is correct.

Q. And you said that was the institutional position of the CIA, correct, sir?

A. Correct.

Q. And in those portions of that paragraph there is reference to the irregular militia, and that is something that you used to refer to the self-defense groups, is that correct?

A. Yes, self-defense, secret self-defense, assault youth.

Q. And when you used the term in the cable self-defense groups?

A. I think it was a subsequent cable, but it's what I was referring to, yes.

Q. And here those groups are said to constitute the
principal source of Chieu Hois, is that correct, sir?

A. It certainly is the language that appears here, yes.

Q. And that at least was what you believed at the time you went to the Saigon conference?

A. Yes.

Q. Do you recall whether there was any evidence introduced with respect to Chieu Hois at the Saigon conference?

A. It was one of many subjects discussed, sometimes very heatedly, and our MACV colleagues made a very strong case, which I did not entirely accept but I had to admit had some merit, that actually these groups accounted for a relatively small percentage of the Chieu Hois, and that was not an issue that I felt, in view of all the other issues we had to contest with, making a sticking point in our paragraph on describing these irregulars, which is why, in the light of the Saigon discussions and the evidence tabled back and forth, I changed it to a small percentage, and I have checked the operative paragraph of the estimate during the break and I think you will find that Chieu Hois aren't mentioned in the paragraph at all as it was actually published, because this was a side issue.

Q. Who made the presentation for MACV on the Chieu Hoi issue, sir?
A. I simply do not recall. MACV had an infinite supply of colonels and which one made it I don't remember.

Q. Do you remember the name of anybody who presented the evidence which you say was presented?

A. No. I can remember the names of some of the people who were present from the MACV delegation, but precisely which one addressed which subjects or whether or who addressed this particular subject, I don't recall.

We had a series of catfights that lasted for over two days and we hashed over every component of the force structure and inputs to the force structure and this happened to be one of the components. But who made the MACV presentation, I don't know.

Q. Who were the people that were primarily responsible for making the MACV presentations at the Saigon conference, if you recall?

THE COURT: If you know, if you knew.

A. Well, his Honor has put his finger on a very important point, because the person who would give a briefing was not necessarily the person or persons who had prepared it.

Q. Who were the persons who primarily gave the MACV briefings at the Saigon September 1967 conference?

A. The ones that I can recall, Mr. Boies - but this is a very imperfect and less than total recollection --
was General Davidson, of course, who was the J-2, Colonel Morris, who was his deputy or one of his deputies, General Godding, who was another one of I believe his deputies, there was I think a Major Reed, who briefed us on Vietcong morale, Colonel Hawkins addressed a number of order of battle related questions, and then there were five or six others, including ones who shuttled in and out of the meetings, whose names I simply don't recall, even if I knew them at the time.

Q. Did General Davidson personally make any of the substantive briefings at the September Saigon conference? And by substantive briefings I mean a briefing or presentation of the MACV position as opposed to ceremonial remarks?

A. My memory is a little hazy. He made the ceremonial opening. He may have given the overview. He then had various members of his staff present the detailed briefings, at which point it degenerated into a rather disorganized and at times disorderly discussion.

Q. And that discussion or debate or catfight, as you have variously described it, continued until sometime on September 12, correct, sir?

A. We met on the 9th, which was a Saturday, the 10th, which was a Sunday, on the 11th, which was a Monday, a session also with Ambassador Komer. We did not meet to
any great extent on the 12th, because basically we were at an impasse, and that's when I called the Washington delegation together and most of the 12th was spent among ourselves. So basically most of the discussions took place during the 9th, the 10th and the 11th, Saturday, Sunday and Monday.

Q. Although it was on September 12, I believe you have testified -- and correct me if I am wrong -- that you received the take it or leave it proposition from Generals Godding and Davidson?

A. Yes, and that for the moment ended discussion.

Q. I believe you have testified that you then went off with your group and discussed a response to that and that you later met with General Westmoreland.

A. Met with him the following day. We hammered out our position paper, which is one of these exhibits that we have discussed, and then I met with General Westmoreland the following morning, two separate occasions, and I continued with Ambassador Komer on the night of the 12th and met with General Westmoreland on the morning of the 13th.

Q. When you met with General Westmoreland he was already aware of the response that you had made to the MACV take it or leave it proposition, correct, sir?

A. He was aware that we had made a response. He
was aware in general terms. Whether or not he had yet
taken the time to read every line of it in detail, I don't
know.

Q. Or indeed, whether he ever read every line of it,
you don't know?

A. Some people don't always read all my prose,
unfortunately.

Q. But he was at least aware of in general what
your response was, correct?

A. He was quite well aware. But he did ask me to
explain it, which I did.

(Continued on next page)