Q. DID THERE COME A TIME WHEN YOU CAME TO BELIEVE
THAT THE 224,000 PERSON FIGURE SHOWN AS THE GRAND
TOTAL FOR ACCEPTED ENEMY ORDER OF BATTLE IN THE
MACV ORDER OF BATTLE SUMMARY FOR NOVEMBER AND
DECEMBER 1967 SIGNIFICANTLY UNDERSTATED ENEMY
STRENGTH?
A. WELL, I'M NOT SURE WHAT -- I DO KNOW SUBSEQUENT TO
DECEMBER WE DISCOVERED SOME HEAVY INFILTRATION
THAT WE HADN'T KNOWN ABOUT AT THE TIME, AND I'M --
IT IS CONCEIVABLE THAT I WOULD HAVE BELIEVED THAT
THERE WAS A BIGGER FIGURE. HOWEVER I AM NOT SURE
OF THAT. I DO REMEMBER THAT WE DID HAVE TO, UH,
-- BECAUSE OF LATE ARRIVING INTELLIGENCE THAT
SHOWED THAT SOMETHING THAT HAPPENED IN THE PAST,
WE VERY FREQUENTLY HAD TO CHANGE FIGURES, AND IT
CERTAINLY -- THERE MUST HAVE BEEN A CASE BETWEEN,
OH, DECEMBER THROUGH JANUARY-FEBRUARY, WHERE WE
WOULD HAVE HAD TO GO BACK AND CHANGE FIGURES
BECAUSE WE HAD FOUND OUT POST, YOU KNOW, AFTER THE
FACT THAT THERE HAD BEEN GREATER INFILTRATION.
USUALLY IT WAS INFILTRATION, BUT THERE COULD HAVE
BEEN OTHER REASONS.
Q. LET ME ASK YOU TO LOOK AT A DOCUMENT THAT HAS BEEN
MARKED AS DEFENDANTS' EXHIBIT 70, WHICH IS THE
ORDER OF BATTLE SUMMARY FOR JANUARY, 1968.
A. Okay.

Q. And just like all the others has a page that is numbered "I-I", headed "...Recapitulation of Accepted Enemy Order of Battle... Total Accepted Personnel Strength". And you will see there that the estimate for the end of January 1968 is 225,346, of which there are said to be 55,744 NVA in NVA units and another 10 to 12,000 NVA in Vietcong units.

A. Yes.

Q. Did there come a time in which you later came to believe that the estimate of 225,000 total enemy as of the end of January significantly understated actual enemy strength in South Vietnam?

A. We may have known at the time that this was, that this particular document was put out, that in fact there were some North Vietnamese large units moving in and around the DMZ, and we were unable to reflect it in a confidential document. I am not sure that's the case, but I am sure that that did occur at some time during that period that we, who knew there -- and reported back to Washington -- that in fact -- in a higher classification of intelligence that that figure may have been too low. I don't recall that pre--., I know for
CERTAIN THAT WE WERE AT ABOUT THAT PERIOD REPORTING BACK, UH, ADDITIONAL DIVISIONS, WHICH CERTAINLY WOULD HAVE JACKED UP THE TOTAL NVA FIGURE. AND WE ALSO KNEW THAT IN PREPARATION FOR THE GENERAL UPRISING AND SO FORTH THAT RECRUITMENT BY FORCES HAD BEEN STEPPED UP AND WE, WE ESTIMATED THAT THE NORMAL LEVEL OF RECRUITMENT HAD GONE UP, BUT THAT WOULD HAVE BEEN REFLECTED IN THE CONFIDENTIAL REPORTS, BECAUSE NONE OF THAT WAS OF HIGHER CLASSIFICATION AND CONFIDENTIAL.

Q. TAKING INTO ACCOUNT EVERYTHING THAT YOU KNEW THEN AND EVERYTHING THAT YOU SUBSEQUENTLY LEARNED, WHAT IS YOUR BEST ESTIMATE OF ENEMY "FIGHTING STRENGTH", AS YOU HAVE USED THOSE TERMS, IN SOUTH VIETNAM AS OF JANUARY 30TH, 1968?

A. MY BEST GUESS IS THAT IT WAS SOMEWHERE AROUND 250,000.

Q. WHAT KINDS OF REPORTS WERE PREPARED THAT DID HAVE IN THEM THE SECRET OR SENSITIVE INTELLIGENCE DATA?

A. THE WIEU'S.

Q. THE WIEU'S?

A. (AFFIRMATIVE NOD).

Q. THOSE WOULD HAVE ALL THE BEST DATA IN IT?

A. YES.

Q. YOU PREPARED THE WIEU'S AND THEN SENT THEM TO YOUR
SUPERIORS FOR APPROVAL AND THEN THEY WERE DISTRIBUTED OUTSIDE OF VIETNAM, IS THAT CORRECT?
A. THAT'S CORRECT.
Q. TO WHOM WERE THEY DISTRIBUTED OUTSIDE OF VIETNAM?
A. TO THE JOINT CHIEFS OF STAFF, TO THE, UH, CENTRAL INTELLIGENCE AGENCY, TO THE NATIONAL SECURITY AGENCY, UH, THE SECRETARY OF DEFENSE, TO CINCPAC. THERE WERE A NUMBER OF OTHER PEOPLE ON THE ADDRESSEE LIST, BUT THOSE ARE THE ESSENTIAL RECIPIENTS.
Q. THE GUERRILLA FIGURE, I BELIEVE YOU TESTIFIED, WAS A FIGURE THAT YOUR DEPARTMENT -- OR SHOP, AS I THINK YOU DESCRIBED IT ONCE -- WAS MOST PRIMARILY RESPONSIBLE FOR, IS THAT CORRECT?
A. WELL, IT WAS THE ONE IN WHICH I HAD THE GRAVEST DOUBTS ABOUT THE VALIDITY OF THE FIGURE AND PAID THE MOST ATTENTION TO.
Q. DIDN'T YOU TESTIFY, AND CORRECT ME IF I AM WRONG, WITH RESPECT TO THE MAIN AND LOCAL FORCES THAT WAS PRIMARILY A CICV OPERATION OR CICV PRIMARILY DEVELOPED THOSE NUMBERS AND YOU, OR YOUR ORGANIZATION, PRIMARILY DEVELOPED THE GUERRILLA NUMBERS?
A. NOT, NOT REALLY. IF I GAVE YOU THAT IMPRESSION THAT IS NOT QUITE RIGHT. LET ME PUT IT THIS WAY
-- THAT I HAD VERY LITTLE INPUT INTO THE MAIN AND LOCAL FORCE FIGURES, AND WE TOOK THOSE ESSENTIALLY FROM CICV -- EXCEPT, AS I SAY, I WOULD NEVER BUY INDICATIONS THAT THEY COULD COUNT DOWN TO THE LAST MAN -- AND ONLY ADDED TO THEIR, ADDED OR SUBTRACTED, FROM THEIR TOTALS WHEN WE HAD EVIDENCE OF A NATURE THAT WAS BEYOND THE CLASSIFICATION CAPABILITIES OF CICV. AS FAR AS THE TOTAL ESTIMATED STRENGTH OF THE GUERRILLAS, I DIDN'T HAVE TOTAL CONTROL OF THAT EITHER BECAUSE THERE WAS A KIND OF REPORTING THAT HAD BEEN INSTITUTED, CALLED THE "RITZ REPORTS" WHEREIN WE TRIED TO FIND OUT HOW MANY GUERRILLAS THERE WERE BY GETTING THE DISTRICT ADVISORS AND THEIR VIETNAMESE COUNTERPARTS TO SEND IN NUMBERS DISTRICT BY DISTRICT. SOME OF THOSE WERE PRETTY SILLY TOO IN THAT THEY WERE TOO PRECISE. SOME OF THOSE NEVER CHANGED, EITHER, WHICH GAVE AN ESTIMATOR ROOM FOR DOUBT, BUT THAT WAS A BIG INPUT TO THE GUERRILLA FIGURE. I CANNOT SAY THAT I WAS RESPONSIBLE FOR, YOU KNOW, THAT MY SHOP WAS PRIMARILY RESPONSIBLE FOR ANY ONE OF THOSE FIGURES. THE RESPONSIBILITY LAY MORE WITH COLONEL PONDER, COLONEL MORRIS AND COLONEL JEFFRIES TO PRODUCE THE FIGURES THAT WENT BACK IN TOTAL STRENGTH, NO MATTER WHAT THE
CATEGORY WAS, -- INVOLVED.

Q. AND WERE THE PEOPLE THAT YOU HAVE JUST IDENTIFIED OVER IN CICV OR WERE THEY LOCATED, THE PHYSICAL LOCATION, WHERE YOU WERE?

A. WELL, COLONEL JEFFRIES WAS ALWAYS OVER IN HEADQUARTERS. COLONEL MORRIS SPENT ABOUT HALF HIS TIME IN MY PART OF THE BUILDING, MY PART OF HEADQUARTERS, AND THE OTHER HALF IN CICV, AS I RECALL. COLONEL PONDER SPENT MOST OF HIS TIME IN CICV.

Q. WE HAVE BEEN DISCUSSING (INDICATING), WE'VE LOOKED AT A NUMBER OF THEM FROM 1967, '66 AND '68 -- I WOULD LIKE TO SHOW YOU ANOTHER DOCUMENT, (INDICATING) -- THIS HAS BEEN MARKED AS DEFENDANTS' EXHIBIT 36 -- AND ASK YOU IF YOU ARE FAMILIAR WITH THAT DOCUMENT.

A. (UPON REVIEW), I BELIEVE I SAW SIMILAR DOCUMENTS TO THIS -- I DON'T RECALL HOW -- THEIR FREQUENCY -- AND I DON'T RECALL MAKING INPUT TO THESE, BUT, UH, PROBABLY DID.

Q. DO YOU KNOW WHAT THAT DOCUMENT IS?

A. IT IS A PERIODIC INTELLIGENCE REPORT. I WOULD IMAGINE THAT AT LEAST SOME OF MY STAFF HAD SOMETHING TO DO WITH THIS, WITH THE PREPARATION OF SUCH A DOCUMENT IF INDEED THEY WERE, IF THEY WERE
PREPARED AFTER I GOT THERE. APPARENTLY THIS ONE WAS PREPARED IN MAY AND SIGNED OFF ON BY GEORGE GODDING, SO I DON'T THINK THIS PARTICULAR ONE I, I PERSONALLY, OR ANYBODY PERSONALLY WORKING FOR ME, HAD AN INPUT.

Q. YES, I THINK THIS WOULD HAVE BEEN PREPARED, -- IT WOULD HAVE BEEN MY UNDERSTANDING -- PRIOR TO YOUR ARRIVAL.

A. I THINK SO, YEAH, 'CAUSE GEORGE GODDING DISAPPEARED FROM THE SCENE ALMOST IMMEDIATELY AFTER I GOT THERE.

Q. DO YOU KNOW WHETHER THESE DOCUMENTS WERE CONTINUED TO BE PREPARED AFTER YOU ARRIVED?

A. I DON'T RECALL WORKING ON ONE.

Q. THIS DOCUMENT PURPORTS TO CONTAIN ORDER OF BATTLE FIGURES AS WELL. WERE YOU AWARE OF THIS ORDER OF BATTLE DOCUMENT AT THE TIME YOU WERE IN VIETNAM?

A. I DON'T REMEMBER HAVING ANYTHING TO DO WITH A PERIODIC INTELLIGENCE REPORT.

Q. THIS HAS A HEADING THAT SAYS "SPECI'L HANDLING REQUIRED. NOT RELEASABLE TO FOREIGN NATIONALS, EXCEPT DOCUMENT RELEASABLE TO RVN AND FWMAF ONLY". DO YOU KNOW WHAT THAT MEANS?

A. YEAH, IT IS ONLY RELEASABLE TO THE REPUBLIC OF VIETNAM FORCES AND THE FREE WORLD FORCES THAT WERE
HELPING US IN VIETNAM.

Q. AS YOU UNDERSTAND IT, WOULD THIS HAVE THE SAME LEVEL OF CLASSIFICATION AS THE ORDER OF BATTLE SUMMARIES THAT WE WERE TALKING ABOUT EARLIER?

A. I WOULD BELIEVE SO, BECAUSE IT IS ONLY A "CONFIDENTIAL" LEVEL.

Q. IF GENERAL GODOING TESTIFIED THAT THE PERINTREPS, SUCH AS DEFENDANTS' EXHIBIT 36, WERE MORE RELIABLE THAN THE ORDER OF BATTLE SUMMARIES, OR MORE ACCURATE BECAUSE THEY CONTAINED MORE INTELLIGENCE SOURCES THAT WERE NOT AVAILABLE TO CICV, WOULD YOU KNOW WHAT HE WAS TALKING ABOUT?

A. NO.

BY MR. BOIES:

LET ME MARK ANOTHER ONE OF THESE ORDER OF BATTLE SUMMARIES.

BY REPORTER:

DEFENDANTS' NO. 81, (SO ENTERED).

EXAMINATION RESUMED BY MR. BOIES:

Q. THIS IS DEFENDANTS' EXHIBIT 81, WHICH IS AN ORDER OF BATTLE SUMMARY FOR MAY 1967. AND YOU WILL NOTE THAT ON PAGE 1-1, WHICH IS HEADED "RECAPITULATION OF ACCEPTED ENEMY ORDER OF BATTLE. RECAPITULATION OF TOTAL ACCEPTED ENEMY STRENGTH", THERE ARE THE FAMILIAR CATEGORIES: COMBAT MANEUVER, COMBAT
SUPPORT, ADMINISTRATIVE SERVICES, IRREGULARS, POLITICAL; WITH A GRAND TOTAL OF 295,105.
DO YOU SEE THAT?
A. YEAH.
Q. THAT NUMBER OF 295,000 FOR THE GRAND TOTAL IS VERY CLOSE TO THE FIGURE THAT YOU IDENTIFIED AS THE MACV FIGURE, INCLUDING POLITICAL CADRE, FOLLOWING THE AUGUST COMPROMISE THAT YOU ---
A. YEAH.
Q. --- SAID TOOK PLACE, DO YOU RECALL THAT?
A. YES, I RECALL.
Q. DOES THAT SUGGEST TO YOU THAT THE MACV NUMBER WAS NOT INCREASED IN ORDER TO REACH THE COMPROMISE?
A. WELL, THERE HAD BEEN A LOT OF INTERNAL CHANGES TO THE FIGURE, AND I THINK THE 293-Figure, Uh, Being CLOSE TO THAT ONE IS SOMEWHAT COINCIDENTAL, BECAUSE THERE WERE, WE WERE COUNTING FEWER GUERRILLAS THAN UNDER THAT HEADING IRREGULARS. SO I THINK IT IS, THAT I WOULD CONSIDER IT COINCIDENTAL.
Q. AND ---
A. AS A MATTER OF FACT, THOSE OLD FIGURES, AS FAR AS I CAN REMEMBER, AT THE CONFERENCE IN SEPTEMBER WERE NEVER BROUGHT UP.
Q. WHAT DO YOU MEAN, "WERE NEVER BROUGHT UP"?
A. WELL, IT WASN'T THE NATURE OF THE ARGUMENT. THE
NATURE OF ARGUMENT WAS ESSENTIALLY HOW MANY
GUERRILLAS, HOW MANY ADMINISTRATIVE SUPPORT AND
HOW MANY POLITICAL CADRES THERE WERE, NOT WHAT
CHANGE SHOULD WE MAKE TO A MAY ORDER OF BATTLE.
Q. THIS WAS MAY 1967, CORRECT?
A. YEAH.
Q. WHICH WAS JUST A COUPLE OF MONTHS BEFORE YOUR
CAUCUS TO ---
A. YEAH, THAT'S CORRECT.
Q. DO YOU HAVE THE AUGUST ONE IN FRONT OF YOU
SOMewhere, DO YOU STILL HAVE THAT?
A. IS THIS ---
Q. WE WERE LOOKING AT THE AUGUST 1967 ONE, I THINK
THAT IS THE ONE THAT YOU HAVE RIGHT THERE.
A. YEAH.
Q. THE TOTAL THERE IS 296,000, THE GRAND TOTAL.
A. UM HUMM, (AFFIRMATIVE).
Q. WHICH AGAIN INCLUDES THE POLITICAL CADRES, SO IT IS
COMPARABLE TO THE AUGUST FIGURE.
A. YES.
Q. IN TERMS OF THE CATEGORIES COVERED, CORRECT?
A. WELL, A SMALL -- SMALL WONDER, A_ WE'VE POINTED
OUT SEVERAL TIMES. SOME OF THE LARGE FIGURES JUST
HADN'T CHANGED FOR A YEAR, SO IT'S NOT -- IT'S NOT
MUCH OF A WONDER.
Q. AND THAT 296,000 IS AGAIN RELATIVELY CLOSE TO THE FIGURE THAT YOU REFERRED TO AS THE COMPROMISE FIGURE THAT WAS REACHED IN AUGUST.
A. THAT’S RIGHT.
Q. SO WOULD IT BE YOUR JUDGMENT, LOOKING AT THIS NUMBER, THAT IN TERMS OF THE COMPROMISE FIGURE OF 293,000 THAT YOU HAD NOT DEPARTED ‘SIGNIFICANTLY, IF AT ALL, FROM THE NUMBER THAT YOU WERE ALREADY USING INTERNALLY AT MACV.
A. WELL, IT MAY NOT HAVE BEEN A DEPARTURE IN THE TOTAL VERY MUCH, BUT IT WAS A DEPARTURE IN THE INTERNALS.
Q. CAN YOU EXPLAIN THAT?
A. WELL, PRIMARILY, THIS WAS BECAUSE WE HAD, AT LEAST IN MY VIEW, REFINED THE GUERRILLA FIGURE CONSIDERABLY. I KNOW WE WENT UP FROM THIS PERSISTENT 39,175 POLITICALS INTO A LARGER FIGURE. I THINK THAT WE INCREASED THE TOTAL NUMBERS IN ADMINISTRATIVE SERVICE AND, UH, -- BUT WE HAD, UH, DETERMINED BEFORE THE, THE, UH, UH, MEETING THAT IN FACT THAT THE GUERRILLA STRENGTH WAS PROBABLY TOO HIGH AND IT HAD COME DOWN SOMewhat. SO, THE FACT THAT 293 AND 296 ARE COMPARABLE FIGURES, THE DIFFERENCE THERE IS PROBABLY LOST IN THE AIR.
SOMEWHERE. SO IT IS ESSENTIALLY THE SAME FIGURE, 
BUT IT REALLY HAD QUITE DIFFERENT INTERNALS. 
Q. QUITE DIFFERENT COMPONENTS? 
A. YEAH. 
Q. BUT IN EACH CASE THE NUMBER WAS KEPT BELOW, 
ALTHOUGH PERHAPS NOT VERY FAR BELOW THE 300,000 
FIGURE, CORRECT? 
BY MR. MURRY: 
OBJECT TO THE FORM OF THE QUESTION. 
BY DEPONENT: 
A. THERE WAS NO 300,000 FIGURE. 
EXAMINATION CONTINUED BY MR. BOIES: 
Q. WELL, IT WAS AT LEAST BELOW 300,000 IN EACH CASE? 
A. IT TURNED OUT THAT AT THE END OF THE CONFERENCE, 
UH, WE AGREED THAT IT COULD BE HIGHER THAN 
300,000, BUT WE BELIEVED IN OUR FIGURE OF 293,000 
WAS ALREADY A COMPROMISE HIGHER THAN WHAT WOULD BE 
THE -- WHAT MACV AS A WHOLE BELIEVED THE ACTUAL 
FIGURE TO BE, AND CONSIDERABLY ABOVE WHAT I 
BELIEVED THE ACTUAL FIGURE TO BE. 
Q. WHY DO YOU SAY THAT THE 293,000 IS HIGHER THAN 
MACV BELIEVED THE FIGURE TO BE, WHEN MACV'S 
INTERNAL ORDER OF BATTLE TOTAL IS SHOWN AS 
296,000? THAT IS, THE COMPONENT MAY DIFFER, BUT 
THE TOTAL SHOWN INTERNALLY AT MACV IN AUGUST OF
1967 WAS 296,000.

A. WELL, THERE HAD ALREADY BEEN ABOUT TWO MONTHS' WORK BY A NEW TEAM WHO REALLY HAD SOME GRAVE DOUBT ABOUT THE ETHICALITY ABOUT THE ORDER OF BATTLE AS A PROPER VEHICLE FOR ESTIMATING TOTAL STRENGTH.

Q. ARE YOU SAYING THAT THE AUGUST 1967 ORDER OF BATTLE SUMMARY THAT YOU HAVE IN FRONT OF YOU DID NOT REPRESENT MACV'S OVERALL BEST JUDGMENT AT THAT TIME, AS TO WHAT THE ENEMY'S ORDER OF BATTLE WAS?

A. IT DIDN'T REFLECT THAT, NOR DID IT REFLECT THE COMPROMISES THAT MACV HAD MADE WITH OTHER INTELLIGENCE AGENCIES IN THE NATIONAL INTELLIGENCE ESTIMATE EXERCISE THAT HAD TAKEN PLACE UNDER THE LEADERSHIP OF GENERAL GODDING.

Q. THOSE COMPROMISES WERE MADE IN 1967, IN AUGUST, RIGHT?

A. YES, BUT YOU MUST REALIZE THAT THIS IS A VERY MASSIVE DOCUMENT AND YOU'RE, -- AND IT WAS DUE EVERY, AT THE END OF EVERY MONTH AND IT WAS THE BEST THAT THEY COULD DO, GIVEN THE TIME INVOLVED, I'M SURE.

Q. I'M NOT SUGGESTING THAT THERE IS ANYTHING SURPRISING THAT IT DOESN'T REFLECT THE AUGUST AGREEMENT. WHAT I AM SAYING IS REALLY GOING IN THE OPPOSITE DIRECTION, WHICH IS, HOW CAN YOU CALL THE
AUGUST AGREEMENT A COMPROMISE WHEN IT IS ABOUT THE
SAME AND, IN FACT, A LITTLE BIT LOWER THAN THE
NUMBERS THAT MACV WAS CARRYING INTERNALLY BEFORE
THE COMPROMISE.

A. THE COMPROMISE FIRST TOOK PLACE IN AUGUST, BACK IN
-- AT, UM, CIA HEADQUARTERS. AND THE CONFERENCE
THERE, THE LATER COMPROMISE ---

Q. WHAT CONFERENCE WAS THAT, SIR?

A. THAT WAS THE NATIONAL INTELLIGENCE ESTIMATES
CONFERENCE THAT -- WHERE GENERAL GODDING REPRE-
SENTED THE COMMAND VIEWS IN WASHINGTON.

Q. AND THAT TOOK PLACE WHEN?

A. THAT TOOK PLACE IN AUGUST, -- THEY WERE THERE WHEN
I ARRIVED IN VIETNAM, SO IT WAS THE END OF JULY
AND EARLY AUGUST THAT THEY -- THE TOTAL PERIOD
THAT THAT DELEGATION WAS GONE.

Q. SO THAT IF THAT COMPROMISE WAS REACHED IN AUGUST,
---

A. UM HUMM.

Q. --- AND ---

A. IT WAS PROBABLY ALREADY TOO LATE TO BE REFLECTED
IN THIS MASSIVE DOCUMENT.

Q. RIGHT, SO THIS MASSIVE DOCUMENT WOULD HAVE
REFLECTED MACV'S VIEWS INDEPENDENT OF THE
COMPROMISE, CORRECT, SIR?
A. IT WOULD HAVE -- YES, IT WOULD HAVE, YEAH.

Q. AND WHAT I AM SAYING IS THAT MACV'S INDEPENDENT VIEWS, AS EXPRESSED IN THIS DOCUMENT, IN AUGUST OF 1967 WAS THAT THE TOTAL ENEMY STRENGTH WAS 296,000 PEOPLE. AND MY QUESTION IS, GIVEN THAT FACT, HOW CAN YOU SAY THAT IT WAS A COMPROMISE FOR YOU TO ACCEPT THE APPROXIMATELY THE SAME AND INDEED EVEN SLIGHTLY LOWER 293,000 FIGURE THAT YOU SAY WAS AGREED TO IN AUGUST AT THE N.I.E. CONFERENCE IN WASHINGTON?

A. BECAUSE IN THE INTERIM, BETWEEN THE TIME THAT, UH, THIS DOCUMENT AND ALL THE BASIC DATA TO SUPPORT THIS BIG DOCUMENT HAD BEEN COMPILED AND THE TIME OF THE SEPTEMBER, UH, CONFERENCE, THOSE OF US IN THE NEW TEAM OUT THERE AT MACV HAD TAKEN A CLOSE LOOK AT THE FIGURES AND HAD A DIFFERENT VIEW FROM THE ONE REFLECTED IN THIS DOCUMENT ABOUT TOTAL STRENGTHS. AS I POINTED OUT, WE SIMPLY COULD NOT BELIEVE THAT THE GUERRILLA FORCES HAD NOT TAKEN A CASUALTY OVER THE LAST TEN YEARS.

Q. OR BEEN ADDED TO BY RECRUITMENT, PERHAPS?

A. (AFFIRMATIVE NOD), OR ADDED TO BY RECRUITMENT. THAT IS RIGHT. THAT THEY COULD STAY EXACTLY THE SAME DIDN'T MAKE ANY SENSE.

Q. NOW, I THINK YOU HAVE TESTIFIED THAT YOU WERE NOT
AT THE AUGUST 1967 CONFERENCE IN WASHINGTON, AT WHICH THE COMPROMISE WAS REACHED, IS THAT ---

A. THAT'S CORRECT. I WAS NOT.

Q. WHO TOLD YOU ABOUT THAT COMPROMISE?

A. WELL, I LISTENED TO THE BRIEF THAT WAS RETURNED BY GENERAL GODDING WHEN HE CAME BACK TO THE HEADQUARTERS IN MACV.

Q. AND WHEN HE GAVE YOU THIS BRIEFING, WERE THERE OTHER PEOPLE PRESENT, OTHER THAN YOURSELF?

A. OH, SURE. I WAS JUST ONE LIEUTENANT COLONEL IN A WHOLE GANG OF PEOPLE THAT HE BRIEFED ON THIS MATTER AT MACV HEADQUARTERS.

Q. AND CAN YOU GIVE ME THE SUBSTANCE OF WHAT HE SAID WHEN HE CAME BACK TO BRIEF YOU AND OTHERS ABOUT WHAT HAD BEEN REACHED AT THE AUGUST 1967 N.I.E CONFERENCE IN WASHINGTON?

A. WELL, NOT WITH ANY PRECISION. BUT HE ESSENTIALLY LAID OUT THE WELL-DOCUMENTED RESULTS OF THAT CONFERENCE, WHICH WAS THAT, UH, HOW WE WERE -- HOW THE NATIONAL INTELLIGENCE PEOPLE WERE GOING TO CATEGORIZE AND COUNT VARIOUS CATEGORIES OF STRENGTH IN VIETNAM.

Q. AND THAT WAS THE 293,000 FIGURE THAT YOU ARE REFERRING TO?

A. OH, NO, NO. THAT WAS THE FIGURE THAT WAS ARRIVED
AT IN THE N.I.E. AND I'M NOT, I DON'T REMEMBER EXACTLY WHAT THAT FIGURE WAS.

Q. THAT WAS A RANGE, WAS IT NOT, SIR?

A. YEAH, IT WAS A RANGE FIGURE. IT WAS NOT A SINGLE FIGURE, IT WAS A RANGE.

Q. FROM SLIGHTLY UNDER 300,000 TO SLIGHTLY OVER 300,000, CORRECT, SIR?

A. NO, I DON'T THINK SO IN THAT CASE.

Q. YOU DON'T?

A. I DON'T THINK. THEY ACTUALLY RECAPPED A TOTAL FIGURE OF TOTAL STRENGTH IN THAT ESTIMATE, -- UH, -- BECAUSE -- THIS IS WHERE THE COMPROMISE CAME IN -- BECAUSE IN ORDER TO -- IF YOU RANGED AROUND A FIGURE WITHIN THAT ESTIMATE, YOU WOULD HAVE HAD DIFFICULTY -- WHAT THE COMPROMISE WAS, WAS THAT WHICH CIA PROPOSED THAT SOME CATEGORIES OF POSSIBLE ADDITIONAL INSURGENCY BASE AND SO FORTH SHOULD BE WRITTEN IN LANGUAGE WITHOUT AN ATTEMPT TO PUT NUMBERS IN THE TEXT.

Q. WERE THERE ANY NUMBERS IN THIS N.I.E. COMPROMISE THAT WAS REACHED IN AUGUST OF 1967?

A. YES, BUT THERE WERE -- THERE WAS A NUMBER IN THERE FOR, YOU KNOW, MAIN FORCE, LOCAL FORCE, MAJOR UNITS.

Q. HOW ABOUT GUERRILLAS?
A. AND THEN I THINK THERE WAS SPREAD ON THE FIGURE OF
GUERRILLAS, AND THEN THERE WAS TEXT ABOUT POSSIBLE
OTHER -- THERE WAS A NUMBER FOR POLITICAL INFRA-
STRUCTURE -- AND THERE WAS SOME TEXT ABOUT WHAT
OTHER KIND OF STRENGTH MIGHT CONCEIVABLY BE AROUND
BUT WERE NOT REALLY COUNTABLE. AND AS I RECALL
THE N.I.E. THERE WAS NO END FIGURE THAT SAYS "AND
THEREFORE THE TOTAL STRENGTH IS FROM "X" TO "Y",
YOU KNOW. AND THAT'S HOW I RECALL THE N.I.E.
Q. AND WHEN GENERAL GODDING CAME BACK AND BRIEFED YOU
AND OTHERS, DID HE INDICATE THAT THAT COMPROMISE
WAS ACCEPTABLE BOTH TO MACV AND TO THE CIA PEOPLE
WHO WERE PRESENT, OR AT LEAST TO THE HEAD OF THOSE
DELEGATIONS?
A. UH, -- WELL, UH, -- I DON'T RECALL. I AM SURE
THAT HE COULD NOT HAVE ACCEPTED FOR MACV WITHOUT
CABLES GOING BACK AND FORTH SAYING THAT THIS IS
WHAT I INTEND TO ACCEPT, BECAUSE, AFTER ALL, HE
WAS, -- HE WAS THERE TO REPRESENT THE COMMAND AND
NOT JUST HIMSELF.
Q. AND DID HE INDICATE AT ALL WHAT THE CIA'S POSITION
WAS WITH RESPECT TO THIS COMPROMISE?
A. I DON'T RECALL HIS DESCRIPTION OF THE CIA POINT OF
VIEW, NO.
Q. DID HE INDICATE THAT THE CIA WAS AGREEABLE TO THIS
A. AS I RECALL, YES, BUT, UH, BUT -- THERE WAS SOME
   RELUCTANCE ON BOTH SIDES TO EXPRESSING IT JUST
   EXACTLY THE WAY IT WAS EXPRESSED, BUT THAT HE FELT
   THAT IT WAS A REASONABLE COMPROMISE, AND THIS WAS,
   IN TURN, ACCEPTED BY MACV AS A COMPROMISE, AND
   MACV STUCK BY THAT ESTIMATE FROM THERE ON OUT.
   WHEN WE -- WHEN I CAME BACK IN '47 (SIC), I WAS
   SAYING THAT WE BELIEVED THAT THAT ESTIMATE WAS
   CORRECT.

Q. WHEN YOU CAME BACK, WHEN?
A. IN MAY, 1968.

Q. WHEN DID YOU, IF AT ALL, TRAVEL TO WASHINGTON?
A. MAY 1968.
Q. NO.
Q. EVER BEFORE THEN?
A. NO.
Q. SO THAT YOU DIDN'T TRAVEL TO WASHINGTON IN 1967 AT
ALL?
A. NO.
Q. YOU ARRIVED IN VIETNAM IN JULY OF 1967?
A. CORRECT.
Q. AND IT IS YOUR TESTIMONY THAT YOU DID NOT RETURN
   TO THE UNITED STATES THEREAFTER UNTIL MAY OF 1968?
A. THAT'S CORRECT.
Q. AND YOU'RE CERTAIN OF THAT?
A. YES.

BY MR. BOIES:
I THINK WE ARE ABOUT OUT OF TAPE, AGAIN.
(ADJOURNED UNTIL 11:00 A.M. ON SEPTEMBER 14, 1983)
SEPTEMBER 14, 1983:
GENERAL DANIEL O. GRAHAM, BEING REMINDED THAT HE IS
UNDER OATH, TESTIFIED AS FOLLOWS:
EXAMINATION RESUMED BY MR. BOIES:
Q. GOOD MORNING, GENERAL GRAHAM.
A. GOOD MORNING.
Q. I NOTICE THAT YOU HAVE SOME DOCUMENTS IN YOUR
HAND?
A. YEAH, HERE'S SOME MORE DOCUMENTS.
Q. THESE ARE ADDITIONAL DOCUMENTS THAT YOU HAVE
IDENTIFIED FROM YOUR FILES, ---
A. THAT'S RIGHT.
Q. --- RESPONSIVE TO THE SUBPOENA?
A. (AFFIRMATIVE NOD).
Q. WE WILL HAVE THESE DOCUMENTS COPIED AND RETURNED
TO YOU AND, AND ONCE WE HAVE DONE THAT WE WILL GO
THROUGH AND ATTEMPT TO UNDERSTAND THE SUBSTANCE A
LITTLE BIT. LET ME JUST ASK SOME PRELIMINARY
QUESTIONS. ONE OF THE DOCUMENTS THAT YOU JUST
HANDED ME IS ENTITLED "THE TET INTELLIGENCE FLAP".
AND ON THE FIRST PAGE THERE IS SOME HANDWRITING IN
PENCIL, IN THE UPPER RIGHT HAND CORNER, DO YOU SEE
THAT?
A. YEAH.
Q. AND CAN YOU READ WHAT THAT SAYS?
A. THAT SAYS "G", WHICH IS MY INITIAL, AND IT SAYS
"FILE: TET".
Q. AND IS THAT YOUR HANDWRITING?
A. THAT'S MY HANDWRITING.
Q. AND WHEN DID YOU PUT THAT ON?
A. LET ME SEE THE PAPER.
Q. (COMPLIES).
A. OH, THAT -- IN 1975, SOMETIME. IT HAD TO DO WITH
THE ARTICLE THAT APPEARED, WRITTEN BY MR. ADAMS
AND I UNDERSTAND MR. CRILE, AND IT IS FILED UNDER
MY -- I HAD A FILE ON THAT HARPER'S MAGAZINE
AFFAIR.
Q. AND DO YOU HAVE A FILE ON TET IN THAT CONNECTION?
A. THAT'S RIGHT, YEAH.
Q. AND DO YOU STILL HAVE THAT FILE?
A. YEAH, YOU'VE GOT IT IN -- THAT'S WHAT I'VE JUST
GIVEN YOU.
Q. THIS IS, WHAT YOU HAVE JUST GIVEN ME IS YOUR TET
FILE?
A. IT'S TET FILE PLUS SOME OTHER NEWSPAPER STUFF AND
THINGS THAT, UM, I DID NOT UNDERSTAND AS OF YESTERDAY WAS THE SORT OF THING THAT YOU WANTED.

Q. COULD YOU GO THROUGH THESE DOCUMENTS AND SEPARATE OUT THE DOCUMENTS THAT WERE PART OF WHAT YOU REFER TO AS YOUR "TET FILE"?

A. THE -- ACTUALLY IT'S, -- I'VE GOT THE FILE FOLDER HERE, AND IT'S CALLED "SAM ADAMS, HARPER'S MAGAZINE ARTICLE.
ONE IS A -- THE FIRST ONE WAS AN ARTICLE WROTE -- AND I DON'T RECALL WHETHER IT WAS EVER PUBLISHED -- ON THE HARPER'S THING. I THINK I SENT IT TO HARPER'S AS A REJOINDER TO WHAT THEY HAD WRITTEN.
THE SECOND ONE IS THE ---

BY MR. MURRY:

EXCUSE ME, GENERAL GRAHAM. I BELIEVE THE QUESTION WAS, WOULD YOU SEPARATE ---

BY DEPONENT:

OH, JUST SEPARATE THEM -- YEAH -- (COMPLIES).
ALL RIGHT, THESE (INDICATING) ARE ALL HAVING TO DO WITH THE HARPER'S ARTICLE.
 THESE (INDICATING) HAVE TO DO WITH THE CBS AFFAIR.
EXAMINATION CONTINUED BY MR. BOIES:

Q. DID THESE DOCUMENTS THAT YOU HAVE HANDED ME, WHICH YOU SAY HAVE TO DO WITH THE HARPER'S ARTICLE COME FROM A PARTICULAR FILE FOLDER?
A. YES.

Q. AND YOU HAVE THAT FILE FOLDER WITH YOU?

A. I DO.

Q. NOW, THIS FILE FOLDER IS ENTITLED "SAM ADAMS, HARPER'S MAGAZINE ARTICLE", CORRECT?

A. CORRECT.

Q. AND ARE THE DOCUMENTS THAT YOU HAVE PRODUCED TO US ALL THE DOCUMENTS THAT WERE CONTAINED IN THIS FILE FOLDER?

A. NO. THERE'S SOME -- THERE WERE SOME NEWSPAPER CLIPPINGS IN THERE AS WELL.

Q. AND WHAT DID YOU DO WITH THOSE NEWSPAPER CLIPPINGS?

A. I JUST LEFT THEM BACK ON MY DESK AT MY OFFICE.

Q. OTHER THAN THE NEWSPAPER CLIPPINGS THAT YOU REMOVED FROM THE FILE AND LEFT ON YOUR DESK, WERE THERE ANY OTHER DOCUMENTS IN THIS FILE OTHER THAN THE DOCUMENTS THAT YOU HAVE PRODUCED TO US TODAY?

A. NO.

Q. FOCUSING NEXT ON THE DOCUMENTS THAT DID NOT COME FROM THE FILE FOLDER THAT YOU HAVE GIVEN ME, THESE ARE ALL DOCUMENTS THAT RELATE TO THE CBS BROADCAST?

A. THAT'S RIGHT.

Q. DID THESE COME FROM A FILE FOLDER?
Q. WHERE WERE THEY LOCATED?
A. IN MY OFFICES AT 1010 VERMONT.

Q. AND WHERE WAS THIS FILE FOLDER LOCATED?
A. IT WAS IN THE FILE CABINET AT 1010 VERMONT.

Q. AND THAT IS THE FILE CABINET IN YOUR OFFICE?
A. THAT'S CORRECT.

Q. HOW WAS IT THAT THE FILE FOLDER AND THE DOCUMENTS CONTAINED IN IT WERE NOT LOCATED BY YOU INITIALLY IN RESPONSE TO THE SUBPOENA?
A. THEY WERE. IT WAS MY -- I THOUGHT THAT YOU JUST WANTED THINGS CONCERNING THE CBS AFFAIR. I DIDN'T KNOW YOU WANTED DOCUMENTS CONCERNING THE HARPER'S ARTICLE. SO, ---

BY MR. BOIES:
LET ME ASK THAT WE HAVE MARKED AS DEFENDANTS' EXHIBIT 82 A COPY OF THE SUBPOENA. (EXHIBIT SO ENTERED BY REPORTER.)

BY MR. MURRY:
DO YOU HAVE AN EXTRA COPY OF THAT FOR ME?

BY MR. BOIES:
I DON'T HAVE AN EXTRA COPY WITH ME, BUT I THINK THE WITNESS HAS A COPY.
YEAH, I'VE GOT A COPY OF IT, (PRODUCES).

BY MR. BOIES:

ACTUALLY I THINK I DO HAVE AN EXTRA COPY. I THINK
-- HERE IS A COPY FOR PLAINTIFF'S COUNSEL.
PROBABLY THE THING THAT IS MOST APPROPRIATE IS TO
ACTUALLY MARK THE ORIGINAL AS DEFENDANTS' EXHIBIT
82.

EXAMINATION RESUMED BY MR. BOIES:

Q. GENERAL GRAHAM, YOU HAVE IN FRONT OF YOU A
DOCUMENT THAT HAS BEEN MARKED DEFENDANTS' EXHIBIT 82.
IS THAT A COPY OF THE SUBPOENA THAT WAS SERVED
UPON YOU?

A. IT IS THE SUBPOENA, (AFFIRMATIVE NOD).

Q. LET ME DIRECT YOUR ATTENTION TO THE SCHEDULE OF
DOCUMENTS DEMAND THAT IS ATTACHED TO THAT.
(INDUCTS), DO YOU SEE THAT?

A. YES.

Q. AND DID YOU READ THAT SCHEDULE?

A. BRIEFLY.

Q. DID YOU UNDERSTAND WHEN YOU RECEIVED THE SUBPOENA
THAT YOU WERE BEING ORDERED BY THE COURT TO BRING
WITH YOU ALL THE DOCUMENTS IDENTIFIED IN THIS
SCHEDULE?

A. YES.
Q. AND WOULD YOU READ THE FIRST PARAGRAPH OF THE SCHEDULE?

BY MR. MURRY:

EXCUSE ME, MR. BOIES. WE DO NOT HAVE A COPY OF THE SCHEDULE IN THE COPY THAT WAS PROVIDED TO US.

BY MR. BOIES:

YOU CAN LOOK OVER GENERAL GRAHAM'S SHOULDER, IF YOU WISH. THIS IS ANOTHER COPY OF THAT (TENDERS).

BY MR. MURRY:

THANK YOU.

BY DEPONENT:

IT SAYS, "ALL DOCUMENTS REFERRING TO, MENTIONING OR RELATING TO, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, THE PREPARATION, CONTENTS OR ACCURACY OF REPORTS OF ENEMY STRENGTH, INCLUDING ENEMY ORDER OF BATTLE REPORTS IN VIETNAM 1965, 1967, 1968".

EXAMINATION CONTINUED BY MR. BOIES:

Q. AND DID YOU READ THAT PARAGRAPH WHEN YOU READ THE SUBPOENA?

A. YES.

Q. AND DID YOU INTERPRET THAT PARAGRAPH AS BEING LIMITED MERELY TO THINGS THAT MENTIONED THE CBS BROADCAST?

A. YES.
Q. WHY WAS THAT?
A. WELL, IT WAS AN ASSUMPTION ON MY PART THAT THAT
WAS WHAT THE WHOLE AFFAIR WAS ABOUT.
Q. PARAGRAPH FIVE SPECIFICALLY CALLS FOR ALL
DOCUMENTS REFERRING TO, MENTIONING OR RELATING TO,
DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, THE
SUBJECT MATTER OF THE CBS DOCUMENTARY "THE
UNCOUNTED ENEMY", CORRECT, SIR?
A. THAT'S CORRECT.
Q. BUT THE FIRST FOUR PARAGRAPHS OF THE SUBPOENA ARE
NOT IN ANY WAY LIMITED, CORRECT, SIR?
A. I GUESS NOT.
Q. NOW, ARE THERE ANY ARE DOCUMENTS THAT YOU HAVE
THAT ARE RESPONSIVE TO THE SUBPOENA, OTHER THAN
WHAT YOU HAVE NOW PRODUCED?
A. WELL, I'M NOT SURE NOW, BECAUSE NOW THAT YOU HAVE
CALLED THIS TO MY ATTENTION. I THINK NOT, BUT
PERHAPS I HAVE.
Q. I WOULD REQUEST THAT AS SOON AS YOU HAVE AN
OPPORTUNITY TO DO SO THAT YOU REVIEW THIS
SUBPOENA, TOGETHER WITH YOUR FILES, AND PRODUCE
ANY ADDITIONAL DOCUMENTS THAT YOU HAVE THAT ARE
RESPONSIVE TO IT. AND I WOULD NOTE IN PARTICULAR
THAT PARAGRAPH ONE TALKS GENERALLY ABOUT ANY
DOCUMENTS THAT RELATE TO ENEMY STRENGTH. AND
PARAGRAPH TWO TO ANY DOCUMENTS OR REPORTS OF ENEMY INFILTRATION, UNRELATED TO ANY LIMITATION ON THOSE REPORTS WITH RESPECT TO THE CBS BROADCAST.

ONE OF THE DOCUMENTS THAT YOU HAVE PRODUCED TO US, WHICH RELATES TO THE CBS BROADCAST AND WAS NOT INCLUDED IN YOUR SO-CALLED "TET FILE" IS A NOTE TO YOU FROM SOMEBODY NAMED SALLY BIDELL, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. WOULD YOU READ THAT NOTE, PLEASE?

A. IT SAID, (READING): "DEAR GENERAL GRAHAM: THANKS SO MUCH FOR SHARING THE TRANSCRIPT WITH US. IT SHOULD PROVE EXTREMELY USEFUL. SALLY BIDELL"

Q. AND THE DATE OF THE DOCUMENT?

A. 3/29/82.

Q. AND DID YOU HAVE CONVERSATIONS WITH SALLY BIDELL CONCERNING THE CBS BROADCAST?

A. YES, AND HER COLLEAGUE.

Q. WERE THOSE CONVERSATIONS IN PERSON, OVER THE TELEPHONE OR BOTH?

A. THEY WERE IN PERSON. WELL, THEY WERE BOTH. THERE WAS A CALL SEVERAL DAYS BEFORE THE 29TH -- I'M NOT EXACTLY SURE WHAT DATE, BUT, UH, THEY ASKED IF THEY COULD COME TO MY OFFICE AND INTERVIEW ME WITH REGARD TO THE CBS DOCUMENTARY AND I SAID YES. AND
THEY CAME TO MY OFFICE, UM, -- OH, I FORGET THE DATE -- BUT THEY CAME TO MY OFFICE AND DISCUSSED THE MATTER FOR ABOUT AN HOUR AND A HALF.

Q. THEY WERE BOTH PRESENT AT THAT TIME?
A. THEY WERE BOTH THERE, YEAH.

Q. DID YOU MEET IN PERSON WITH EITHER ONE OF THEM, OR BOTH OF THEM, SUBSEQUENT TO THAT TIME?
A. NO, I NEVER MET THEM PERSONALLY AFTER THAT.

Q. DID YOU SPEAK TO EITHER OF THEM ON THE TELEPHONE?
A. I -- YES, I THINK SO. I THINK THAT I CONGRATULATED THEM ON THE PIECE.

Q. AFTER THE PIECE WAS PUBLISHED?
A. AFTER THE PIECE WAS PUBLISHED.

Q. DID YOU SPEAK TO EITHER OF THEM ON THE TELEPHONE BETWEEN THE TIME THAT YOU WERE INTERVIEWED BY THEM IN YOUR OFFICE AND THE TIME THAT THE PIECE WAS PUBLISHED?
A. I DON'T BELIEVE SO.

Q. WHEN THEY INTERVIEWED YOU IN YOUR OFFICE, WERE EITHER OF THEM, OR BOTH OF THEM, TAKING NOTES?
A. I BELIEVE BOTH WERE TAKING NOTES.

Q. WERE EITHER OR BOTH OF THEM, TO YOUR KNOWLEDGE, TAPE RECORDING THE INTERVIEW?
A. I DON'T REMEMBER.

Q. I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU HAD NOT
ASKED TV GUIDE FOR A COPY OF ANY NOTES OR TRAN-
SCRIPT THAT WERE MADE OF YOUR INTERVIEW?
A. THAT'S CORRECT.
Q. I'D NOW LIKE TO RETURN TO THE SUBJECT THAT WE WERE
DISCUSSING YESTERDAY IN TERMS OF ESTIMATES OF
ENEMY STRENGTH AND ORDER OF BATTLE ESTIMATES.
ONE OF THE DOCUMENTS THAT YOU HAVE GIVEN ME IS
SOMETHING THAT IS HEADED "THE 1967 SAIGON ORDER OF
BATTLE CONFERENCE, ESTIMATED STRENGTH OF COMMUNIST
FORCES IN SOUTH VIETNAM", IS THAT CORRECT?
A. THAT'S CORRECT.
Q. WHERE DID YOU ACQUIRE THIS DOCUMENT?
A. I DON'T KNOW. I -- I BELIEVE IT IS A DOCUMENT
THAT GENERAL WESTMORELAND SENT ME IN THE MAIL, BUT
I AM NOT SURE WHERE I GOT THAT ONE.
Q. DO YOU KNOW WHEN GENERAL WESTMORELAND WOULD HAVE
SENT THAT TO YOU IN THE MAIL?
A. OH, -- NO, I DON'T. I DON'T REMEMBER WHEN HE SENT
IT. I'M NOT SURE HE DID SEND IT. WHEN I FIRST
LOOKED AT IT, I THOUGHT THAT IT WAS THE BACK PAGE
OF THE DOCUMENT THAT I SENT TO MR. WALLACE TO SHOW
HIM WHAT THE, WHAT THE, UH, WERE THE RESULTS OF
THE 1968 CONFERENCE, BUT IT'S THE 1967 ORDER OF
BATTLE CONFERENCE, WHICH I BELIEVE, UH, TOOK PLACE
BEFORE I GOT TO VIETNAM.
Q. You say that you think this is the result of a conference that took place before you got to Vietnam?

A. Yes, I believe so. I don't recognize those numbers as resulting from the September one, but they may be from the September one. I'm not sure.

Q. Let me direct your attention to one of the columns on that document that says "August draft S.N.I.E. 14.3-67", do you see that?

A. Yes.

Q. That would suggest that this document was prepared sometime after August, does it not, sir?

A. It does just that.

Q. And if that suggestion were accurate, then this would be a document that was prepared subsequent to your arrival in Vietnam, correct?

A. Yes, I think so.

Q. You will note that the final column, or the last column, on the right hand side of the page is headed "Final S.N.I.E. 14.3-67". Do you see that?

A. Yes.

Q. Do you understand what that means?

A. Yes. What is in this document is the positions that went into the N.I.E., by MACV and whoever drafted the N.I.E., and the agreement that was
REACHED IN SAIGON AND THE SUBSEQUENT FIGURES THAT SHOWED UP IN THE N.I.E. ITSELF.

Q. AND THAT FINAL COLUMN WOULD REPRESENT THE FIGURES THAT SHOWED UP IN THE FINAL N.I.E. ITSELF, IS THAT CORRECT?

A. I'M NOT SURE THAT THE TOTAL FIGURE EVER SHOWED UP IN THE N.I.E., AND THERE IS A TOTAL FIGURE ON HERE.

Q. WHAT IS THE TOTAL FIGURE?

A. 298,000 TO 333,000.

Q. AND YOUR TESTIMONY IS THAT YOU SIMPLY DON'T KNOW ONE WAY OR THE OTHER WHETHER THAT TOTAL FIGURE ACTUALLY SHOWED UP IN THE FINAL S.N.I.E.?

A. MY RECOLLECTION IS THAT THEY NEVER ADDED UP POLITICAL CADRE AND MILITARY FORCES, AND I DO KNOW THAT IT IS TRUE THAT A SEPARATE CATEGORY CALLED IRREGULARS, WITH THINGS LIKE SELF-DEFENSE, SECRET SELF-DEFENSE AND ASSAULT YOUTH, WERE NOT QUANTIFIED IN THE ESTIMATE.

Q. LET ME DIRECT YOUR ATTENTION TO THE COLUMN THAT IS HEADED "MACV" THERE, ---

A. RIGHT.

Q. DO YOU SEE THAT?

A. CORRECT.

Q. AND THAT LISTS NUMBERS FOR MAIN AND LOCAL FORCES,
FOR ADMINISTRATIVE SERVICES, FOR GUERRILLAS, FOR
POLITICAL CADRE, AND LISTS BOTH A SUBTOTAL AND A
TOTAL, CORRECT?
A. YES, IT DOES.
Q. AND IT LISTS 119,000 FOR MAIN AND LOCAL FORCES;
29,000 FOR ADMINISTRATIVE SERVICES; 65,000 FOR
GUERRILLAS AND THEN SHOWS A SUBTOTAL OF 213,000;
AND THEN LISTS 85,000 FOR POLITICAL CADRES AND
SHOWS A TOTAL OF 298,000.
A. THAT'S CORRECT.
Q. AND AS YOU UNDERSTAND IT, WHAT DOES THAT COLUMN OF
FIGURES HEADED BY THE INITIALS "MACV" REPRESENT?
A. I BELIEVE -- IT WAS THE POSITION OF MACV AT THAT
CONFERENCE.
Q. THAT IS MACV'S POSITION AT THE SAIGON ORDER OF
BATTLE CONFERENCE AS TO WHAT THE ENEMY STRENGTH
FIGURES SHOULD SHOW?
A. THAT'S RIGHT, TOTAL STRENGTH FIGURES FOR TWO
CATEGORIES, ONE: MILITARY FORCES, ONE: OTHER
ORGANIZATIONS.

BY MR. MURRY:
I THINK THE RECORD SHOULD REFLECT THAT THE CHART
DOES HAVE AN ENTRY FOR CERTAIN COMPONENTS, THE
"SELF-DEFENSE FORCES", "SECRET SELF-DEFENSE", AND
"ASSAULT YOUTH", AND IN THE COLUMN HEADED "MACV"
THERE IS A DOTTED LINE WHERE, FOR THE OTHER
CATEGORIES, THERE ARE NUMBERS.

BY MR. BOIES:

I THINK THAT WHAT GENERAL WESTMORELAND'S COUNSEL
IS CORRECTLY POINTING OUT, GENERAL, IS THAT THIS
DOCUMENT SHOWS NO NUMBER FOR THE IRREGULAR
CATEGORY, WHICH I BLEIEVE THE DOCUMENT INDICATES
INCLUDES SELF-DEFENSE FORCES, SECRET SELF-DEFENSE
FORCESS AND ASSUALT YOUTH, IS THAT CORRECT?

BY DEPONENT:

THAT'S CORRECT. IN MACV'S VIEW, -- THIS I KNOW
TO BE A FACT -- THAT THE 65,000 GUERRILLA FIGURE
UP UNDER THE MILITARY FORCES WOULD HAVE INCLUDED
ANYONE THAT ONE MIGHT WANT TO COUNT IN ANOTHER
CATEGORY.

EXAMINATION CONTINUED BY MR. BOIES:

Q. SO IT IS YOUR TESTIMONY THAT THE 65,000 FIGURE
WOULD INCLUDE THE APPROPRIATE NUMBERS FOR SELF-
DEFENSE FORCES, FOR EXAMPLE?

A. THAT'S CORRECT, AND THAT, UH, -- THAT, UH, MACV WAS
RESISTING ADDING A NEW CATEGORY, CALLED
"IRREGULARS", AMOUNT TO 120,000 ADDITIONAL ARMED
PEOPLE.

Q. DO YOU KNOW, APPROXIMATELY, HOW MANY -- TAKING
SELF-DEFENSE FORCES AS THE FIRST EXAMPLE -- WOULD
HAVE BEEN INCLUDED IN THE 65,000 THAT IS SHOWN UNDER THE GENERAL CATEGORY OF GUERRILLAS?

A. NO. IT WAS MACV'S VIEW THAT TO ATTEMPT TO SORT OUT THE DIFFERENCE BETWEEN A GUERRILLA AND AN IRREGULAR -- LET ALONE DIFFERENCES BETWEEN KINDS OF GUERRILLAS AND IRREGULARS -- WAS NOT FEASIBLE, AND THAT 65,000, A FIGURE THAT MACV AGREED TO INCREASE SOMEWHAT TO 70 TO 90,000, UH, CERTAINLY INCLUDED ANYBODY THAT ONE MIGHT COUNT IN THE CATEGORY OF -- THAT CIA SUGGESTED, WHICH WAS TOTAL NUMBERS OF -- A TOTAL OF 120,000 OF PEOPLE THAT WE CONSIDERED NOT COUNTABLE.

Q. LET ME GO OVER THAT AGAIN, GENERAL. ARE YOU SAYING THAT YOU DON'T HAVE ANY ESTIMATE, EVEN AN APPROXIMATE ONE, AS TO HOW MANY OF THE PEOPLE INCLUDED AS GUERRILLAS IN THE 65,000 NUMBER SHOWN AS REPRESENTING MACV'S POSITION, WOULD HAVE BEEN PEOPLE THAT WOULD HAVE BEEN CLASSIFIED AS SELF-DEFENSE FORCES, AS AN EXAMPLE?

A. NO, WE CONSIDERED THAT ATTEMPT TO BREAK DOWN CATEGORIES OF GUERRILLAS AS NONFEASIBLE.

Q. THAT KIND OF BREAKDOWN HAD BEEN DONE BEFORE, HAD IT NOT, SIR?

A. THERE HAD BEEN AN ATTEMPT TO DO THAT. WE DID -- WE DID NOT, AT LEAST I DID NOT, CONSIDER FIGURES
LIKE 127 OF ONE KIND AND 201 OF ANOTHER TO HAVE ANY VALIDITY WHATSOEVER.

Q. BUT AT LEAST PRIOR TO YOUR ARRIVAL IN VIETNAM, WITHIN MACV THE OVERALL MILITIA OR GUERRILLA CATEGORY HAD BEEN BROKEN DOWN TO SHOW COMPONENTS, ONE OF THE COMPONENTS BEING SELF-DEFENSE FORCES; CORRECT, SIR?

A. YES, THOSE WERE VERY PRECISE FIGURES, LIKE 127 THAT REMAINED THE SAME YEAR AFTER YEAR AND OBVIOUSLY HAD NO VALIDITY.

Q. SO IT IS YOUR TESTIMONY THAT THE NUMBERS THAT MACV HAD USED PRIOR TO YOUR ARRIVAL FOR THE GUERRILLA AND MILITIA CATEGORIES HAD NO VALIDITY.

Q. THEY HAD MOCK PRECISION THAT HAD NO VALIDITY.

Q. CAN YOU GIVE US ANY KIND OF ROUGH APPROXIMATION OF HOW MANY OF THE GUERRILLAS WOULD FALL INTO THE CATEGORIES OF SELF-DEFENSE FORCES AND SECRET SELF-DEFENSE FORCES WITHIN MACV'S POSITION, AS SHOWN ON THIS DOCUMENT?

A. NO. THAT CANNOT BE DONE WITH ANY KIND OF INTELLECTUAL HONESTY.

Q. COULD IT HAVE BEEN AS MUCH AS ONE-THIRD? THAT IS, COULD AS MUCH AS ONE-THIRD OF THE 65,000 GUERRILLAS HAVE BEEN ACCOUNTED FOR BY SELF-DEFENSE FORCES AND SECRET SELF-DEFENSE FORCES?
A. THERE WAS NO WAY TO BREAK OUT KINDS AND I -- THAT
QUESTION IS NOT ASWERABLE. A GUERRILLA, UH, AS WE
COUNTED GUERRILLAS DISTRICT BY DISTRICT THROUGHOUT
VIETNAM THERE WAS NO WAY TO TELL WHETHER THIS
FELLOW IN PAJAMAS WAS SECRET SELF-DEFENSE OR SOME
OTHER BRAND. AND THE ONLY WAY TO COUNT THEM WITH
ANY KIND OF INTELLECTUAL VALIDITY WAS TO COUNT ALL
GUERRILLAS AS GUERRILLAS. AND THERE IS NO WAY TO
SEPARATE WITHIN THAT FIGURE -- SENSIBLY AT ANY
RATE -- A NUMBER OF ONE OR ANOTHER, LET ALONE THE
HIGHLY PRECISE NUMBERS THAT WERE ATTEMPTED.
Q.
ON IT WOULD BE YOUR TESTIMONY THAT THE GUERRILLA
CATEGORY WOULD INCLUDE SELF-DEFENSE FORCES AND
SECRET SELF-DEFENSE FORCES, BUT IT WOULD NOT BE
POSSIBLE, EVEN TO APPROXIMATE, HOW MANY OF THE
GUERRILLAS WOULD BE CONSIDERED SELF-DEFENSE FORCES
OR SECRET SELF-DEFENSE FORCES, IS THAT FAIR?
A.
THAT IS MY VIEW.

BY MR. BOIES:

LET'S MARK THIS AS DEFENDANTS' EXHIBIT 83, JUST SO
THAT WE HAVE A RECORD OF WHAT DOCUMENT WE ARE
TALKING ABOUT.

(SO ENTERED BY REPORTER).

EXAMINATION CONTINUED BY MR. BOIES:

Q. DURING THE PERIOD THAT YOU WERE IN VIETNAM, PRIOR
TO THE TET OFFENSIVE, WERE YOU INVOLVED AT ALL, SIR, IN AN ATTEMPT TO DETERMINE THE EXTENT OF ENEMY LOSSES?

A. YES, AS PART OF AN INPUT/OUTPUT ANALYSIS OF ENEMY GAINS AND LOSSES.

Q. AND WHEN DID THAT TAKE PLACE?


Q. AND WHAT WAS THE PURPOSE OF THAT ANALYSIS THAT YOU SAY THAT YOU LAUNCHED?

A. I HAD LOOKED AT THE DOCUMENTS, AND THERE WERE LOTS OF THEM, THAT SHOWED THAT THE WAY THAT THE VC MAIN AND LOCAL FORCES, AND EVEN TO SOME EXTENT NVA FORCES, HAD REPLACED THEIR LOSSES IN, PARTICULARLY IN '66 AND EARLY '67, WAS BY MOVING GUERRILLAS UP AND PUTTING THEM INTO THE MAIN AND LOCAL FORCES.

THAT -- APPARENTLY THE SUPPLY OF GUERRILLAS TO DO THAT, TO MAKE, TO SERVE AS REPLACEMENTS, HAD BEEN DIMINISHED, BECAUSE, UH, A LARGE NUMBER OF NORTH VIETNAMESE, SOME 10,000 OF THEM, HAD BEEN PUT INTO VIETCONG FORCES AS REPLACEMENTS.

I HAD LITTLE CONFIDENCE IN THE VERY PRECISE NUMBERS OF GUERRILLAS WHICH HAD NOT CHANGED YEAR BY YEAR, AND SIMPLY COULDN'T BELIEVE THAT THEY
NEITHER TOOK CASUALTIES OR ADDED TO THEIR 
STRENGTH. I THEREFORE LAUNCHED A STUDY TO SEE 
WHAT THE -- ON A MONTH BY MONTH BASIS, WHETHER THE 
TOTAL STRENGTH, GUERRILLAS AND OTHER FORCES, HAD 
INCREASED OR DECREASED, GIVEN CASUALTY RATES. THE 
PROBABLE DIED OF WOUNDS OR PERMANENTLY DISABLED 
FIGURES, THE -- AS OPPOSED TO THE INFILTRATION AND 
THE RECRUITMENT. 
THE STUDY WAS TOTALLY INDEPENDENT OF WHAT TOTAL 
STRENGTH WAS AT ANY GIVEN TIME. FOR INSTANCE, TO 
USE SIMPLE FIGURES, IF WE BELIEVED THAT THERE WERE 
A THOUSAND GUERRILLAS, OR A THOUSAND ENEMY IN 
VIETNAM AT ANY ONE TIME, AND LAST MONTH WE KNEW 
THAT THEY LOST 200 AND GAINED 100, THEN SURELY 
LAST MONTH THEY WERE A HUNDRED STRONGER (SIC) THAN 
THEY H'D BEEN, GOING FROM YOUR BASE POINT. 
I DID THIS, I RAN THIS ALL THE WAY BACK TO 1966 
USING WHATEVER DATA WAS AVAILABLE TO GET A 
TRENDLINE OF WHAT WAS HAPPENING TO ENEMY SRENGTH. 
IT AFFECTED THE GUERRILLA BASE MOST, BECAUSE THE 
MAIN--, THEY SEEMED TO MAINTAIN ABOUT THE SAME 
STRENGTH IN THEIR MAIN AND LOCAL FORCES AT ALL 
TIMES, AND THEY HAD TO BE DRAWING FROM SOMEWHERE 
OTHER THAN RECRUITMENT AND INFILTRATION TO MAKE UP 
FOR THIER LOSSES. AND THAT WAS FROM THE GUERRILLA
BASE. THAT IS HOW I GOT INTO THE BUSINESS OF, UH, CASUALTIES AND DEFECTIONS AND SO FORTH IN THIS INPUT/OUTPUT STUDY.

Q. IS THIS INPUT/OUTPUT STUDY WHAT YOU HAVE REFERRED TO PART OF WHAT YOU HAVE REFERRED TO AS YOUR CROSSOVER MEMO?

A. I NEVER REFERRED TO IT AS A CROSSOVER MEMO, BUT SUBSEQUENTLY PEOPLE CALLED IT THE CROSSOVER MEMO BECAUSE IT SHOWED THAT AS OF SOMEWHERE IN EARLY 1966 THAT THEY BEGAN TO LOSE -- ON THE AVERAGE, NOT EVERY MONTH, BUT ON THE AVERAGE -- THEY WERE LOSING MORE STRENGTH THAN THEY WERE INPUTTING INTO THEIR FORCES?

A. LET ME JUST SHOW YOU A COPY OF THE TRANSCRIPT OF YOUR INTERVIEW WITH MR. WALLACE, WHICH I THINK YOU HAD A COPY OF.

A. I HAVE A COPY OF.

Q. LET ME ASK YOU JUST TO TURN TO PAGE 17 OF THAT. I HAVE GOT ANOTHER COPY IF GENERAL WESTMORELAND'S COUNSEL NEEDS IT.

A. (COMPLIES).

Q. I DIRECT YOUR ATTENTION TO THE MIDDLE OF THE PAGE, AND DO YOU SEE A QUESTION THAT SAYS, "HOW LONG AFTER YOU GOT TO VIETNAM UNDER GENERAL DAVIDSON, LIEUTENANT COLONEL, HOW LONG AFTER THAT DID YOU
PRODUCE THAT FAMOUS CROSSOVER MEMO?"
A. YES.
Q. AND YOU RESPONDED, "OH, I SUPPOSE ABOUT THREE MONTHS."
A. YES.
Q. IS THAT THE INPUT/OUTPUT ANALYSIS THAT YOU'VE BEEN REFERRING TO?
A. THAT'S RIGHT. YOU -- THAT'S RIGHT. BUT IT DID NOT TAKE THREE MONTHS. I HAD THAT FINISHED BY SEPTEMBER.
Q. THAT IS YOU HAD WHAT IS REFERRED TO HERE AS THE "CROSSOVER MEMO" FINISHED BY SEPTEMBER?
A. YEAH. THE INPUT/OUTPUT ANALYSIS WAS LARGELY COMPLETE. IT WASN'T REA--, IT NEVER WAS FULLY COMPLETE BECAUSE DATA KEPT CHANGING. IN OTHER WORDS, YOU FOUND OUT MORE ABOUT INFILTRATION THAT HAD AN EFFECT ON PAST FIGURES, SO IT NEVER DID REALLY GET COMPLETE, BUT THE -- BUT THE PROCESS WAS WELL IN HAND BY SEPTEMBER.
Q. AND WAS THIS PROCESS OR ANALYSIS REFERRED TO GENERALLY AS THE CROSSOVER ANALYSIS OR CROSSOVER MEMO?
A. I DON'T KNOW WHETHER IT WAS GENERALLY REFERRED TO, BUT IT HAS BEEN REFERRED TO AS THE CROSSOVER MEMO.
Q. AND WOULD YOU DEFINE WHAT IS MEANT IN THAT CONTEXT
AS THE "CROSSOVER POINT"?

A. IT SAID THAT AT SOME JUNCTURE IN THE PAST THE, UH, COMMUNIST FORCES WERE LOSING MEN FASTER THAN THEY WERE INPUTTING THEM INTO THEIR TOTAL STRENGTH.

Q. AND THAT WOULD MEAN THAT THE TOTAL SIZE OF THE ENEMY FORCE WOULD BE DECREASING, CORRECT?

A. ON ALMOST ALL MONTHS IT DECREASED. THERE WERE A FEW MONTHS WHERE THEY WERE VERY HEAVY INFIL---, WHERE THERE WAS VERY HEAVY INFRINGEMENT, WHERE THERE WAS AN INCREASE. BUT, GENERALLY SPEAKING, WHAT THE CROSSOVER MEMO SHOWED WAS THAT FROM BACK IN EARLY '66 THE TOTAL STRENGTH OF THE ENEMY HAD BEEN DECLINING.

Q. AND REALIZING THAT THERE MIGHT HAVE BEEN ONE OR TWO MONTHS IN WHICH THERE WOULD BE A SLIGHT INCREASE, ON THE AVERAGE THE ENEMY STRENGTH, ACCORDING TO YOUR MEMORANDUM WOULD HAVE BEEN DECREASING FROM EARLY 1966 UP TO THE DATE OF THE CROSSOVER MEMO?

A. (NO VERBAL RESPONSE).

Q. CORRECT?

A. UH, -- WELL, THERE'S NO END DATE ON IT. IT JUST SAID THAT IT WAS DECREASING. IT HAD BEEN DECREASING, IN THE PAST, FROM WHATEVER, WHATEVER DATE YOU CAME UP WITH BACK TO EARLY 1966.
Q. DID THE TOTAL ENEMY STRENGTH CONTINUE, IN YOUR
VIEW, TO DECLINE SUBSEQUENT TO SEPTEMBER OF 1967?
A. NO. AS A MATTER OF FACT HEAVY INFILTRATION TOWARD
THE END OF 1967, UH, LED ME TO BELIEVE THAT AN
INCREASE HAD OCCURRED.
Q. IS IT FAIR TO SAY THAT IT IS YOUR VIEW, AS
EXPRESSED IN YOUR CROSSOVER MEMORANDUM, AND IN
SUBSEQUENT EVENTS, THAT THE CROSSOVER POINT WAS
REACHED IN EARLY 1966, AND ENEMY STRENGTH DECLINED
FROM THEN UNTIL SOME TIME IN LATE 1967, AND AT THAT
POINT THE ENEMY STRENGTH BEGAN TO INCREASE AS
OPPOSED TO DECREASE?
A. NO, I DON'T THINK IT SET ANY TREND. AND, AS A
MATTER OF FACT, WHEN THE TET OFFENSIVE OCCURRED,
OF COURSE THERE WAS ANOTHER VERY SHARP DROP IN
TOTAL ENEMY STRENGTH.
Q. THE CROSSOVER POINT WAS INITIALLY REACHED, IN YOUR
VIEW, SOME TIME IN EARLY 1966, CORRECT?
A. OF -- IF YOU BOUGHT THE FACTORS THAT I USED. NOW,
IF YOU ---
Q. DID YOU BUY THOSE FACTORS?
A. I BOUGHT THEM, I WROTE THEM DOWN, YES.
Q. YOU BELIEVED THEM?
A. I BELIEVED THEM, YEAH.
Q. WHAT I AM NOW ASKING YOU ABOUT IS YOUR VIEW?
MY VIEW WAS THAT THE CROSSOVER POINT OCCURRED IN EARLY 1966.

AND THAT IS WHAT YOU WROTE IN YOUR MEMO?

UH, -- I DIDN'T WRITE "A CROSSOVER POINT OCCURRED". I SAID THAT THE, THAT, UH, IN GENERAL, ENEMY STRENGTH HAD BEEN DECLINING SINCE EARLY 1966, IF ONE LOOKS AT THE TOTAL INPUT AND OUTPUT OF, UH, FORCES ON A DAY TO DAY BASIS.

AND THAT IS WHAT YOU WROTE IN OR ABOUT SEPTEMBER OF 1967?

THAT'S RIGHT.

AND YOU BELIEVED THAT THAT WAS ACCURATE AS OF SEPTEMBER, 1967?

I BELIEVED IT THEN, AND I BELIEVE IT NOW.

AND THEN THERE CAME A TIME WHEN YOU BELIEVED THAT THE ENEMY WAS NO LONGER LOSING MORE MEN THAN IT WAS REPLACING, CORRECT, SIR?

INfiltrating people faster than they were losing them on the battlefield.

Q. Just so the record is clear, when you use the word "input" you were talking about the number of enemy forces that are either recruited or infiltrated, correct?

A. That's correct. That is the basis input.

Q. And when you refer to "output" you are talking about the number of enemy forces that are in some way knocked out of action, either by killing them or permanently disabling them or capturing them.

A. Or defections, desertions, disease. There are a number of ways that they were losing people other than body count. That is, other than counting bodies. There were other ways that they were losing people.

Q. But the input would be their total recruitment and infiltration, and their output would be their total losses?

A. That's correct.

Q. Okay. Who was responsible for analyzing the input data, as you use that term, that is analyzing infiltration and recruitment?

By Mr. Herry:

Object to the form of the question.
BY DEPONENT:

UH, -- WELL, I ANALYZED IT. THE DATA CAME FROM,
UH, REPORTS FROM THE FIELD AS TO WHAT, AS TO HOW
THINGS WERE GOING IN RECRUITMENT. THEY GENERALLY
DETERMINED RECRUITMENT BY THE DISAPPEARANCE OF
PEOPLE FROM VILLAGES AND SO FORTH, OR REPORTS OF
THE VC COMING IN AND ROUNding PEOPLE UP. AND, UH,
-- THAT WAS COMING TO ME FROM BOTH THE OPERATIONS
SIDE AND THE INTELL-- THE REST OF THE
INTELLIGENCE APPARATUS THERE IN VIETNAM.
Q. WHO WAS RESPONSIBLE FOR COMPILING THE RECRUITMENT
FIGURES?
BY MR. MURRY:
I OBJECT TO THE FORM OF THE QUESTION.
BY DEPONENT:
I HONESTLY DON'T KNOW ANYWAY.
EXAMINATION CONTINUED BY MR. BOIES:
Q. WHO WAS RESPONSIBLE FOR COMPILING THE INFILTRATION
FIGURES?
BY MR. MURRY:
OBJECT TO THE FORM OF THE QUESTION.
BY DEPONENT:
A. A WHOLE LOT OF PEOPLE. INFILTRATION DATA BASED ON
CAPTURING PEOPLE AND FINDING OUT WHEN THEY CAME
INTO COUNTRY AND HOW BIG A PACKAGE THEY CAME WITH
WAS THE RESPONSIBLE OF CICV. THERE WAS OTHER INfiltrATION DATA THAT WAS OF A HIGHER CLASSIFICATION THAT, FOR REASONS OF CLASSIFICATION PROBLEMS, WERE NOT HANDLED BY CICV, BUT WERE HANDLED BY THE HEADQUARTERS ELEMENT OF, OF J-2, INCLUDING MY OWN PEOPLE AND SOME OF, UH, COLONEL MORRIS' PEOPLE WHO HAD ACCESS TO THE HIGHER CLASSIFIED MATERIAL, MORE HIGHLY CLASSIFIED MATERIAL.

EXAMINATION CONTINUED BY MR. BOIES:

Q. AM I CORRECT THAT SOMEBODY HAD TO BE RESPONSIBLE FOR COMING UP WITH AN ESTIMATE OF INFILTRATION?
A. WELL, WHEN IT BECAME AN ESTIMATE MY SHOP WAS RESPONSIBLE.

Q. AND WHEN YOU CAME UP WITH AN ESTIMATE OF INFILTRATION WHAT INFORMATION DID YOU RELY ON?

BY MR. MURRY:

I OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

I USED WHATEVER EVIDENCE WAS AVAILABLE. THERE WERE FIGURES THAT HAD BEEN COMPiled IN CICV, AND THERE WERE -- AND OTHER EVIDENCE AVAILABLE FROM OTHER PARTS OF THE, UH, INTELLIGENCE APPARATUS THERE AND ALSO FROM A, FROM THE OPERATIONS SIDE. I CAN'T SAY PRECISELY WHO GAVE ME WHAT.
EXAMINATION CONTINUED BY MR. BOIES:

Q. BUT YOU, OR YOUR SHOP, WOULD HAVE RECEIVED INFILTRATION FIGURES COMPILED IN CICV; YOU WOULD HAVE ALSO RECEIVED OTHER EVIDENCE FROM OTHER INTELLIGENCE SOURCES, AND YOU WOULD HAVE RECEIVED INFORMATION FROM WHAT YOU REFER TO AS THE OPERATIONS SIDE, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND YOU WOULD HAVE USED THESE THREE SOURCES OF INFORMATION WITH RESPECT TO INFILTRATION TO COME UP WITH AN ESTIMATE OF ENEMY INFILTRATION, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. LET ME FOCUS FIRST ON THE FIGURES ON INFILTRATION THAT YOU SAY WOULD HAVE BEEN COMPILED IN CICV. DO YOU KNOW WHO WITHIN CICV HAD THE RESPONSIBILITY OF COMPILING INFILTRATION FIGURES?

A. NO.

Q. HOW DID YOUR SHOP GET THOSE FIGURES?

A. I DON'T KNOW. NORMAL DISTRIBUTION.

Q. WHO IN YOUR SHOP GOT THOSE FIGURES FROM CICV?

A. I DON'T KNOW THAT EITHER. DID YOU EVER SEE THE FIGURES THAT CICV COMPILED ON INFILTRATION?

A. YES, I WENT OVER THE ENTIRE HISTORY OF THEIR INFILTRATION FIGURES IN ORDER TO DO THE
INPUT/OUTPUT STUDY.

Q. AND IN WHAT FORM DID CICV PRESENT YOU WITH INFILTRATION FIGURES?

BY MR. MURRY:

I OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

I DON'T REMEMBER. I THINK THERE WAS A HISTORICAL COMPILATION AND THEN REPORTS, UH, INDIVIDUAL REPORTS AS THEY, THEY GOT A NEW INTERROGATION REPORT OR A -- AND AS FAR AS DOCUMENTS, THEY JUST SENT ME ALL THE DOCUMENTS, WHEN THEY CAME IN, IN VERY LARGE NUMBERS AND I WENT OVER THEM MYSELF.

Q. THAT IS, YOU WENT OVER, YOURSELF, THE DOCUMENTS THAT CICV SENT YOU?

A. MOST OF THEM, I BELIEVE.

Q. WHEN YOU, OR YOUR SHOP, CAME UP WITH AN ESTIMATE OF ENEMY INFILTRATION, TO WHOM WOULD YOU SEND THAT ESTIMATE?

A. TO THE J-2.

Q. AND THE J-2, WHEN YOU WERE IN VIETNAM, WAS WHO, SIR?

A. GENERAL PHILLIP DAVIDSON.

Q. FOR THE ENTIRE PERIOD THAT YOU WERE IN VIETNAM?

A. FOR THE ENTIRE PERIOD.

Q. DO YOU KNOW WHAT GENERAL DAVIDSON WOULD DO WITH
YOUR ESTIMATE OF INFILTRATION AFTER HE RECEIVED IT?

A. NO.

Q. DID YOU EVER DISCUSS WITH GENERAL DAVIDSON WHAT HE DID WITH THE ESTIMATES OF INFILTRATION THAT YOU PREPARED AND SENT TO HIM?

A. NOT THAT I RECALL.

Q. DID YOU EVER COME TO LEARN IN ANY WAY WHAT GENERAL DAVIDSON DID WITH THE ESTIMATES OF INFILTRATION OR ANY OF THEM THAT YOU PREPARED AND GAVE TO HIM?

A. NO, I DON'T RECALL ANYTHING SPECIFIC:

Q. DO YOU RECALL ANYTHING IN GENERAL?

A. WELL, IN GENERAL THE, THE INFILTRATION FIGURES WERE DISTRIBUTED BACK TO HIGHER HEADQUARTERS. I KNOW THAT.

Q. THAT IS THE INFILTRATION FIGURES YOU SENT TO GENERAL DAVIDSON, HE THEN SENT ON TO HIGHER HEADQUARTERS, IS THAT WHAT YOU'RE SAYING?

A. I KNOW THAT THE, THAT THE TOTAL INFILTRATION FIGURES FROM CICV WERE SENT BACK AS RAW DATA TO ANYBODY THAT NEEDED THEM IN THE MILITARY CHAIN OF COMAMND, AND TO OTHER INTELLIGENCE AGENCIES, AND WAS DISTRIBUTED IN WASHINGTON BY THE DEFENSE INTELLIGENCE AGENCY, AND THE VARIOUS SERVICE INTELLIGENCE AGENCIES.