Q Do you recall ever discussing with Dr. Rostow MACV's position with respect to enemy strength retroactive or retrospective estimates?
A Well, as I recall it, it was not in terms of MACV, but it was the -- those intelligence folks, whoever they may be, who don't seem to want to come up with a retroactive adjustment.
Q Did you know who those were?
A Well, you know, I can understand that they may well have figured that's a lot more trouble than it is worth because they are looking at things from a different point of view.

They are really looking out in the field at figures in terms of a future operation. They are less concerned with what might have been in the past, whereas from a policy standpoint, we were interested in knowing where we have been so we've got better evidence of where we may be going.
Q In the papers we went through, a couple of them, I think, indicated that they were materials that Dr. Rostow had sent on to President Johnson.
A Yes.
Q Other than the papers that are so indicated on their face, are there any other papers
that you have in front of you, either the two exhibits we have been talking about, or any of the other documents, that you have any reason to believe were transmitted to President Johnson?

A Well, there was one memorandum of mine dated the 28th of February, which has a covering memo by Mr. Rostow addressed to the President. So, presumably, that went to him.

Q Yes.

What I am asking is whether there are any of these materials that you have in front of you that went to President Johnson, to your knowledge, other than the ones that are indicated as going to him?

A You mean documents that I prepared?

Q Yes.

A No, because if it had gone -- if the document itself had gone to the President -- well, I have to revise that.

If Mr. Rostow sent a document of mine to the President, I did not necessarily know about it.

However, if a document such as this memorandum of 13 December had gone to the President with a covering memo from Rostow, that should have been uncovered in the files.
Q Yes. For example, there is this memorandum dated December 13, 1967. It is from you to Dr. Rostow.

You don't have any reason to believe that that memorandum went to President Johnson, do you?

A No.

Q By comparison, your February 28, 1968 memorandum to Dr. Rostow is a memorandum that appears to have gone to President Johnson because there is a cover memorandum attached to it from Dr. Rostow to the President; correct?

A Yes.

Q Exhibits 976 and 977, which we were talking about before, are memoranda from you to Dr. Rostow with attachments.

And these would be documents that you don't have any reason to believe went to President Johnson; correct?

MR. RIESE: Objection.

A On the other hand, I have no reason to believe that Mr. Rostow may not have had these in his hands when he met with the President and showed it to him and pulled it back or used it as a talking paper in discussing it with him.
Q But from your standpoint you don't have any knowledge one way or the other is what you are saying; is that correct or not?

Do you understand my question?

A I do.

I would be reasonably certain that with respect to this 18 August memo that Mr. Rostow, some time about that time most probably, would have told the President "I hear from Bob that they are making some progress and that there is going to be a big increase and we want to be sure it is put in proper context."

I would be extremely surprised if he did not say something along that order. But there is no reason to bother the President with this sort of a memo. He is not interested in that.

Q I am not saying that he is. I am trying to get straight, because I've got a series of documents, what the fact is for the record.

A I understand.

Q Do you have any recollection now of conversations that you had with Dr. Rostow concerning what Dr. Rostow did or did not tell the President about enemy strength figures?
A It would be my recollection that Rostow told the President along in October and November essentially the same sort of thing that I expected he did in August.

Q Which is, for the record?

A "We now do have this agreed upon intelligence estimate. No significant change in the hard core elements of VC, NVA; significant increase in self-defense, secret self-defense forces. The bottom line is this, that we have been eroding their strength, from captured documents that we have been getting from MACV. The North Vietnamese are talking about starting their winter-spring campaign, so despite the progress that is being made, we've got to be prepared for a major effort on their part."

And that is the same sort of thing that Mr. Rostow was telling on background to Joe Alsop, the columnist.

Q What are you referring to when you say Rostow was telling Alsop on background?

A There are two materials or columns from Joseph Alsop, one from the Washington Post, dated 13 September, in which he talks about General Giap's strategy. He talks about signs of movement from one or two...
divisions from North Vietnam into the south. And then the 15 December article in the Washington Post in which they talk about a decision made in Hanoi on September 20th in talking about captured documents indicating that "the revolution in the south will be over in 1967-68," et cetera, et cetera.

Now, whether or not the President talked to Joe Alsop, I don't know.

Q Whether the President talked to Alsop, you are saying?

A Yes, I don't know. He had at some time, but whether this particular time, I don't know.

Q I want to distinguish between three things.

One, are the documents that went to President Johnson.

Two is what you recall Dr. Rostow telling you he told President Johnson.

Three is what you believe that it is likely that Dr. Rostow told President Johnson.

Am I correct that you didn't have any personal discussions with President Johnson about order of battle?
A That is -- the only personal discussions that I had with the President at all related to that subject were in connection with the battle at Khe Sanh, and this was more describing operational events rather than an intelligence estimate of the order of battle.

Q Were you ever present when Dr. Rostow discussed, or when anyone, whether or not Dr. Rostow, discussed with President Johnson enemy strength?

A No.

Q Did you, when you discussed Khe Sanh --

A Really, I ought not to be commenting on what President -- what Rostow told the President because why not get it firsthand from him?

Q I think that's fair. Okay.

Let me -- I think that's a fair point and actually, I have talked to Dr. Rostow. We had his deposition Friday night, Saturday and Sunday of last week.

Let me just ask you for your own knowledge.

Do you have any personal knowledge as to what documents went to President Johnson other than what is indicated in writing in the documents in front of you?
A. No. All I can say is that the way the system worked, was supposed to work to the best of my knowledge, was that anything that went to the President should have had some sort of an indication and be located in the LBJ Library down there.

So if you see this document, the memorandum from Mr. Rostow, if it doesn't have any indication that the President saw it, then I would say he didn't see it unless somebody made a copy and you didn't get the copy that the President saw.

Q. When you say --

A. You may have here copies of Mr. Rostow's file rather than the President's file. You would have to ask the library about that.

Q. When you say "this document," you are referring to Exhibit 976?

A. Yes.

Q. But just for present purposes, you wouldn't have any knowledge about that. You say we ought to ask the library. You wouldn't have any knowledge about that?

A. No.

Q. Did you, when you discussed Khe Sanh with President Johnson -- first let me ask you when
Q Am I correct that the NSA intelligence that you got on infiltration only related in the time period we are talking about to relatively large unit movements like divisions and regiments?

MR. BOIES: Off the record.

(Discussion off the record.)

Q Do you have the question?

A You were asking me were these basically large units. My recollection is yes, they were divisions. I think regiments. Beyond that, probably not.

MR. BOIES: Off the record.

(Discussion off the record.)

Q Do you recall today the estimates of infiltration that you had for the last four months of 1967 and the first month of 1968?

A How could I keep figures like that in my head?

Q I am not suggesting that you should have.. I am trying to explore what your recollection is.

A The only thing I could do is go back to one of these papers that said something about infiltration, but that was in the October memo, wasn't it?

Q You are looking at, I think, Exhibit 977, which is your retroactive adjustments?
A   Yes.

Q   I think you indicated there that --
A   But that doesn't really answer your question
because we are talking about the last four months
of 1967.

Q   Right.
A   This is written in October. Then we didn't
have at that point October, November or December figures
yet. And the September figures that we might have
had probably were not that good because of the typical
time lag.

Q   Let me ask you to look at this February
28, 1968 memorandum.

There is one from you to Rostow and then
there is a cover memo of the same date from Rostow
to the President, sending on your February 28, 1968
memorandum.

Do you have that in front of you?
A   Mm-hmm.

Q   Now, in this estimate of the order of
battle, you included estimates for the main and local
forces, both NVA and Vietcong, and for guerrillas
and for administrative services, but not for self
defense and secret self defense; correct?
A That is correct.

Q Do you have any present recollection as to why this memorandum did not include estimates for self defense or secret self defense forces?

A I would have to speculate, and I can only guess that what I've got listed there is enemy order of battle, which perhaps in civilian terms might be better defined as the enemy's military order of battle.

Those enemy forces which are calculated as having a significant actual or potential offensive military capability as opposed to the self defense forces which I believe were essentially nonmilitary and not to be used in an offensive type role.

Q Do you now what the role of the self defense forces was?

A Nothing more than what I just said.

(Continued on next page.)
Q Where did the understanding of what you said come from?
A I have no idea. I suppose somewhere there is a definition of what these are, but what the definition was specifically or where it would have appeared, I don't know.

Q Did you have any information, for example, with respect to how many of the self-defense forces were armed or what kind of arms?
A I don't know.

Q Did you have any information as to what the role of the self-defense forces were in planning mines and booby-traps?

MR. RIESE: Objection as to form.

THE WITNESS: Do I answer that anyway?

MR. RIESE: You are free to answer.

THE WITNESS: Okay, ask me the question again.

Q Did you have, back in 1967 or 1968, any information concerning the extent to which self-defense forces were responsible for planning mines and booby-traps?

MR. RIESE: Objection.

A Well, my understanding was that the category of guerrillas implied more of an offensive operation, but
that even in the guerrillas, some of them were pretty passive most of the time, and a certain number of them probably didn’t do much more than put out mines from time to time.

I don’t know when you had a nine or ten-year-old kid putting a mine down someplace, whether he was a guerrilla or self-defense force. I just don’t recall.

Q Did you have any understanding of what percentage or approximate percentage of the self-defense forces consisted of draft age males?

MR. RIESE: Objection as to form.

Q When I ask did you have any understanding, I mean in 1967 and 1968.

A I don’t recall, and I don’t recall whether the people who put the estimates together had any understanding or not.

Q Where did you get your understanding of what the role and capabilities of the self-defense forces were, if you can recall?

A I can’t recall.

Q Did you have an understanding of what the distinction was between self-defense and secret self-defense forces?
A Yes, other than it seemed to me that people were a little more confident about the existence of the self-defense force and on the secret self-defense force there was much more tenuous and a lot of assumptions, and some people said it didn't even exist.

Q The self-defense force was estimated as being much larger than the secret self-defense force, was it not?

A I don't know. Let me look at the figures.

Yes.

Q In your work on Dr. Rostow's staff, did you receive information concerning the role played by the self-defense and secret self-defense forces, if you can recall?

A I think I recall something to the effect that at some point during or after the Tet campaign, MACV indicated that during all of the fighting they had never been able to identify any secret self-defense forces.

Q Where did you get that understanding from?

A I don't know.

Q Do you recall if that was something you received in writing or orally?
A I don't recall.
I would not have received it orally from
MACV. It may have been in a MACV document, a cable,
or it would have been a conversation with somebody
from the Pentagon who had been to Vietnam and come
back.

Q Did you ever have any discussions in
person with anyone from the CIA with respect to enemy
strength issues?
A Just very briefly, as I recall, with George
Carver and -- now, not really -- he was a guy I knew
and we were bound to have discussed it, but I can't
recall anything at all specific about it.

I was probably asking him, "Hey, when are you
going to get this operation over with?"

Q And he was saying, "Soon"?
A No.

I have a recollection that it was sometime
during this period that we had a Vietnam Information
Committee.

Q When would that have been?
A Probably sometime in '67 and going on into '68.

Q Would it have been before or after the
Tet offensive?
A. Before.

Q. Who would have been on that?

A. We would have had people from each of the agencies represented and it would have been my recollection that George Carver was the guy from CIA. There would have been somebody from OSD public affairs. We would have had someone from that organization we had in the White House which Bob Komer headed at one time. The name I can't remember.

And there would have been somebody from the State Department.

Q. Do you recall any discussions of enemy strength at any of these meetings?

A. Well, it is my recollection that in this group we again talked about the need that when these figures surfaced, let us make sure it is handled properly from a public affairs standpoint, and this would have been in that period either late September or October of '67.

Q. Other than that, do you recall any discussions of enemy strength in any detail?

A. Not of any substance, no.

Q. Let me ask you the same question with respect to DIA that I asked with respect to CIA.
Ginsburgh

Do you recall personally discussing enemy strength with anyone from DIA?
A No.
Q You mentioned INR, I think at one point.

Do you recall discussing enemy strength with anyone from INR?
A No.
Q Were you, after the Tet offensive, involved in any assessment of the Tet offensive, the consequences of the Tet offensive?
A Well, here is my personal estimate of changes in the enemy order of battle. 28 February 1968. But in terms of any official involvement, that is an enclosure to Walt Rostow's memo of Wednesday, February 28.

Q Were there materials which were sent to --
A Excuse me. Then there is another memo of 20 March 1968.

Q Your memorandum of 20 March 1968 has been marked as Exhibit 929, I think, and that is dated March 20, 1968 and it is a two-page memorandum from you to Dr. Rostow; is that correct?
"MACV interrogation has produced no evidence that any members of a self-defense militia took part in the Tet offensive. In fact, no evidence of the existence of such an organization."

Q Where would that information have come from, if you recall?

A From DIA, on an informal basis.

Q Would that be DIA reporting to you what MACV had reported to DIA?

A Yes.

But DIA didn't report to me.

(Continued on following page)
Q Or giving you information?
A Or giving me information. I simply don't recall whether I had somebody in DIA that I could talk to on a regular basis because I can't remember a specific name. So it may be that this was something that the people in the chairman's staff group got directly from DIA and passed it on to me.

Q The first sentence of this document, Exhibit 929 says "The CIA estimate on enemy recuperability after the Tet offensive has obviously knocked into a cocked hat the labiously produced NIE." Do you see that?
A I guess NIE should have been SNIE.
Q What does that mean?
A I don't know what it means.
Q Do you have any recollection?
A I don't recall the specific document that that is referring to, but there must have been some kind of a CIA estimate indicating how well the enemy had recovered after the Tet offensive. And what I don't know is whether -- oh, it would appear from -- because in parentheses, that there must have been some newspaper article on the
subject by Neil Sheehan. I think Neil is his first name.
I am not sure.

Q  I think it is too.

A  He was a reporter for the New York Times at
one time.

Q  In that parenthetical phrase that you
referred to, there is a reference to OSD.

Do you see that?

A  Yes.

Q  What is OSD?

A  I presume I am talking here about what was in
the Southeast Asia statistical summary, which was an
OSD document, but essentially putting down figures
that they had from MACV.

Q  But what is OSD? What do the letters
stand for?

A  Office of the Secretary of Defense.

Q  Do you have any recollection of what the --

A  May I say one more thing?

Q  Sure.

A  Because you asked me earlier about this
retrospective order of battle.

And you will notice on the second page, at the

bottom of the first page, "In the process you may wish
to again insist on a retrospective order of battle," which would indicate to me that at least by the 20th of March the intelligence community had not yet come up with a retrospective order of battle.

Q There is a -- I think there is another reference to that. There is a November 15, 1967 memorandum from Dr. Rostow to the President. I think you have it in there someplace.

In any event, there is one someplace where Dr. Rostow has been told, at least as of that time, that they can't do it.

A I don't believe I have seen this memo.

Q Maybe this is it. I thought you had had a copy of this.

But in any event, this is a memorandum dated November 15, 1967 from Dr. Rostow to the President.

A I think I have seen it.

Q The portion that I was just referring to was the paragraph at the next-to-the-last line on the first page. "I urged that they do a retrospective estimate showing that decline, but they say they cannot do it."

Do you recall being aware of that in
1967?

A Yes, I think, as I indicated earlier, that they hadn't -- "they" meaning the intelligence community -- had not come up with a retrospective view, but I was unable to focus that it was a problem of MACV that you asked me.

This would indicate that it was a problem of the intelligence community as a whole since this is commenting on Mr. Helms' paper.

Q Did you have any estimate of total infiltration, including both small units or packets and larger units for the month of January 1968?

A We knew about the major units coming across in Khe Sanh or near Khe Sanh.

Q That would have been strength in the range of 20 to 25,000, I think you said?

A Yes.

Q I think that --

A May I refer to something like that in one other -- I made the assumption that in addition to the two North Vietnamese divisions, that an additional 7,000 infiltrated, which was, as I recall, the monthly average that was currently being carried in some of the other documents.
Q So that would have been an estimate for total infiltration for the month of January of from 27,000 to 32,000?
A Somewhere around there.
Q Did you have an estimate for total infiltration for the month of December for 1967?
A Well, this 20,000 that we are talking about, that is the 20 to 25,000 of the two North Vietnamese divisions, this was over a period of December and January.
Q Did they actually cross in in January though, if you recall?
MR. RIESE: I think I am going to object. I think the stipulation covers this.
MR. BOIES: Okay. I think you are probably right.
I think there is a Rostow document that I used in his deposition, as I now recollect it.
Q Did you have any estimate of total infiltration for the month of November of 1967?
A Let me put it this way. There were regular documents that came out monthly which had infiltration figures in them.
Q Those came from MACV?
They came from MACV and I think if we look through these documents I could come up with what the figures were, but I don't recall without looking at these documents or the documents that were available at the time.

Q Do you recall whether there was any intelligence from NSA or any other organization in addition to the MACV intelligence on infiltration for the months of September, October and November of 1967?

A I don't recall, but there had been information at some point prior to December, as I recall. Whether there was anything during those particular months from NSA, I don't remember.

Q Do you today have an estimate of what the total infiltration was into South Vietnam for the months of September, October, November and December of 1967 and January 1968, that is, total infiltration for those five months?

MR. RIESE: Objection.

A You know, basically the -- yes, at the time I had an estimate. How good it was, I don't know. If you want to know what were the figures I had at the time, you know, you can go back to the...
documents and see them or I can go back to the memos and derive it from that, but I do not keep them in my head.

Q And I am not suggesting you should have.
A I am not trying to be unresponsive.

Q I know that. It's been a long time and when I ask you these questions, I am really just trying to probe your memory. I am not in any sense suggesting you should have remembered these things.
A Well, you know, even at the time, I was not the kind of guy who worried about keeping a lot of figures in my head. I figured there was always someplace I could get a document that I needed.

I prefer to do that rather than trying to keep them in my head because it was not my day-to-day business. I was not an intelligence officer.

MR. BOIES: Mr. Riese.

MR. RIESE: Could we take a break?

(Recess taken.)

(Continued on next page.)
EXAMINATION BY MR. RIESE:

Q General Ginsburgh, during the examination by Mr. Boies, I believe you made comments when you were making comments about retroactive assessment of enemy strength.

You, I believe, stated that you did not recall seeing such a study in the Southeast Asia Statistical Analysis.

Do you recall that?

A I recall saying that, yes.

Q Would there be anything that would refresh your memory as to whether or not such a retroactive study had been done by the Southeast Asia Statistical Analysis?

A Well, if I could see the documents that were prepared during that time?

Q That is all I want to know.

I notice in your memorandum for the record of August 18, the third page, the first column of figures you have footnoted as being taken from the Southeast Asia statistical summary.

Was this a report that you would regularly receive in your position?

A Yes. That was a routine report that everybody
in any way involved with South Vietnam and a lot of people that weren't involved got copies of. A document put out by the Office of the Secretary of Defense.

But I do not at the moment recall which agency had responsibility. You know, since it was a statistical summary, it could well be that the Department of Defense Controller was involved as well as DIA.

If you had a copy of the document, I am sure it would say it right on there.

(Continued on next page.)
Q  You would rely on the document as the
most accurate?

MR. BOIES: Objection.

But go ahead. That is not to stop you
from answering.

A  Well, you know, when we are talking figures, I
would rely much more on a document than what I would
on my memory.

When we are talking about other things of what
really took place, sometimes I was aware of thing that
didn't get reported accurately in the document.

Q  In the various documents that you have
in front of you, for instance in Exhibit 976, at the
lower left-hand corner below the typing, there is a
number and then there is also a check mark there.

Do you know what they signify?

A  This figure 25 with a check mark by it?

Q  Right.

A  Well, I know that on other documents we have
got similar things. There is a 37, a 58, a 43.

Q  You mentioned that one of the documents
which happened to be dated March 20, 1968 and I believe
has been previously identified by Mr. Boies as being
Exhibit 929 has a 43 in that lower left-hand corner; is
that correct?

A That is correct.

Q Does it have a check mark?

A No check.

Q We have talked about tonight a document dated October 19, 1967, a memorandum from Mr. Richard Moose. Does that have a number in the lower left-hand corner?

A A number 63 and no check mark.

I also see on most of these documents some numbers in the upper right-hand corner and they all appear to be underlined but I have not got the slightest idea of the significance of those.

(Continued on following page)
Q Do you have any idea what the
significance of the presence or absence of the check
mark is at the bottom lower left-hand corner of those
documents?
A No.
Q You stated during your examination by
Mr. Boies, that you received monthly documents which
contained infiltration figures which you believe to
be MACV figures; is that correct?
A Yes.
Q Were those monthly documents that you
received directly from MACV or did they come from
somewhere else?
A I just don't recall. There were certain
documents or messages that came into Washington
from MACV which went throughout the community
simultaneously.

There were other cases in which somebody in
OSD would put together data which they got from MACV
or in some cases, as I recall, from CINCPAC, and
 compile them and that would be distributed.

But the system that we had at the White House
had been established during the Kennedy administration,
was such that my guess would be 90 percent of the
documents -- 90 percent of the cable traffic that came into the State Department and into the Defense Department -- not the Defense Department, Office of the Secretary of Defense, we had copies of in the White House at the same time they were being distributed to the State Department and to OSD.

And if it was something that we were interested in, for example, a message directed to Secretary McNamara that we wanted the President to see, he would have it in his hands before Secretary McNamara had seen it.

MR. RIESE: I have no further questions.

MR. BOIES: Have a good night.

(Time noted: 9:05 p.m.)

________________________________________
Robert N. Ginsburgh

Subscribed and sworn to before me

this____day of___________1984.
CERTIFICATE

STATE OF NEW YORK  
COUNTY OF NEW YORK

I, HAROLD MELMAN, a Certified Shorthand Reporter and a Notary Public within and for the State of New York, do hereby certify:

That ROBERT N. GINSBURGH, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true transcript of my stenographic notes of the testimony given by such witness.

I do further certify that I am not related to any of the parties in this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of October 1984.

HAROLD MELMAN, CSR