Q. Do you think Mr. Gattozzi is an honest man?
A. Absolutely.
Q. What was the relationship of Order of Battle Studies to the Ground Order have Battle Unit?
A. In a hierarchal sense we were sisters or brothers, should the case be reported that way. We worked as a parallel function in the chain of command. The Ground Order of Battle Chief, as this Order of Battle Studies reached Chief, reported to the Order of Battle Branch.
Q. And is it correct that OB Studies also were reported to the Chief of the Order of Battle Branch?
A. Yes. And I stated that.
Q. Who was the Chief of the Order of Battle Branch when you arrived in South Vietnam?
A. Colonel Paul Weiler.
Q. Was Colonel Weiler replaced by another Chief of the Order of Battle Branch during your tour of Vietnam?
A. Yes.
Q. And who replaced Colonel Weiler?
A. Colonel Kryzanowski.
(Whereupon, a brief recess was taken.)
BY MR. MURRY: (resuming)
Q. When did Colonel Kryzanowski become Chief of the Order of Battle Branch?
A. After Colonel Weiler left, which was post-Tet sometime. I honestly don't recall when that was.

Q. Was Colonel Kryzanowski an Army officer?
A. Yes, full Colonel.

Q. Have you spoken to Colonel Kryzanowski since you left Vietnam?
A. No.

Q. Do you know where he is located at the present time?
A. No.

Q. What was the relationship of Order of Battle Studies to the CIIED Division?
A. In broad functional terms what we produced was submitted to that element. There were few exceptions to that, you know, that may have occurred. In general, our product was presented to the CIIED. Specifically, the infiltration and strength.

Q. Was this process you've described of submitting your product at OB Studies to CIIED in effect when you first arrived in Vietnam, or did it begin at some later time?
A. I would answer that by saying that while it most likely was in effect when I arrived, it became the rule rather than the exception upon Colonel Graham's assignment to the CIIED which occurred shortly after my arriving.
Q. How did this process of submitting what OB Studies produced to CIIED take place? And just for the sake of clarity, I'm trying to find out, what was submitted, and how it was submitted, and to whom it was submitted?

A. The how it was submitted is the answer -- is a broad spectrum answer. Submission is ranked from one-to-one or analyst-to-analyst discussions, to my boss or other officers in CICV meeting with Colonel Graham or his representatives, counterparts on their side, if you will, to draft notes, to straw-man-type reports. Straw man meaning in this case a draft, a theme or a draft or an outline. I'm giving you some analogies when I refer to that, to a finished product, where the report was in fact finished and ready to go should it be released.

The interphase with CIIED by my officers, and generally those up the line with me, while not speaking for them, was on a very frequent basis for most part, daily. And under many conditions, multiple times a day.

Q. Why was it necessary to have these almost daily interactions with the CIIED people?

A. The strongest reason, the driving reason, was -- and this happens to be an issue that has been a common thread through this case to include a telephone call from General Westmoreland. And that is, the CICV, while known...
as a collateral and bilateral organization, did not have access to the special intelligence in the Tank. However -- underline however -- I, my analysts described to you -- those officers described to you and my boss had access to the Tank. We had the necessary clearances, and that's where the information was.

We were not allowed to maintain it in the CICV building because it did not qualify for this type of information. We had that access. We had to use that information in our analytical process. That is by far the most compelling reason of going to the CIIEED. It was there where the information was, where the briefings were, and where we could do analytical work in that environment.

You had to. There was -- just by the rulings of security, you had to. Let there be a point of note here that in the Order of Battle Studies Section, there were no Vietnamese assigned to us. There were in the remaining parts of that building.

Q. Was there information available to any or all of the people in CIIEED which was not available to yourself and your analysts in OB Studies?

A. Not to my knowledge.

Q. You say "not to your knowledge." Could there have been such information?

A. If there was it was in a -- let me retract.
Going to rephrase my answer.

The probability of that there was is so low it is beyond reasonable doubt. I say that as a professional intelligence officer having served some 20 years in the business, knowing what the tip-offs would be if other information were there. Tip-offs meaning certain things that pertain to that classification.

Q. You said that your analysts and yourself in OB Studies were, I think you said, hard working and intelligent, very bright. Is the same thing true of the analysts in CIIED to the best of your knowledge?

A. Those that we dealt with on a contemporary counterpart basis, I would say, yes. I say that because there were others I have no knowledge of, I had no working knowledge of.

Q. Isn't it true that then Lieutenant Colonel Graham had a reputation within the MACV headquarters of driving his analysts, his subordinates to work very hard?

MR. BARON: Going to object to the form of the question.

THE WITNESS: Colonel Graham's principal reputation that I clearly recall was that he was a very high riser. He moved into responsible positions very fast. He was a member of the General Davidson team. He was one of the inner circle people brought in by General
Davidson. He was put into that job over other senior Colonels. I recall that specifically as causing an extreme stir in the headquarters. And again, as you might imagine, when -- and I'm going to say this in gaining a sort of an informal sense to give you the feeling of it -- when one of the outsiders, one of the outside individuals, but one of the old boys of the J2, General Davidson is brought on board, the other Colonels felt shoved and pushed out of the way. He was put into the position and rose. That was his principal reputation.

BY MR. MURRY: (Resuming)

Q. He also had a reputation of being very bright, did he not?

A. That is correct.

Q. And he had a reputation of being very a competent analyst, did he not?

MR. BARON: Object to the form of the question.

THE WITNESS: To answer that I'd had to have been a superior to him. To say -- I mean, to answer that objectively. Subjectively, there were probably two schools of thought. Some people felt he was and other people felt that he wasn't. There was considerable and strong feeling of his political orientation. Political, in terms of that he supported the theme, the platform of
General Davidson and General Westmoreland. Not everybody did.

BY MR. MURRY: (Resuming)

Q. Well, you in fact told Mr. Boies in your interview that Colonel Graham had called a number of things right, did you not?

A. Yes.

Q. And you were referring, when you said, you were referring to his intelligence analysis?

A. That is correct.

MR. MURRY: Why don't we break --

Q. Were you going to go on?

A. Let me. Let the record show that while I agreed to making that statement, I'd like to emphatically state to the record that he did not call the Tet offensive right.

Q. What about the Tet offensive did he not call right, as you put it?

A. To say we knew the offensive was going to occur in the strength, the magnitude, the diverse and encompassing geographic area that it took in, the time, the devastation, the loss of lives, the shock to U.S. troops, as well as Free World and Vietnamese troops and civilians, were not known.

Q. Do you know whether Colonel Graham ever predicted
prior to the Tet offensive that the enemy was going to
make a major show of strength before, during or after Tet?
A. Refer to my previous answer where I said the
magnitude," and I used that word, the magnitude of it.
Colonel Graham, while I have not direct knowledge, or let
me say, I don't recall, may have said they would make a --
they would conduct an offensive or -- if you would just
tell me your words again.
Q. A major show of strength before, during or after
the Tet --
A. If that had been said, if that was the case, it
was terribly understated. Let me say if he, in fact, knew
of what I just told you that it would encompass what it
did and the exact words I used, and he withheld that
information, we have a lot of lives and blood of people
that were not prepared for that. I attest to that. I was
there.
Q. You were where, sir?
A. I was in Saigon.
Q. You weren't outside of Saigon?
A. No, I was not. Let me remind you that one of the
most severe initial launches of the Tet offensive occurred
in the City of Saigon. The most political impact probably
occurred -- political to the U.S. media as well as that
entire war effort -- centered around what happened in
Vietnam. The fact that our entire U.S. Embassy was overrun; the fact that I, along with all U.S. troops in the City of Saigon, were so pacified and so lulled into a false sense of security that we were in starched khaki uniforms and forbidden to carry a weapon.

Q. You say the whole U.S. Embassy was completely overrun. Isn't it true that there was a squad of about 15 VC terrorists who blew a hole in the U.S. Embassy compound?

A. Mr. Murry, I'm just going to sit a minute. The degree of — I stand by what I said.

Q. Why don't you just answer my question first. Isn't it true that the U.S. Embassy was attacked by a squad of, I think, roughly 15 VC terrorists?

A. I don't agree with that.

Q. You don't agree with that?

A. Let me withhold the specific answer to that and come back to it.

Q. Well, I kind of would like to get a specific answer and then have you explain.

A. I can't tell you that it was 15, 10, 50, 12. I'm not sure anyone can tell you when that occurred how many people were there. I can tell you that they were inside of the Embassy. I can tell you, along with other people, of how the lobby of that Embassy was so splattered with
blood all over the walls. Where did that come from?

Pieces of people and the walls splattered with blood is not a small hole in the wall blown by a few people outside the building.

Q. They counted the bodies of the VC terrorists that invaded the compound, did they not?

A. I don't know. Your assumption there is that all of the opposing force were killed. I don't think that's a valid assessment that, if they counted 15 bodies, only 15 people attacked is not sound logic.

Q. What evidence do you have that it was more than 15 people?

A. My assessment to answer that is that that city was so overrun with enemy we had some 200 people in our BOQ that couldn't leave. We somehow scrounged up six weapons, don't really know where they came from. I think it took two days for me to leave. For some strange reason I was compelled to get back to the CICV. I know what I drove through during that time. I know that that entire city was swarming with -- you know, the amount of firefighting going on and the utter confusion and chaos, turmoil, bloodshed was absolutely devastating. The words I used in my trial interview where it became a matter of survival, that was knew to me at the time.

Q. You were just talking about the amount of chaos
in the city and so forth. We can get to the city at some other point.

I wanted to focus on the American Embassy and I'll ask you again, what evidence do you have -- evidence, mind you -- that there were more than 15 people involved in this assault on the Embassy?

MR. BARON: Object to the form of the question.

THE WITNESS: I saw the Embassy shortly after -- shortly. I don't know what time frame. I was very close to the Embassy in where I lived. I don't know, as the crow flies, two blocks, two and a half blocks. It is my rationale, my best feeling, having seen that at that time, that what I saw happened were more than the figure you quoted me. I think the issue in my feelings, 12, 15 or 50. My point I'm making is what happened.

BY MR. MURRY: (Resuming)

Q. I don't think we disagree with that. Let me just ask you and then we can break this for lunch. We've gone a little bit over.

Have you ever seen any Prisoner of War Interrogation Reports that indicated there were more than 15 people involved in the assault in the Embassy?

A. I honestly don't know the answer to that. I may.

Q. Have you ever seen any captured enemy documents that indicated there were more than 15 people?
I hold to my same answer.

Q. You just don't know one way or the other whether you've seen such documents?

A. No.

MR. MURRY: Okay. Let's take a break.

(Whereupon, the noon recess was taken.)

BY MR. MURRY: (Resuming)

Q. Mr. Cooley, I just want to cover one thing I don't believe I asked earlier.

Could you state for the record your birth date?

A. September 30th, 1936.

Q. I want to just follow-up with a couple of questions concerning the subject of the Tet offensive that we were discussing before our luncheon break. Let me ask you this.

Is it correct that the size of the attacking force at the Tet offensive would not necessarily be related to the precise timing of the attack of that force?

Do you understand my question?

A. No.

Q. Okay. It's correct, is it not, that the enemy forces in South Vietnam could have launched an attack before Tet, after the Tet Holiday or on the day that they launched the attack, correct?

A. No.
MR. BARON: Object to the form of the question.

You may be able to cure this if you'll bear with me.

You say, I believe, you're asking whether they could have launched an attack at any time and then you refer later to launching the attack. Are you referring to the enemy's capacity to launch an attack of the magnitude that they launched?

BY MR. MURRY: (Resuming)

Q. You'd agree, would you not, Colonel, that at some point in time the leaders of the North Vietnamese and Vietcong forces made a decision as to when they were going to launch what is known as the Tet offensive of 1968, would you not?

A. Yes.

Q. Would you also agree that the leaders of the North Vietnamese and the Vietcong could have chosen to launch that attack, if they had wanted to, either before the Tet Holiday, after the Tet Holiday or during the Tet Holiday itself?

A. No. I would have to say they were not. The only thing I object to what you're saying is before the Tet Holiday, before the Tet Holiday, because I don't think at that time -- now we'd have to specify how many months you're talking about.

Q. I was actually talking about a matter of days.
In other words, they could have decided to launch what is known as the Tet offensive, let us say, 48 hours earlier than in fact it was launched, could they not, if they wanted?

A. You're calling for a subjective judgment on my part. I'll tell you and that is, the Tet offensive was not a simple little, "Let's go out. Okay, guys? Let's go out and do our thing." The amount of communication it took to coordinate this, the logistics to support it, the positioning of troops to do that was no small operation. You're talking about a very large, well coordinated, well structured, well directed type of an offensive.

To say that at sometime they could say, "Instead of doing this Friday, we're going to do it Wednesday." It was not conceivable. No more than we could have changed our invasion into Normandy given the magnitude of that operation.

To say if you went back to early planning days of that offensive, wherever that occurred in time, some months or even a year before, and then made that decision to change your point in time, I would agree with you. Otherwise, I don't agree with you.

Q. I understand what you're saying and I quite agree. Once the positioning of troops, the communications necessary, the logistical requirements necessary to launch
the offensive were put in place, isn't it true that the leaders of the North Vietnamese and the Vietcong had within a certain rank determined by number factors a certain amount of flexibility in choosing the precise date on which to launch the offensive?

A. I certainly don't think that that would be a reasonable and prudent military action to have done that at the late stage in time. Mainly for the vulnerability of disclosing the offense, of the securities -- of the operational security of that offensive. So I say very very subjectively, and on the surface of that you can say, "Sure. We'll change the date plus or minus."

Realistically, and in military terms, that would not be a reasonable and prudent situation.

I would also like to add that the political impact of that occurring on the Tet offensive obviously was to their advantage. That was a calculated time frame at which they put that in.

Q. You say it was to the advantage of the North Vietnamese and Vietcong to time their attack to occur at the beginning of the Tet Holiday?

A. Oh, I feel definitely so.

Q. Could you explain that?

A. Like saying let's attack -- that would be like saying, "Let's attack New York City Christmas Eve." And
that to me is the best analogy I can come up with.

The Tet Holiday period, especially in the Asian countries, is one of holiday. It's festive. In fact, there was some tacit agreement, as I recall, that we would kind of sit back in a quasi-cease-fire between us. And that's way above my level. I have no knowledge on it, but as I say. The tacit understanding is don't -- we'll not conduct offensive operations on the eve of our Tet Holiday. Much like somebody would say we're not going to jump in on the Christmas Holiday in New York City.

So the impact, I think, was multiplied many many fold, both in the surprise element of it. You just didn't have large large forces of troops guarding anything very very realistically, the eve of the Tet offensive.

As you know, I was in Saigon Cao Lanh that evening. When I came back one of the most eerie things -- the tension was unbelievable. One of the eerie things was the lack of people and the lack of Vietnamese police, what we referred to as "white mice". "White mice" referring to, they used to wear these kind of a light gray hat. And that again, was kind of a slang term. I don't mean it in a defamatory term at all, but Vietnamese police, the equivalent of our military police, who stood the corner watch, control, make sure that everything was intact, were absent. That imparted an extremely eerie feeling.
We felt again -- we, meaning contemporaries of mine at the BOQ, that evening, very very uneasy. One would assess at this point that if they're not on the street, what's going to happen?

Q. I think I understand what you're saying and I want to ask you: Aren't you really saying in your last answer that by attacking on or at the Tet Holiday, at the very beginning of the Tet Holiday, the North Vietnamese and Vietcong were able to achieve a military advantage temporarily through surprise?

A. In substance, yes.

Q. Now, what you said, I think, a little while ago was that it was politically beneficial for the invading VC to attack on the Tet Holiday. And what I want to ask you is, isn't it a fact that many people in South Vietnam considered it a violation of the cultural mores of South Vietnam to launch an aggressive action at the start of the Tet Holiday?

A. I can't answer to that. Your conclusion has merit, but I can't say. The reason I can't is I would relate it to if somebody were to attack in my environment during one of my holidays. I would feel in the manner in which you have just stated to me. That's how I'm going to answer that question.

Q. Isn't it true that one of the goals stated by
1 Communist officials in Vietnam for the Tet offensive was
2 to induce a general uprising among the populace in South
3 Vietnam against the Saigon regime?
4 A. One of the goals of --
5 Q. The Communist leadership in Vietnam?
6 Do you need my question?
7 A. Please.
8 Q. Okay. Isn't it true that one of the goals stated
9 by the Communist leadership in Vietnam for the Tet
10 offensive was to induce a general uprising by the populace
11 of South Vietnam against the government in Saigon?
12 A. In broad terms, yes.
13 Q. Did that general uprising of the populace against
14 the government in Saigon occur?
15 A. I'm going to answer that by saying the magnitude
16 of what occurred in Saigon has to come to the conclusion
17 that the force structure -- the offensive force
18 structure -- coupled with whatever you want to call it was
19 total in its nature. There are, and I have in that scrap
20 book, pictures of absolute rubble that were blocks of
21 buildings in Cao Lanh. I have pictures of buildings so
22 riddled with bullets that one cannot comprehend that, you
23 know, that this wasn't something staged for this.
24 The totality of what occurred at that time
25 says -- and again in my mind now going back -- that there
was a hell of an uprising. Uprising, maybe not in what
you said, but uprising relative to this state of
pacification, the state of Phase IV that we're entering
into. This state of "the light is at the end of the
tunnel." The state of my comment, "We're going to be home
by Christmas." You had a shattering effect here that was
like dropping a crystal vase from a fourth story building.
And I'm giving you my feel for what happened, mine, my
contemporaries.

Q. You're talking about, I think, an upheaval and
I'm asking you --

A. I'm talking, not upheaval. I'm talking about a
radical -- again this word totalitarian, change from
military. I'm not talking about philosophy. I'm not
talking about anything. I'm talking about peace, khaki
uniform, haircuts, where the Military Police were ordered
to cite you and did continually -- not me -- for not
having that starch, pressed uniform, policy-issued boots,
to, don't carry a weapon because you cannot carry a weapon
in town, to this 12th hour change to one of everything
just totally going, you know, in the opposite direction.
The impact of this is -- I'm trying to impart it
to you. It was a very very strong impact on everybody.
Very very strong.

Q. The destruction that you have talked about in the
Cao Lanh section. Isn't it true that that destruction was caused, if not entirely, in large measure by ARVN and Free World forces digging Vietcong out of their positions in the Cao Lanh section?

A. Obviously some of that occurred. To say that it occurred in large part I would have to differ with you. I think that would be very difficult to come up with, who did the worse damage type of thing. In a hostile war, hot firefight environment, it is very difficult to say who just blew the side of the building down without cameramen being there. Some of this is documented. I'm moving to Cao Lanh, to the area in Saigon, the TV station, the radio station was brought to the ground. And that wasn't by ARVN soldiers doing it. That was done by the offending force.

Q. How was it brought to the ground?

A. With an explosive charge.

Q. What kind?

A. I don't know.

Q. Do you know if it was a bazooka or a rocket or a satchel charge?

A. I don't know. I have approximately two pictures in that scrap book. The following day I was there observing that situation also.

Q. How many people does it take to fire a bazooka?
A. Well, obviously one person. In the terms of bazooka that you’re referring to, you’re talking about a rocket launcher? Their equivalent weapon was the held-on-the-shoulder one-man type of thing. Let me -- realizing what you’re driving at, let me ask you how many people does it take to fire a 122 mm. rocket? How many -- how many people does it take to bring that rocket down to the infiltration trail? I know you’re leading to that, but I can counter on that.

And speaking of rockets, we went into a period post-Tet of 60 or more days of continuous rocket and mortar assault on the City of Saigon and the headquarters of MACV Tansonahut, which was our major air base. Earlier in the question you asked, was it a peaceful environment? I said except for what was going on outside. We were walking about the CICV environment. Those were the days when we had rockets, mortars, whatever they could muster and throw at us, coming around.

I would, again, refer to a picture in my scrap book of myself standing in a very large hole caused by a 122 mm. rocket, just outside General Westmoreland’s office of the MACV compound. It went on for some 60 days. And we couldn’t stop it. The logistical base to do that. It takes two, two-and-a-half people to bring a 122 mm. rocket down from North Vietnam.
Q. Could you explain what conclusion you draw from the fact that you say that it takes two or two-and-a-half people, I think you said, to bring a rocket down from North Vietnam, and what that has to do with the size of the attacking force, Tet offensive?

A. The correlation I'm trying to make is it was well orchestrated, well supported logistically. Refer to my comment that it was a very large, complex, well-directed operation. This was not something that you could say, "We're going to, instead of midnight tomorrow night, we're going to change it to the following day."

Q. Well, the one question I asked, and I don't think I got answered actually was -- I thought it was a fairly straightforward question.

To your knowledge, did the population of South Vietnam after the Tet offensive rise up against the government of Vietnam?

MR. BARON: Object to the form of the question.

THE WITNESS: There certainly were groups. There certainly was a popular uprising within the city. The extent of that to say how many people and the like, I don't know. I didn't go around afterwards. I'm not sure we had an assessment on that. I know absolutely flat out that civilians were involved in the offensive operation.

I relate a story. I had a Korean roommate, very
close in this point of time. He had gotten into a
discussion with me on this. The reason we got into a
discussion is, assuming this uprising we're talking about,
how do you go in and clean it up? Militarily, it becomes
a very difficult issue to address, especially with a very
strong presence of media. Do you bring troops in and fire
into an area containing civilians and watch supposed
non-combatants drop and be maimed and killed and the like?
And he felt that was one of our problems. Our,
meaning the U.S.. That we're fighting warfare under more
humane terms. His point to me was, you can't do that.
And he suggested several ways in which you could handle
that. But I raise that issue to say that that was a point
in him, again, the philosophy. But related to, how do you
handle that uprising there with rockets in that city?
That took quite a long time before they were taken care
of. And these aren't rockets of an organized military
force. These are people. Whether it be in their house or
cellar or small bands of people that are holding out. And
it became a very -- I feel a very difficult question.
And he pointed out to me for us to address on,
how do you get rid of that? A lot of that resulted in
what we discussed earlier. Buildings were demolished, and
the like, because you have people firing and using them
for shelter and the like. Exposure to this in a city
environment. Saigon is a very very dense, extremely populated city. Extreme shock to me to see this type of fighting taking place, you know, in the city.

BY MR. MURRY: (Resuming)

Q. Have you read any assessment published at or after the Tet offensive by Vietnamese Communist leaders in which they assessed the results of their offensive?

A. When you say "after the offensive," do you mean immediately after, or do you mean like last week, or since I've been out, and since this whole thing has been over with? There's a very difference to the answers on that.

Q. Let's start with about the time of the offensive and then go onto --

A. At the time of the offensive, again in broad terms, generally not. Generally not because our role at that time was, A, survival. And I mean that very very straightforward.

B, to try to reconstruct what had happened.

Where are we in the parameters in which I was assigned in that military structure? The re-creation of the Order of Battle in what we were involved with, myself, my group. We weren't involved in a lot of post-Tet analysis to find out how many people uprose and all this. We're trying to find out who's left; where are they; what's happening?

That's what we -- everything we did was focused to that.
And I mean, intensely focused to that, to reconstruct where are we, what's happened?

Q. What about later on? Have you read any assessment by the enemy's comments of the offensive?

A. I think the best testimony to what happened after is the fact that we left South Vietnam under less than honorable conditions. We did not win that war. The Tet offensive was not an astounding victory by U.S. or Free World forces.

Not only that, but after the Tet offensive, if it was an astounding defeat, how were they able to continue into day after day after day of rocket and mortar barrages and followed by the May offensive.

I drew -- please take note of this. I drew the short straw to pull guard duty on the roof of the BOQ, which was in Cao Lanh, the evening of the May offensive. I mention that because if you're looking for dynamic points that are in Russ Cooley's mind as to what happened, that's one of them. Total defeat? Where did the May offensive come from? And, good Lord, the May offensive? Again, total. They were able to do this at will. Right there a block away.

Q. Move to strike the answer as not responsive.

Mr. Cooley, what I'm asking you is: Did you read any assessment by the Vietnamese Communists of the results
in their own minds of the Tet offensive later than the
months immediately following the Tet offensive?
A. You're talking about now up to current time also?
Q. Yes.
A. I'll recall one and I cannot be specific as to
the source of it. The one that -- this was a -- the Tet
offensive was a deliberate, calculated, known, high-loss
offensive by General Giap of North Vietnam, at which he
believed was highly successful and he gained what he set
out to achieve, which was the start of the downfall of the
U.S. presence in South Vietnam.
Q. Do you recall if this source said that it was a
known, high-loss offensive in substance?
A. No, I'm not -- again, as I recall that, losses
were known to occur. That these losses were, in fact, in
keeping with the strong difficulty, in keeping with the
honor of what was done.
Q. Did this source indicate that Giap anticipated
that there were high losses in this offensive?
A. It anticipated that there would be losses, yes.
I am kind of subjective, considering the magnitude of what
we had. If you took a thousand per province where they
attacked, which is not terribly high by province, but when
you sum up the magnitude out of all 44 provinces, it was
almost all of them. You've now got a high number that
somebody could now look at and say, "Gentlemen, that's high." But it's got to be put in context with the size of the offensive operation which was from one end of the country to the other.

Q. Now, let me go back to my original question. Isn't it true that however far removed from the date of the offensive, a date to launch the offensive had to be chosen, that date by itself doesn't tell you unequivocally what the size of the attacking force is going to be? Isn't that correct? Do you understand my question?

A. Repeat it.

Q. Let me try to clarify it. Perhaps the best way for me to clarify is to ask you a series of questions, one which will focus on the time before Tet, and one on a time at Tet, and one at a time after Tet.

Now, as I understand your testimony, you're saying a certain period of time in advance of any offensive, the military commanders have to decide when that offensive is going to take place so that they can build up their forces and make logistic arrangements and communications arrangements, and so forth; is that correct?

A. Affirmative.

Q. Now, if the leaders, Communist leaders, in Vietnam had related that they wanted to attack South
Vietnam on January 28th, 1968 far enough in advance, isn't it true that they probably could have arranged to do so respective of the size of the attacking force?

MR. BARON: Object to the form of the question.

MR. MURRY: I wasn't finished with my question but --

THE WITNESS: To answer in its very simplest form, yes.

BY MR. MURRY: (Resuming)

Q. And if the high command, or -- I'm sorry. If the leadership of the Communist forces in Vietnam had decided they wanted to attack on the very day that the Tet Holiday began, if they decided that far enough in advance, the decision to do that is, in a sense, independent of the size of the attacking force that they use; isn't that correct?

MR. BARON: Object to the form of the question.

THE WITNESS: On the assumption you're giving me a hypothetical situation, the answer is yes.

BY MR. MURRY: (Resuming)

Q. And the same thing would be true for a decision to attack immediately after the Tet Holiday?

A. Yes.

Q. What I'm driving at, Colonel, is this: Isn't it correct that a failure by an intelligence analyst to
predict the exact day of an offensive is not the same thing as an inaccurate assessment of the size of the force that launches that offensive?

A. I want to make very clear again, as I've stated before, we didn't have a failure of missing it by a day or an hour or a week. We had a failure of missing this by a long period of time based on this hypothetical model that you've just built for me. I have told you that I arrived in-country and was ordered to be in starched khaki uniform with no weapon. This is months before the Tet offensive. If you're saying that we had a failure or that this was a simple failure to say it didn't occur within a 24, 48 hour window, I'm saying that's not true.

Q. Well, no. That really wasn't what I was asking. I was trying to distinguish between the size of the force that attacks on a given day and the date on which that force attacks. What I'm really trying to ask you is: Isn't it true that even if an intelligence analyst in a hypothetical battle situation properly determined when an enemy is going to strike, he may inaccurately determine the size of the force that's going to attack on that day?

A. Again, in its simplest form, yes.

Q. And isn't it also true that an analyst may, in the course of making his assessment of enemy plans and attentions and capabilities, may accurately assess the
size of an attacking force, but inaccurately predict the
date that that force will attack?
A. Yes.
Q. And isn't it also true that a showing that an
analyst failed to predict the date of attack does not
translate automatically into a showing that the analyst
failed to predict the size of the attacking force?
A. Again, simplest form hypothetical model, yes.

Let me, at this point, summarize your line of questioning
and use it to support my thesis.
Q. Well, I wish you wouldn't because I don't have a
question pending and Mr. Baron will cross-examine you.
And he can ask you all those types of questions. I don't
want to cut you off, but I want to get my questions
answered. And that's really something that Mr. Baron
can --
MR. BARON: I haven't suggested in the slightest
that I under -- he wants to put his answer in question --
MR. MURRY: If you don't want to, feel free.
MR. BARON: -- as I understand what the witness
has said.
MR. MURRY: He's got no question and, no, I'm not
inclined to just let him talk about Vietnam.
MR. BARON: I believe he stated that he wants to
explain his answer, not that he wants to, quote, just talk
about Vietnam.

MR. MURRY: He said he wants to summarize my line
of questioning and use it to support his thesis. I don't
have a pending question pending to him in that regard, and
I frankly want to have my questions answered.

Q. Isn't it true that General Westmoreland put all
U.S. troops on alert prior to the Tet offensive?
A. I'm not aware of that at all.

Q. Did the Vietcong or North Vietnamese continue to
infiltrate troops into South Vietnam after the Tet
offensive began?
A. Now that you have a question pending, the
offensive was the result of, obviously, a very strong
movement of troops through infiltration into South Vietnam
to conduct that offensive. Your questioning referred to
before about whether they could do certain things at
certain windows of time, or whether a call of strength
versus time would correlate, or not, seems to me a little
immaterial. That says -- and I'm not a -- I'm an
intelligence professional -- that you need the troops in
the logistical base to support your operation. That was
calculated around the time frame in which they conducted
the offensive. Moreover, not only did they increase it
but there is a *Time Magazine* article saying they were
infiltrating at the rate of 30,000 a month, April 19, '68,
1 quoted by Lyndon Baines Johnson.

2 Q. Did the VC continue to recruit troops for their
3 side in the months after the Tet offensive first hit?
4 A. I don't know the answer to that without
5 speculating.
6 Q. Let me put it this way: Do you know whether the
7 VC attempted to continue their recruiting in the months
8 after the Tet offensive hit?
9 A. The VC got recruits without asking for them at
10 certain points in time. I feel that they -- I'm
11 speculating on this. This is my assessment; this is my
12 personal feeling right now. I think there were a lot of
13 Vietnamese that thought this was the end of the rode. All
14 of us kind of want to go on the boat going to the right
15 shore or the winning team. I felt that after survival,
16 the issue of survival died down, that recruiting in some
17 quarter became easier for them.
18 We certainly withdrew now from our presence in
19 outer lying areas. We withdrew to cities. In fact, one
20 of the problems that we faced was a horrendous migration
21 of refugees into the cities to get away from the fighting.
22 This became a problem on how to handle it. Soon as you
23 have very very large masses of refugees and the like, you
24 open up a whole new ball game for both sides.
25 Q. If the Vietcong were acquiring recruits in the

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months after the Tet offensive, and if the Communist were also infiltrating, I believe you quoted the figure of 30,000 a month after the Tet offensive, why does it puzzle you that they were able to maintain offensive operations after the Tet offensive first hit?

A. Let me, for the record, clarify. I said 30,000. I was quoting *Time Magazine*. That's the source on that. Doesn't necessarily -- I'm not reflecting that same as official military intelligence.

In answer to your question, it doesn't surprise me. My point in mentioning this is to support this issue that there wasn't a resounding defeat. We hadn't whipped the enemy that he had his tail between his legs, and this was it. That it was an all out one-last-ditched stand.

Q. Could you tell me, Mr. Cooley, the experience that you had had, if any, with estimating enemy strength prior to your service in Vietnam?

A. None.

Q. Had you ever served in a combat zone prior to your tour of duty in Vietnam?

A. In my service time the only combat zone we had was Vietnam which I was in. I'll answer your question by saying that I served three years with the 25th Infantry Division in a combat unit. 25th Division wasn't in a combat zone at that time because it had not gone to
Vietnam.

Q. What was your security clearance in the fall of 1967?

A. Subsequent to my arrival in Vietnam?

Q. What about at the time of your arrival in Vietnam?

A. Top secret crypto.

Q. What about subsequent to your arrival?

A. I had that plus the security classification allowing access to compartmented information known as special intelligence.

Q. When did you get that clearance for access to —

A. Shortly after my arrival in Vietnam.

Q. Do you remember how long?

A. Very short.

Q. Two weeks?

A. That would be a fair statement. I honestly don't know. It would be in a very short period of time. There was no dragging out of this at all.

Q. Is it correct that your top secret crypto clearance was insufficient to allow you access to the intelligence in the Tank?

A. It would have been if that's all I had, yes.

Crypto is not to be confused with special intelligence. Crypto relates to, as you might imagine by
the word, cryptography codes. It is not commonly used
today in the intelligence community. It was in an added
level of access not called clearance. Short, it was not
in the compartmented arena, not with the special
intelligence at all. You're getting into areas where I'm
at the very very edge of what I can talk about.

Q. You were familiar, while you were in Vietnam with
the MACV Order of Battle Summary, were you not?
A. Yes.

Q. Did the MACV Order of Battle Summary contain
intelligence derived from the compartmentalized or special
intelligence?
A. Yes.

Q. Do you know what parts of the MACV Order of
Battle Summary contained such information?
A. It was inherent in the strength figures, and I
would -- I would feel strong in saying, we're a little out
of my arena, that it was also in the Ground Order of
Battle figures.

Q. Isn't it also true that the -- that any
information or intelligence in the MACV Monthly Order of
Battle Summary that relied in any part on the
compartmentalized intelligence could not -- strike it.

Let me start over again.

Isn't it also true that if there were
intelligence in the MACV Order of Battle Summary that relied on compartmentalized intelligence, the MACV Order of Battle Summary could not indicate the source of that particular intelligence or that the intelligence was, in fact, based on these compartmentalized sources?

A. Correct.

Q. Did you understand this in 1967 and 1968?

A. Yes. May I clarify my last answer? I feel you're lead is towards a question that if I were reading this the first thing I would ask is the -- if that's the case, how do you get a document out to people that don't have this?

And secondly, may the record show that while you refer to this as the MACV Battle of Order Summary, take a close look at the cover of that document. That's a joint U.S. Vietnamese document. It has English language and it had Vietnamese language. It was jointly produced. Special intelligence was incorporated in that document at a much lower classification by incorporating it in the figures. This was not questioned by the Vietnamese.

I had stated before, we did not have Vietnamese working in the group that I was in where we had access to this information to do our computations. And another way that it is incorporated is by calling it an estimate.

Q. Let me follow-up on your answer. How do you get
a document out, given the restrictions that we have just discussed?

A. I'll try to make that clear to you, and that is by incorporating it with another you covered up within something else. And in the case of strength and infiltration, it's incorporated in those figures. If somebody were to say, "Where did you get your figures?" We could tell them the methodology. If somebody said, "Show me your documentation." We would now have to say, "There's one package. The rest of it we're going to have to talk about getting access for you beyond that."

Q. Was it permissible for you to tell the Vietnamese in CICV that there was such a thing as special intelligence?

A. It was not.

Q. So not everybody who asked you for your documentation could even be told as much as you've just told me, namely that that's one packet, this other stuff is classified?

A. That's correct.

MR. MURRY: Off the record.

(Whereupon, a brief recess was taken.)

BY MR. MURRY: (Resuming)

Q. Mr. Cooley, could you recount for me the first contact that you had with anyone representing or
purporting to represent CBS in connection with the broadcast, "The Uncounted Enemy: A Vietnam Deception"?

A. I don't recall the date. I can give you the exact or the approximate time frame. Say, March 1981. That's when I received a call from CBS. I may have talked to Alex Alben at the time. His name was referenced. Whether I talked to him or he was referred to me, I'm not sure. Reason I state that there was several telephone calls where I missed their call and I would call back. Alex Alben's name was on some memo to me who to call back. In substance, I did talk to George Crile, and he put on an extension, Sam Adams. That was my first contact with them.

Q. Do you recall -- and I would understand if you didn't remember exact quotes. But can you tell me whatever you recall, either words and also substance where you can't remember words, what was said by Mr. Crile and what was said by you?

A. In substance, Mr. Crile said that they were putting together a CBS documentary to be produced or aired sometime in the future; that he and Sam Adams had been working on this for literally well over a year putting material together. They expressed happiness in finding me, that they had been, quote, tracking me for sometime. Tracking me through discussions apparently with others who
I knew me during that tour in Vietnam. They knew, at that
time, what my position was and had a reasonably good
feeling as to what my job functions were without my having
to tell them. They related that for my part they were
interested in discussing infiltration, straight figures.
Would I mind talking with them if they came out here to
California?
I probably went through some line of questioning
to find out why they wanted to talk to me, to feel a
little comfortable in my mind as to what I was being
involved with, which I don't recall, but it was just a
back and forth type of question and answer. I did feel
comfortable to say, "Yes. Come out." A date was fixed.
They did come out and I met with them.
Q. Did Mr. Crile tell you what he understood the
theme or thesis of this documentary to be?
A. On the telephone or --
Q. On the telephone. I just want to focus on the
telephone contact now.
A. Certainly not in the context in which the program
was presented. Not on the telephone. It was that they
were researching into material for a program relating to
infiltration strength figures. And it centered around the
Tet offensive. They did make it clear, or at least I felt
reasonably clear in my mind, that it had to do with an
inconsistency for -- or an inconsistency in official
reported figures versus what I felt or what he wanted to
find out, where I was on that ground.

Q. Did he indicate, I want to explore the
inconsistency between, as you put it, the official figures
and what you felt or what some other person or persons
said they believed?

A. No, what I and my group of people were putting
together.

Q. Did he indicate -- and when I say "he," I mean
Mr. Crile -- did he indicate at that time what he
understood anyone other than yourself to believe about the
level of enemy infiltration in the fall of 1967?

A. I honestly don't recall. He may have at that
time stated that they were dealing with an inconsistency,
trying to resolve an inconsistency in officially reported
figures versus what we were producing in our analysis.

Q. What did Mr. Adams say in this conversation that
you can recall?

A. What I recall, specifically, is that he had been
putting material information together for some three years
in his part in preparation of a book; that he and George
Crile had come together. At the time, I didn't understand
how. Later I did learn how they had come together and
that CBS was backing Sam Adams to put on a TV program, a
documentary stating this position -- stating the position that he had. The only thing explained to me at that time, as best as I can recall, in very general terms, was my role in it which would be the infiltration strength.

Q. Had you ever met Sam Adams prior to this telephone call?
A. No.

Q. Had you ever heard of Sam Adams prior to this telephone call?
A. Yes.

Q. When did you first hear of Mr. Adams?
A. In Vietnam.

Q. And how did you happen to hear of Mr. Adams in Vietnam?
A. Mr. Adams was a CIA analyst. And it became very apparent to me upon arrival in Vietnam that there certainly was open conflict, if not hostility, between the CIA and MACV's position concerning enemy strength. I had heard Sam Adams' name bantered around the hall, and the like of which bounced off me at the time. I had not met him, but his name was sure familiar to me.

Q. Do you remember any of the people who mentioned Sam Adams to you when you arrived in Vietnam?
A. I do not.

Q. Do you remember what any of these people said
about Mr. Adams?

A. I do not. I never recall an instance where Sam Adams was singled out as an individual saying anything good or bad about him. I can certainly testify that the CIA in its organizational definition was singled out considerably in hostile terms, considerably. And this would be discussions that I was not part of; I was not party to. But obviously in my visits both in MACV and in the CICV -- when I say "visits," meaning conducting business to the different elements that I was associated with -- I would pick up on discussions going on in that light.

Q. Did you have any other contacts with Mr. Crile or Mr. Adams subsequent to the phone call you have just testified about and prior to their arrival in California?

A. No.

Q. Do you remember approximately when Mr. Adams and Mr. Crile met with you for the first time in California, without looking at anything, just, do you remember?

A. It was the day before the filming of my interview. I met with him the day before. We set down and went over a very long evening of discussion and asked at that time if I would be willing to go on camera the following evening, and agreed to that and did.

Q. Do you remember where you had that long evening
of discussion with Mr. Adams and Mr. Crile?

A. Holiday Inn in Palo Alto, California.

Q. Holiday Inn in Palo Alto?

A. Holiday Inn.

Q. Where is that Holiday Inn located?

A. At the corner of El Camino Real and University Avenue. From this location north about one mile.

Q. Did you meet with Mr. Crile the day after your discussion that you've just testified about, but prior to the start of the taping?

A. State that again please.

Q. You say you had a discussion with Mr. Crile and Mr. Adams at the Holiday Inn in Palo Alto, and you agreed to be taped the next day? Did you have a meeting after this discussion at the Holiday Inn and before the taping began?

A. I did not. The obligation contact we had subsequent to that was, as I mentioned, he was going to attempt to bring the film crew in to set up the filming of it. I received the phone call, whether it was from him or a representative, I'm not sure, saying, "Yes, it was on. Could I make it?" My next contact with George Crile was that evening, roughly 8:00 o'clock the following evening at the start of the taping, filming.

Q. Where did the taping take place?
A. Holiday Inn, Palo Alto, California.

Q. Did they rent a room and --

A. They did.

Q. How long did the taping take?

A. Four and one half hours.

Q. Who was present at the taping?

A. Myself, George Crile, Sam Adams, and an assortment of technicians that you would expect, with lighting, sound, camera, and the like. Most of which is very fuzzy to me in terms of numbers and like. Technicians of which I had no interface with except maybe to shake hands when I came in to say -- to be introduced to them.

Q. How long a period of time, understanding that this was probably going to have to be only an approximation, how long a period of time elapsed between your arrival at the room where the taping was going to take place and the start of the taping?

A. I waited outside the room for probably 45 minutes before being brought in. I waited alone with only somebody -- and I don't really know who it was, I believe it was not George -- coming and telling me it will be a short while longer and that turned out to be probably a good 45 minutes.

Q. And you say you waited -- other than these
1 comments by Mr. Crile -- you waited by yourself?
2    A. Affirmative.
3
4 MR. MURRY: Let me have marked as Plaintiff's
5 Exhibit No. 200, a photo copy of some notes that, as I
6 understand, were written by Mr. Adams. Some of which
7 purport, I believe, to recount Mr. Adams' conversations
8 with you, Mr. Cooley; some of which I think are Mr. Adams'
9 own notes to himself. They -- and I invite counsel for
10 defendant to add whatever he likes in the interest of
11 clarity to my description of the notes. They bear the
12 Bates Nos. 26633 through 26645. And they bear additional
13 Bates Nos. 26723 to 26725.
14
15 And let me just state for you, Mr. Cooley, that
16 in the form in which these notes were produced in the
17 course of this litigation by defendant to plaintiff the --
18 at the break in the numbers there was a copy of the
19 transcription of your interview with Mr. Crile that was
20 taped. I have omitted that transcript simply because of
21 the bulk of it and because we have other copies of the
22 transcript. And I represent to you that there is nothing
23 else missing other than the copy of the interview
24 transcript.
25
26 (A document was marked
27 as Cooley Deposition
28 Exhibit No. 200

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