Q. WHEN YOU SAY THE "REAL" OFFENSIVE, CAN YOU
DESCRIBE FOR ME WHAT YOU MEAN BY THE WORDS "REAL"?

A. THE FIRST TWO DAYS OF THE ASSUALT THEY WERE
ATTACKING EVERY MAJOR CITY IN VIETNAM, AND
LAUNCHING AN ATTACK ON -- NOT ON U.S. BUT ON
VIETNAMESE MILITARY INSTALLATIONS FOR THE MOST
PART. UH, AND, UH, HAD OBVIOUSLY SCRAPED THE
BARREL IN ORDER TO MAKE THAT AS HEAVY AN ASSUALT
AS THEY COULD, INCLUDING THE USE OF MEN WHO STILL
HAD STITCHED UP WOUNDS FROM HOSPITAL AND, UH,
YOUNG KIDS THEY HAD SCRAFED UP IN VILLAGES AND
GIVEN THEM GUNS THAT THEY DIDN'T EVEN KNOW HOW TO
GET OUT OF COSMOLENE, LET ALONE OPERATE. SO IT
WAS, THAT WAS THE WAY THOSE FIRST COUPLE OF DAYS,
UH, WENT AND THEY THREW EVERYTHING THEY HAD AT
SOUTH VIETNAM.

Q. BUT YOU'RE NOT SUGGESTING THAT THE TET OFFENSIVE
WAS OVER AFTER THE FIRST TWO DAYS, ARE YOU, SIR?

A. YES, I AM -- IN THE SENSE THAT THE OFFENSIVE HAD
FAILED AFTER THOSE TWO DAYS. THAT DOESN'T MEAN
THAT THEY STOPPED EVERYTHING AFTER THOSE TWO DAYS.
AND THEY DID COME BACK AGAIN, INTO THE OUTSKIRTS
OF SAIGON IN MAY, BUT, UH, THE REAL OFFENSIVE WAS
THOSE FIRST TWO DAYS.

Q. WELL, WHEN YOU SUGGEST THAT THE TET OFFENSIVE WAS
OVER IN THOSE FIRST TWO DAYS, LET ME JUST ASK YOU A COUPLE OF QUESTIONS ABOUT THAT. THE ENEMY PENETRATED THE AMERICAN EMBASSY COMPOUND IN SAIGON DURING THE TET OFFENSIVE, DID THEY NOT, SIR?

A. OH, YES. THEY COULD HAVE DONE THAT AT ANY TIME, TET OFFENSIVE OR NO. THERE WERE ABOUT SIXTEEN PEOPLE, I THINK, INVOLVED IN THE WHOLE THING.

Q. WELL, THERE WERE MORE THAN SIXTEEN PEOPLE INVOLVED IN TAKING IT BACK FROM THE ENEMY, WERE THERE NOT, SIR?

A. YES, THERE WERE.

Q. AND HOW LONG DID IT TAKE TO TAKE THE EMBASSY BACK FROM THE ENEMY, SIR?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

IT WAS A MATTER OF HOURS.

EXAMINATION CONTINUED BY MR. BOIES:

Q. AND IT IS YOUR TESTIMONY THAT THE ENEMY WAS EXCLUDED FROM THE EMBASSY COMPOUND WITHIN A MATTER OF HOURS AFTER THE COMMENCEMENT OF THE TET OFFENSIVE?

A. THAT'S RIGHT.

Q. AND HOW MANY AMERICAN SOLDIERS WERE INVOLVED IN THAT?
A. I DON'T KNOW.

Q. DO YOU KNOW APPROXIMATELY?
A. NO.

Q. DO YOU KNOW HOW MANY AMERICAN SOLDIERS WERE KILLED IN RETAKING THE AMERICAN EMBASSY FROM THE ENEMY?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEponent:

NO, I DON'T.

EXAMINATION CONTINUED BY MR. BOIES:

Q. DO YOU KNOW APPROXIMATELY?
A. NO, I DON'T. I'M NOT SURE ANYONE WAS KILLED.

Q. YOU'RE NOT SURE ANYONE WAS KILLED?
A. (NO VERBAL RESPONSE).

Q. THAT'S YOUR TESTIMONY?
A. I'M NOT SURE ANYONE WAS KILLED IN RECOVERING THE EMBASSY.

Q. WHO DID THE EMBASSY HAVE TO BE RECOVERED FROM?
A. A SAPPER SQUAD FROM SAIGON.

Q. COULD YOU DEFINE FOR THE RECORD WHAT YOU MEAN BY "SAPPER SQUAD"?
A. OH, THESE WERE, UH, VIETCONG UNITS THAT RANGED FROM A SQUAD BELONGING TO A LOCAL FORCE UP TO, OH, BATTALIONS OF THEM IN VIETNAM WHOSE JOB IT WAS TO CARRY OUT RAIDS AGAINST U.S. AND ALLIED
INSTALLATIONS.

Q. WHAT WAS THE STRENGTH OF THE VIETCONG SAPPER SQUAD, AS YOU REFER TO IT, THAT TOOK THE AMERICAN EMBASSY IN SAIGON?

A. I THINK IT WAS ---

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION. YOU MAY ANSWER.

BY DEPONENT:

SORRY ABOUT THAT. UH, -- I THINK IT WAS ABOUT SIXTEEN PEOPLE OR SOMETHING LIKE THAT, IT WAS A SMALL NUMBER OF PEOPLE.

EXAMINATION CONTINUED BY MR. BOIES:

Q. WHAT CITIES DID THE ENEMY INVADE DURING THE TET OFFENSIVE?

A. WELL, TELL ME WHAT YOU MEAN BY "INVADE". IF YOU MEAN "ATTACK", I WOULD HAVE TO GIVE YOU AN AwFUL LONG LIST.

Q. HOW MANY CITIES ARE THERE IN SOUTH VIETNAM?

A. I DON'T KNOW.

Q. APPROXIMATELY?

A. OH, PLACES THAT QUALIFY AS CITIES, THERE ARE PROBABLY FIFTY.

Q. OF THOSE FIFTY CITIES, HOW MANY DID THE ENEMY ATTACK DURING THE TET OFFENSIVE?
A. NEARLY ALL, IF NOT ALL.
Q. DID THE ENEMY GAIN CONTROL OF ANY OF THOSE CITIES?
A. THEY GAINED A GREAT DEAL OF CONTROL IN THE CITY OF HUE.
Q. HOW LONG DID IT TAKE TO RECOVER THE CITY OF HUE FROM THE ENEMY DURING THE TET OFFENSIVE?
A. IT TOOK US, I BELIEVE, ABOUT SIX WEEKS TO GET THEM OUT OF THERE.
Q. SO AT LEAST UP IN HUE THE ENEMY DIDN'T REALIZE THE TET OFFENSIVE WAS OVER IN THE FIRST TWO DAYS, IS THAT CORRECT, SIR?

BY MR. MURRY:
OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:
I DON'T KNOW WHAT THE ENEMY REALIZED IN HUE.

EXAMINATION CONTINUED BY MR. BOIES:
Q. WELL, THEY WERE CERTAINLY STILL FIGHTING UP IN HUE, WERE THEY NOT, SIR?
A. OH, YES.
Q. HOW MANY AMERICANS WERE KILLED IN RECOVERING THE CITY OF HUE?
A. I DON'T KNOW.
Q. DO YOU KNOW APPROXIMATELY?
A. NO, I DON'T.
Q. DO YOU KNOW WHETHER THE CITY OF HUE WAS PRIMARILY
RECOVERED BY AMERICAN FORCES OR SOUTH VIETNAMESE FORCES?

A. I DON'T KNOW, PRIMARILY. MY GUESS IS THAT IT WAS PRIMARILY THE ARVN FIRST DIVISION.

Q. WERE THEY ANY OTHER CITIES, OTHER THAN HUE, THAT THE ENEMY SECURED SUBSTANTIAL CONTROL OF DURING THE TET OFFENSIVE?

A. NO.

Q. DO YOU KNOW WHY THE ENEMY WAS ABLE TO SECURE A GREATER DEGREE OF CONTROL IN THE CITY OF HUE THAN IN OTHER CITIES?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

MY VIEW IS THAT IT IS BECAUSE HUE WAS ATTACKED BY NORTH VIETNAM VIETNAMESE REGULARS, FOR THE MOST PART, BACKED UP BY ARTILLERY THAT HAD BEEN MOVED IN THROUGH THE A SHAU VALLEY.

Q. DID NORTH VIETNAMESE REGULARS ATTACK ANY CITIES OTHER THAN HUE DURING THE TET OFFENSIVE?

A. YES, FOR ONE, QUANG TRI, WHERE THEY LOST HEAVILY.

Q. DURING WHAT PERIOD OF TIME DID THE ENEMY ATTACK QUANG TRI DURING THE TET OFFENSIVE?

A. UH, THAT WAS THE FIRST DAY OF THE TWO DAYS OF THE OFFENSIVE.
Q. AND DID THEY CEASE ATTACKING QUANG TRI DURING THE SECOND DAY OF THE OFFENSIVE?
A. I DON'T RECALL.

Q. WERE THEY STILL ATTACKING QUANG TRI DURING THE THIRD AND FOURTH AND FIFTH DAYS OF THE OFFENSIVE?
A. NOPE, -- THERE WAS A VICTORY PARADE BY THE ARVN TROOPS IN QUANG TRI.

Q. AND WHEN WAS THE NEXT TIME THE ENEMY ATTACKED QUANG TRI?
A. I DON'T REMEMBER.

Q. DO YOU REMEMBER APPROXIMATELY?
A. DON'T REMEMBER AT ALL.

Q. DO YOU REMEMBER WHETHER IT WAS LONGER THAN A WEEK?
A. I SAY I DON'T REMEMBER AT ALL.

Q. WERE THERE ANY OTHER CITIES THAT THE NORTH VIETNAMESE TROOPS ATTACKED DURING THE TET OFFENSIVE?
A. I'VE TOLD YOU THAT THEY ATTACKED IF NOT EVERY ALMOST EVERY CITY IN VIETNAM.

Q. ALL RIGHT. WHAT IS YOUR BEST ESTIMATE OF THE NUMBER OF ENEMY CASUALTIES DURING THE FIRST SIX WEEKS FOLLOWING THE COMMENCEMENT OF THE TET OFFENSIVE?
A. I HAVE NO ESTIMATE.

Q. DO YOU HAVE AN APPROXIMATE ESTIMATE?
A. I DO NOT.

Q. DO YOU HAVE AN ESTIMATE OF THE NUMBER OF ENEMY CASUALTIES DURING WHAT YOU HAVE REFERRED TO AS THE "TET OFFENSIVE CAMPAIGN"?

A. NO.

Q. DO YOU HAVE AN APPROXIMATE ESTIMATE?

A. WELL, IT WOULD BE -- RIGHT OFF THE TOP OF MY HEAD -- THAT THEY PROBABLY LOST A TOTAL OF, UH, -- OH, AROUND 45,000, I WOULD SAY, OVER THE, THAT PERIOD THAT, UH, HAS SORT OF ARBITRARILY BEEN MARKED OUT AS THE TOTAL CAMPAIGN, IF I AM CORRECT IN MY ASSUMPTION THAT THAT WAS FROM THE INITIAL OFFENSIVE THROUGH SUBSEQUENT ACTIONS TO INCLUDE THE MAY ATTEMPT THAT GOT INTO THE SUBURBS OF SAIGON.

Q. WHEN YOU SAY THAT THE TET OFFENSIVE CAMPAIGN WAS ARBITRARILY PUT AT FOUR MONTHS, IT WAS ARBITRARILY PUT AT FOUR MONTHS BY THE ARMY OR WHOEVER IS RESPONSIBLE FOR MAKING THOSE KINDS OF DETERMINATIONS FOR THE ARMY, WAS IT NOT?

A. WE'LL, I DON'T KNOW IT WAS THE ARMY, BUT, UH, FOR THE PURPOSES OF DECORATIONS AND SO FORTH, I BELIEVE THAT THE CUTOFF DATE WAS FAIRLY ARBITRARY. TO ME, THE TET OFFENSIVE -- UH -- IN REAL TERMS WAS, UH, THE MAIN RESULT OF IT, IN MILITARY TERMS,
HAD HAPPENED BY THE END OF THE SECOND OR THIRD DAY OF THE OFFENSIVE.

Q. DID YOU EVER TELL ANYBODY THAT YOU THOUGHT THAT THE TET OFFENSIVE CAMPAIGN WAS REALLY ONLY TWO DAYS LONG AS OPPOSED TO FOUR MONTHS LONG?

A. NO, BUT I THINK IT HAS BEEN CLEAR IN MY TESTIMONY ON THESE MATTERS THAT THAT WHICH IS PERTINENT TO THE TOTAL NUMBERS OF ENEMY FORCES AVAILABLE, THAT PART OF THE SO-CALLED TET CAMPAIGN, THE MOST -- THE ONLY TRULY PERTINENT PART IS WHAT THEY WERE ABLE TO DO IN THOSE FIRST TWO DAYS.

Q. THE FIRST TWO DAYS OF THE TET OFFENSIVE CAMPAIGN?

A. THAT'S CORRECT.

Q. YOUR BEST JUDGMENT IS THAT DURING THE ENTIRE TET OFFENSIVE CAMPAIGN THAT THE ENEMY WOULD HAVE LOST APPROXIMATELY 45,000 MEN, KILLED. IS THAT RIGHT?

A. NO, 45,000 TOTAL KILLED AND PERMANENTLY PUT OUT OF ACTION, OR CAPTURED, OR CIEU-HOI-ED.

Q. WELL, LET'S TRY TO BREAK THAT DOWN. HOW MANY WOULD THE ENEMY, ACCORDING TO YOUR BEST ESTIMATE, HAVE LOST AS A RESULT OF BEING KILLED IN BATTLE DURING THE FOUR MONTHS OF THE TET OFFENSIVE CAMPAIGN?

A. I HESITATE TO BREAK THAT DOWN. YOU SORT OF PRESSED ME FOR AN OFF THE TOP OF THE HEAD ESTIMATE
TOTAL, AND NOW YOU WANT ME TO SPLIT IT UP INTO
BITS AND PIECES, AND I CAN'T DO THAT FOR YOU.
Q. WELL, LET ME ASK YOU. DO YOU HAVE ANY ESTIMATE,
of your own, even an approximate estimate of the
number of enemy killed, during the four months of
the Tet Offensive Campaign?
A. NO, I DON'T.
Q. DO YOU HAVE A JUDGMENT AS TO WHETHER THAT NUMBER
COULD HAVE BEEN AS HIGH AS 50,000?
A. COULD HAVE BEEN.
Q. COULD IT HAVE BEEN AS HIGH AS 80,000?
A. I DOUBT IT.
Q. HAVE YOU EVER HEARD OR READ ANYBODY'S ESTIMATE OF
ENEMY KILLED DURING THE TET OFFENSIVE CAMPAIGN
BEING AS HIGH AS 80,000?
A. I DON'T THINK SO.
Q. YOU READ, I BELIEVE YOU SAID, THE OBERDORFER BOOK?
A. YES.
Q. HAVE YOU READ OTHER BOOKS ON VIETNAM?
A. YES.
Q. WHAT OTHER BOOKS ON VIETNAM HAVE YOU READ?
A. WELL, I READ PART OF GENERAL WESTMORELAND'S BOOK
-- DIDN'T READ THE WHOLE THING. UH, -- I DON'T
RECALL ANY OTHERS.
Q. THOSE ARE THE ONLY TWO BOOKS ON VIETNAM THAT YOU
RECALL READING?
A. THAT'S CORRECT.
Q. HOW DID YOU SELECT THE OBERDORFER BOOK TO READ?
A. I ALWAYS CONSIDERED OBERDORFERS A, AS A PRETTY EVEN-HANDED REPORTER ON VIETNAMESE MATTERS. BESIDES I KNEW HIM OUT IN VIETNAM WHEN I WAS THERE AND HE WAS THERE.
Q. WITH RESPECT TO ENEMY KILLED, DO YOU HAVE ANY JUDGMENT OR OPINION AS TO WHAT WOULD BE AN APPROPRIATE RATIO OF ENEMY THAT WOULD BE PERMANENTLY DISABLED OR DIED FROM WOUNDS, AS A PERCENTAGE OF THE TOTAL ENEMY KILLED?
A. MY JUDGMENT WAS THAT FOR ABOUT, FOR EVERY THREE TO FOUR DEAD THAT THERE WOULD BE ONE OUT OF ACTION, EITHER DIED OF WOUNDS SUBSEQUENTLY OR PERMANENTLY DISABLED, AND NOT FURTHER FIT FOR COMBAT.
Q. AND WAS THAT A PERCENTAGE OR RATIO THAT YOU TALKED TO OTHER PEOPLE ABOUT?
A. I HAD TO COME UP WITH A RATIO LIKE THAT TO DO THE INPUT/OUTPUT ANALYSIS. AND I DID TALK TO OTHER OFFICERS ABOUT WHAT THAT RATIO SHOULD BE.
Q. WHAT OTHER OFFICERS DID YOU TALK TO ABOUT WHAT THAT RATIO SHOULD BE?
A. GENE JOYCE, FOR ONE. I BELIEVE I TALKED TO CHARLIE MORRIS ABOUT IT, GENERAL CHAISON (PHO-
Q. AND WHAT DID THOSE INDIVIDUALS TELL YOU?
A. WELL, I DON'T RECALL PRECISELY. WE DISCUSSED THE DIFFERENCE, THE PROBABLE DIFFERENCES, UH, BETWEEN THAT KIND OF RATIO AND A NORMAL, YOU KNOW, IN A REGULAR WAR -- SUCH AS WORLD WAR II OR SOMETHING -- AND A GUERRILLA TYPE OF ENVIRONMENT, SUCH AS VIETNAM. AND, UH, -- BUT I DON'T REMEMBER PRECISELY ANY RECOMMENDATIONS ONE WAY OR THE OTHER, EXCEPT A GENERAL AGREEMENT THAT THE KIND OF ENGAGEMENTS THAT WE WERE INVOLVED IN, THE, UH, THE -- THAT RATIO WOULD BE A LOT SMALLER THAN IT WOULD IN A NORMAL -- IN NORMAL CONVENTIONAL WARFARE.

Q. AND WERE YOU TOLD WHY THAT WAS SO IN THESE PEOPLES' OPINIONS?
A. UH, -- YES.

Q. WHO TOLD YOU THAT?
A. I CAN'T REMEMBER WHO TOLD ME WHAT. BUT GENERALLY SPEAKING, IN ENGAGEMENTS WHERE YOU HAVE ARTILLERY BARRAGES AHEAD OF TIME IN WHICH YOU TEND MORE TO WOUND PEOPLE AND TO KILL THEM, AS OPPOSED TO MOST CLASHES WHICH WERE CLOSE-IN ENGAGEMENTS WITH SMALL ARMS THAT THE, UH, -- THAT YOUR CHANCES OF GETTING KILLED AS OPPOSED TO BEING SERIOUSLY WOUNDED WERE A LOT HIGHER IN VC FORCES THAN THEY WOULD HAVE
Q. DID YOU HAVE ANY INFORMATION OR OPINION AS TO THE STATE OF THE ENEMY'S MEDICAL SUPPORT, INSERVICE?
A. YES, WE DID. AND, UH, THE VC MEDICAL SERVICE WAS PRIMATIVE BUT, UH, FAIRLY EFFECTIVE. THE -- AND THEIR VIEW OF WHAT TO DO WITH A BADLY WOUNDED MAN WAS QUITE DIFFERENT FROM OTHER ARMIES. THAT IS, UNLESS YOU REALLY GOT YOUR LEGS BLOWN OFF OR SOMETHING LIKE THAT YOU WERE RETURNED TO SERVICE IN SOME CAPACITY. SO THAT, UH, YOU COULDN'T USE THE SAME KIND OF FIGURES THAT A WESTERN ARMY WOULD. THOSE VIETNAMESE WERE COMMITTED UNTIL THEY EITHER DIED OR THE WAR WAS OVER. THERE WAS NO SUCH THING AS GOING BACK HOME, UNLESS YOU WERE TOTALLY INCAPACITATED. AND THEY DIDN'T EVEN DO THAT MOST OF THE TIME BECAUSE THEY DIDN'T WANT THESE MAIN PEOPLE UP IN VIETNAM -- UP IN NORTH VIETNAM.

Q. DO YOU HAVE A JUDGMENT OR OPINION AS TO THE RATIO OF ENEMY KILLED TO ENEMY WOUNDED?
A. JUST PLAIN WOUNDED, ALL KINDS OF WOUNDS.

Q. LET'S TAKE THAT FIRST, (AFFIRMATIVE NO.).
A. NO.

Q. NO JUDGMENT AT ALL?
A. NO, I NEVER, UH, -- FOR THE REASON THAT I JUST GAVE YOU, THAT ORDINARY WOUNDS WAS NOT GOING TO
REMOVE ANYBODY FROM THE TOTAL, UH, VC STRUCTURE, -- THAT ONLY A PERMANENTLY DISABLING OR DIED OF WOUNDS WOULD MAKE, WOULD HAVE ANY EFFECT ON WHAT I WAS SEARCHING FOR, WHICH WAS THE BEST POSSIBLE VIEW OF WHAT WAS HAPPENING TO TOTAL ENEMY STRENGTH.

Q. NOW, WHEN YOU DID YOUR INPUT/OUTPUT OR CROSSOVER ANALYSIS, GENERAL GRAHAM, AND YOU ESTIMATED THAT THE NUMBER OF ENEMY DECLINED FROM APPROXIMATELY 550,000 IN EARLY 1966 TO APPROXIMATELY 250,000 IN SEPTEMBER OF 1967, HOW MUCH OF THAT DECLINE WAS DUE TO ENEMY BEING KILLED?

A. I CAN'T SAY WITH ANY PRECISION. MY RECOLLECTION IS THAT IT WAS ABOUT HALF THE COUNT, MAYBE MORE THAN HALF BUT AT LEAST HALF, WAS -- WERE KIA'S.

Q. AND THEN ANOTHER TWENTY-FIVE TO THIRTY-FIVE PERCENT WOULD HAVE BEEN PEOPLE REMOVED BECAUSE OF AN ASSUMPTION THAT THEY HAD DIED OF WOUNDS OR BEEN PERMANENTLY DISABLED AFTER THE BATTLE, CORRECT?

A. UH, -- THAT'S CORRECT. YES. I THINK WE USED THE FIGURE .35 TIMES THE KIA RATE FOR THE DOW, THAT'S "DIED OF WOUNDS" OR PERMANENTLY DISABLED CATEGORY.

Q. AND THE REMAINING ENEMY LOSS WOULD BE DUE TO CAPTURED AND DEFECTIONS AND THE LIKE, IS THAT CORRECT?
A. THAT'S CORRECT. THERE WERE, THERE WAS ALSO A SMALL
NUMBER IN THERE THAT I DON'T KNOW, -- I CAN'T REMEMBER WHETHER IT STAYED IN OR DIDN'T STAY IN, HAVING TO DO WITH THE PROBLEMS THEY WERE HAVING WITH DEATH FROM DISEASE, WHICH THE CAPTURED DOCUMENTS SHOWED WAS RATHER PREVALENT. WHEN YOU GOT HOSPITAL RECORDS YOU FOUND THAT THERE WAS A CONSIDERABLE PROBLEM WITH MALARIA AND OTHER DISEASE THAT THEY WERE CONTRACTING, UH -- SOME OF THEM DYING EVEN BEFORE THEY GOT TO VIETNAM, ON THE TRAIL.

Q. I HAVE SEEN IN DISCOVERY SOME DOCUMENTS LIKE THAT, I THINK, GENERAL GRAHAM, AND THAT IS ONE OF THE REASONS WHY I WAS A LITTLE PUZZLED BY YOUR STATEMENT ABOUT THE EFFECTIVENESS OF THE VIETCONG MEDICAL SERVICE. HOW DO YOU RECONCILE THOSE TWO STATEMENTS?

A. WELL, IT DID, UH -- I SAID EFFECTIVE CONSIDERING THEIR CIRCUMSTANCES, OR THE PRIMITIVENESS OF THE THEIR MEDICINE. UH, -- I -- I WAS RATHER IMPRESSED WITH WHAT THEY WERE ABLE TO DO MEDICALLY DESPITE THEIR, THEIR LOGISTICAL DRAWBACKS AND SO FORTH.

Q. IT IS PERFECTLY CLEAR, I TAKE IT, THAT THE MEDICAL SERVICE AND ASSISTANCE THAT THE ENEMY HAD
AVAILABLE TO THEM WAS VERY GREATLY LESS, IN TERMS OF BOTH QUANTITY AND QUALITY, THAN WHAT WAS AVAILABLE TO THE AMERICAN FORCES?

A. OH, ABSOLUTELY.

Q. AND INDEED I TAKE IT THAT IT IS THE CASE THAT THE MEDICAL SERVICE OF THE VIETCONG WAS PRIMITIVE BY ANY WESTERN STANDARDS IN THIS CENTURY. IS THAT CORRECT?

A. WELL, I DON'T KNOW ABOUT "IN THIS CENTURY" BUT CERTAINLY BY MODERN STANDARDS.

Q. AND THAT THAT AFFECTED BOTH THEIR ABILITY TO CONTROL DISEASE AND THEIR ABILITY TO HEAL THE WOUNDED?

A. THAT'S CORRECT.

Q. WHEN YOU WERE MAKING YOUR INPUT/OUTPUT OR CROSSOVER ANALYSIS, DID YOU TALK TO PEOPLE IN CICV TO DETERMINE WHAT RATIOS OF KILLED TO WOUNDED CICV USED?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

NO. I DID ASK THEM TO BE ON THE LOOKOUT FOR DOCUMENTS THAT, UH, WOULD GIVE ANY EVIDENCE ALONG THIS LINE AND BE SURE THAT I GOT THEM.

EXAMINATION CONTINUED BY MR. BOIES:
Q. DID YOU TALK TO ANY OF THE PEOPLE IN CICV AND ASK THEIR OPINION?
A. ONLY, UH, THEIR BOSS.
Q. WHO WAS COLONEL --
A. WHO WAS CHARLIE MORRIS.
Q. DID YOU TELL THE PEOPLE IN CICV, OR DID THE CICV PEOPLE COME TO KNOW THE RATIOS THAT YOU WERE USING?
BY MR. MURRY:
OBJECT TO THE FORM OF THE QUESTION?
BY DEPONENT:
I ---
BY MR. BOIES:
IF YOU KNOW.
BY DEPONENT:
I KNOW THAT COLONEL MORRIS DID. TO WHAT EXTENT HE BRIEFED THE REST OF HIS PEOPLE, I DON'T KNOW. I BELIEVE I SET FOOT IN CICV ONE TIME DURING THAT -- DURING MY ENTIRE YEAR IN VIETNAM.
EXAMINATION CONTINUED BY MR. BOIES:
Q. HAVE YOU EVER DISCUSSED WITH GENERAL WESTMORELAND THE RATIO OF ENEMY KILLED TO WOUNDED?
A. NO, I DON'T BELIEVE SO.
Q. HAVE YOU EVER DISCUSSED WITH GENERAL WESTMORELAND THE RATIO OF ENEMY KILLED TO PERMANENTLY DISABLED
OR DIED FROM WOUNDS?

A. NO.

Q. LET ME TURN BRIEFLY, GENERAL GRAHAM, TO THE
SUBJECT OF INFILTRATION?

YOU RECEIVED REPORTS FROM CICV PERSONNEL ON
ESTIMATES OF INFILTRATION, DID YOU NOT?

A. I BELIEVE SO.

Q. DID YOU RECEIVE THESE REPORTS ON A WEEKLY BASIS?

A. I RE--, LET ME BACK OFF HERE A MINUTE. I RECEIVED
DATA FROM CICV ON INFILTRATION ON A CONSTANT
BASIS. UH, -- ESTIMATES OF INFILTRATION, THOUGH,
I DON'T RECALL EVER RECEIVING FROM THERE.

Q. WHEN CICV SENT YOU WHAT YOU REFER TO AS "DATA",
WAS THIS DATA RELATED TO THE NUMBER OF ENEMIES
THAT WERE INFILTRATING INTO SOUTH VIETNAM?

A. IT WAS A CHRONOLOGICAL RUNDOWN OF WHAT THEY HAD
DETERMINED FROM INTERROGATIONS AND FROM
DOCUMENTATION AS TO WHEN VARIOUS PACKETS OF INFIL-
TRATORS HAD ENTERED VIETNAM AND HOW MANY PEOPLE
THERE WERE IN THAT PACKET.

Q. SO THEY WOULD PROVIDE YOU WITH THEIR INFORMATION
AS TO THE EXTENT OF INFILTRATION FROM SOURCES
AVAILABLE TO THEM, IS THAT CORRECT?

A. THAT'S RIGHT. AND, UH, MORE OFTEN THAN NOT IT WAS
TWO MONTHS OLD, OR AT LEAST NOT CURRENT.
Q. WOULD YOU THEN TAKE THAT DATA THAT YOU'VE RECEIVED ON INFILTRATION FROM CICV AND PREPARE INFILTRATION ESTIMATES?
A. THAT'S CORRECT.
Q. AND TO WHOM WOULD YOU SEND THOSE INFILTRATION ESTIMATES?
A. TO GENERAL DAVIDSON.
Q. AND HOW OFTEN DID YOU DO THAT?
A. I DON'T KNOW. UH, PROBABLY AT LEAST ONCE A MONTH BUT I'M NOT SURE.
Q. WHEN YOU RECEIVED THE DATA FROM CICV ON INFILTRATION, WOULD THAT DATA BE EXPRESSED IN TERMS OF THE NUMBER OF ENEMY THAT CICV BELIEVED HAD INFILTRATED INTO SOUTH VIETNAM?
A. NO, IT DID NOT. WHAT IT WOULD SHOW WAS A SERIES OF MONTHS SHOWING THAT THEY HAD DETERMINED THAT SIX MONTHS AGO ANOTHER HUNDRED PEOPLE HAD ENTERED, SAY, THAT WE DIDN'T KNOW ABOUT BEFORE, AND SHOULD BE ADDED TO THE TOTAL THAT WE KNEW INFILTRATED SIX MONTHS AGO. FIVE MONTHS AGO, MORE NUMBERS -- AND SO ON. THE NEAR TERM NUMBERS, OF COURSE, WERE ALWAYS WAY BELOW THE PROBABLE INFILTRATION RATE.
Q. THAT IS THE NEAR TERM NUMBERS THAT YOU WOULD HAVE BEEN RECEIVING FROM CICV WOULD HAVE BEEN WAY BELOW THE ACTUAL INFILTRATION RATE FOR NEAR TERM MONTHS,
WOULD HAVE TO ADD TO IT TO MAKE WHAT I WOULD CONSIDER A REASONABLE ESTIMATE OF THE INFILTRATION.

Q DID YOU, DURING THE TIME THAT YOU WERE IN VIETNAM DEVELOP ANY PERCENTAGE OR FRACTION OF WHAT NEEDED TO BE ADDED TO COME UP WITH WHAT YOU REFER TO AS A REASONABLE ESTIMATE OF INFILTRATION? AND BY ADDED, I MEAN ADDED TO THE CICV NUMBER?

A. NO, NOT REALLY. WHAT I DID WAS, -- IN THE NEAR TERM MONTHS, I WOULD AVERAGE OUT SOME OF THE EARLIER MONTHS, JUST PROCEEDING THOSE MONTHS, UH, TO, UH, -- AND THEN ESTIMATE THAT THAT RATE OF INFILTRATION WOULD PROBABLY CONTINUE. IT -- THAT GAVE YOU A ROUGH IDEA, NOT ALWAYS CORRECT BECAUSE SOMETIMES YOU WOULD FIND OUT LATER THAT THERE WAS A WHOLE LOT MORE OR A WHOLE LOT LESS IN ONE OF THOSE MONTHS WHERE YOU ESTIMATED X-NUMBER.

BY MR. BOIES:

I THINK WE ARE ABOUT OUT OF (VIDEO) TAPE.

(DEPOSITION ADJOURNED UNTIL 11:00 A.M. ON SEPTEMBER 15, 1983).

SEPTEMBER 15, 1983:

GENERAL DANIEL O. GRAHAM, BEING REMINDED THAT HE IS UNDER OATH, TESTIFIED AS FOLLOWS:

BY MR. BOIES:
PURSUANT TO A DISCUSSION OFF THE RECORD WITH COUNSEL FOR GENERAL WESTMORELAND, GENERAL GRAHAM, WE ARE GOING TO BEGIN THIS MORNING WITH SOME QUESTIONS TO YOU BY GENERAL WESTMORELAND'S COUNSEL, MR. MURRY.

BY MR. MURRY:

Q. GENERAL GRAHAM, DO YOU RECALL THAT YESTERDAY YOU WERE ASKED A SERIES OF QUESTIONS BY MR. DAVID BOIES, COUNSEL FOR CBS IN THIS ACTION?

A. YES.

Q. DO YOU RECALL THAT MR. BOIES ASKED YOU SOME QUESTIONS ABOUT THE 1968 TET OFFENSIVE IN VIETNAM.

A. YES.

Q. DO YOU RECALL THAT MR. BOIES ASKED YOU SOME QUESTIONS REGARDING AN ATTACK ON THE U.S. EMBASSY DURING THE 1968 TET OFFENSIVE?

A. YES.

Q. IS IT YOUR TESTIMONY THAT ENEMY FORCES ATTACKED THE U.S. EMBASSY AND EMBASSY COMPOUND IN 1968, AS PART OF THE TET OFFENSIVE?

A. YES.

Q. DO YOU RECALL WHEN THAT ATTACK OCCURRED?

A. THE SECOND DAY OF THE TET OFFENSIVE.

Q. DID THE ENEMY FORCES WHO PARTICIPATED IN THAT ATTACK CAPTURE THE UNITED STATES EMBASSY IN SAIGON?
A. YES.
Q. THEY CAPTURED IT FOR HOW LONG A PERIOD OF TIME?
A. AS I RECALL THEY HELD IT FOR ABOUT EIGHT HOURS.
Q. AND DID THEY CAPTURE THE ENEMY COMPOUND?
A. THE WHOLE COMPOUND?
Q. THAT'S CORRECT.
A. YOU MEAN THE EMBASSY COMPOUND?
Q. THAT IS CORRECT.
A. UH, -- I DON'T THINK THEY HAD THE WHOLE COMPOUND, BUT I'M NOT SURE.
Q. NOW, WHEN YOU SAY THAT THEY CAPTURED THE ENEMY COMPOUND --
A. EMBASSY COMPOUND.
Q. (AFFIRMATIVE NOD), EMBASSY COMPOUND -- I'M SORRY, -- WOULD YOU DESCRIBE WHAT YOU MEAN BY "CAPTURE THE EMBASSY COMPOUND"?
A. WELL, THEY ENTERED THE BUILDING AND, UH, SHOT THE PLACE UP, ESSENTIALLY, AND THEN THEY STAYED IN THERE UNTIL THEY WERE EJECTED BY ESSENTIALLY MILITARY POLICE FORCES -- THAT DROVE THEM OUT OF THERE -- AS I RECALL THE INCIDENT.

BY MR. MURRY:
THAT'S ALL I HAVE.

EXAMINATION RESUMED BY MR. BOIES:
Q. GENERAL GRAHAM, I WOULD NOW LIKE TO TURN TO A
SERIES OF QUESTIONS THAT RELATE TO AN OFFICER THAT I BELIEVE THAT WE HAD BRIEFLY DISCUSSED EARLIER, AND THAT IS AN OFFICER MICHALSKI. ARE YOU FAMILIAR WITH AN OFFICER MICHALSKI?
A. YES.

Q. WHAT WAS OFFICER MICHALSKI'S FULL NAME AND RANK?
A. I DON'T KNOW HIS FULL NAME, BUT HIS RANK AT THE TIME WAS MAJOR.

Q. AND DID YOU KNOW MAJOR MICHALSKI WHEN YOU WERE IN VIETNAM?
A. YES.

Q. WHAT WAS HIS RESPONSIBILITIES?
A. HE WAS IN CHARGE OF THE LAOS/CAMBODIA DESK IN THE, UH, CORPS -- COLONEL MORRIS -- ON AN ALL SOURCE BASIS.

Q. THAT IS, HE REPORTED TO COLONEL MORRIS?
A. THAT'S RIGHT.

Q. DID HE REPORT TO YOU?
A. NO. HE, UH, -- BUT WE DID, WE HAD DEALINGS, A LOT OF DEALINGS.

Q. WHEN YOU SAY THAT YOU HAD A LOT OF DEALINGS, WOULD YOU BE MORE SPECIFIC BY WHAT YOU MEAN BY THAT?
A. WELL, I WOULD GO TO HIM FOR INFORMATION OR -- AND HIS ANALYSIS OF WHAT WAS GOING ON, PARTICULARLY IN CAMBODIA, AS I RECALL. PERHAPS LAOS, TOO, BUT I'M
SURE CAMBODIA.

Q. I WANT TO SEE IF I UNDERSTAND THE CHAIN OF
COMMAND. MAJOR MICHALSKI REPORTED DIRECTLY TO
COLONEL MORRIS, IS THAT CORRECT?

A. I BELIEVE SO. I DON'T THINK I RATED HIM, I THINK
COLONEL MORRIS DID.

Q. AND YOU ALSO REPORTED DIRECTLY TO COLONEL MORRIS,
IS THAT CORRECT?

A. THAT'S CORRECT.

Q. WHO ELSE REPORTED DIRECTLY TO COLONEL MORRIS AT
THIS TIME?

A. UH, -- THE CICV PEOPLE, AND OTHERS. I'M NOT SURE
OF EVERYONE.

Q. WHO ARE THE NAMES OF THE PEOPLE THAT YOU DO RECALL
AS REPORTING DIRECTLY TO COLONEL MORRIS?

A. MYSELF, WHOEVER WAS CHIEF OF THAT, UH, -- I DON'T
REMEMBER THE NAME AND I'M NOT SURE WHETHER
MICHALSKI WAS THE RANKING MAN IN THAT OUT OF
COUNTRY GROUP OF DESKS THERE, BUT WHOEVER THAT WAS
REPORTED TO HIM. I DON'T KNOW WHETHER IT WAS
MICHALSKI OR NOT, IT MAY HAVE BEEN. MY BEST
RECOLLECTION IS THAT IT WAS MICHALSKI. AND THEN,
OVER IN CICV, UH, -- COLONEL PONDER AND SOME
OTHERS, I'M SURE, WHOSE NAMES I CAN'T RECALL.

Q. BUT IN ANY EVENT MAJOR MICHALSKI DID NOT REPORT TO
YOU. HE EITHER REPORTED TO COLONEL MORRIS DIRECTLY TO OR SOMEONE ELSE BETWEEN HIM AND COLONEL MORRIS, IS THAT CORRECT?

A. IF YOU MEAN REPORTING IN TERMS OF CHAIN OF COMMAND, I BELIEVE HE EITHER REPORTED DIRECTLY TO COLONEL MORRIS OR THROUGH A -- SOMEBODY TO COLONEL MORRIS.

Q. AND THE "SOMEBODY" WOULD BE SOMEBODY OTHER THAN YOURSELF, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. DID YOU EVER HAVE ANY CONVERSATIONS WITH MAJOR MICHALSKI WITH RESPECT TO INFILTRATION FROM NORTH VIETNAM INTO SOUTH VIETNAM?

A. I DON'T RECALL.

Q. YOU DON'T RECALL WHETHER YOU DID OR NOT.

Q. DON'T RECALL WHETHER I DID OR NOT.

Q. DO YOU RECALL ANY CONVERSATIONS AT ALL WITH RESPECT TO MAJOR MICHALSKI WHILE YOU WERE IN VIETNAM, WITH RESPECT TO MOVEMENT OF NORTH VIETNAMESE TROOPS FROM NORTH VIETNAM INTO SOUTH VIETNAM?

A. NO, I DON'T.

Q. YOU TESTIFIED EARLIER THAT THERE CAME A TIME WHEN YOU BECAME AWARE THAT NORTH VIETNAMESE TROOPS WERE MOVING SOUTH WITHIN NORTH VIETNAM TOWARDS SOUTH
VIETNAM, DO YOU RECALL THAT?

A. YES, THAT'S TRUE.

Q. DID YOU DISCUSS THAT IN ANY WAY WITH MAJOR MICHALSKI?

A. PROBABLY, BUT I DON'T RECALL THE CONVERSATION.

Q. DO YOU RECALL ANY CONVERSATION, EITHER IN SPECIFIC OR IN GENERAL WITH MAJOR MICHALSKI WITH RESPECT TO THE MOVEMENT OF NORTH VIETNAMESE TROOPS, EITHER SOUTH WITHIN NORTH VIETNAM OR FROM NORTH VIETNAM TO SOUTH VIETNAM?

A. NO.

Q. DO YOU RECALL ANY INCIDENT IN WHICH YOU TOLD MAJOR MICHALSKI IN WORDS OR IN SUBSTANCE THAT HE WAS NOT TO PASS ON HIS SUPERIOR OFFICERS INFORMATION WITH RESPECT TO THE MOVEMENT OF NORTH VIETNAMESE TROOPS?

A. NO.

Q. HAVE YOU DISCUSSED MAJOR MICHALSKI, OR ANY CONVERSATIONS THAT YOU MAY HAVE HAD WITH MAJOR MICHALSKI, WITH ANYONE IN THE LAST TWO YEARS?

A. NO.

Q. YOU'VE NEVER DISCUSSED IT, FOR EXAMPLE, WITH COLONEL MORRIS?

A. NO, I DON'T BELIEVE SO.

Q. DID THERE COME A TIME WHEN YOU DISCUSSED THE
MOVEMENT OF NORTH VIETNAMESE TROOPS, ABOUT WHICH
YOU HAVE TESTIFIED, TOWARDS SOUTH VIETNAM WITH
ANYONE WITHIN YOUR CHAIN OF COMMAND?
A: I'M SURE I DID.
Q. WHO WOULD THAT HAVE BEEN?
A. PROBABLY ALL OF THE PEOPLE WHO WERE WORKING IN
THE, UH, -- THE, UH, CLASS-, THE AREA WHERE MY
SHOP WAS.
Q. AND WHO WOULD THOSE PEOPLE HAVE BEEN?
A. WELL, I'M SURE I DISCUSSED IT WITH COLONEL MORRIS,
WITH GENERAL DAVIDSON, WITH MY, UH, 1ST CORPS DESK
OFFICER WITH THE OUT COUNTRY PEOPLE.
Q. BUT YOU DON'T RECALL DISCUSSING THAT AT ALL WITH
MAJOR MICHALSKI?
A. I REMEMBER NO SPECIFIC CONVERSATION, NO.
Q. LET ME ASK YOU TO LOOK, SIR, IF I MAY, AT
INITIALLY PAGE 37 OF A DEPOSITION GIVEN IN THIS
ACTION BY COLONEL CHARLES MORRIS. (TENDERS).
AND I WOULD ASK YOU TO READ THE QUESTIONS AND
ANSWERS THAT BEGIN AT LINE 9 OF THAT PAGE, DOWN TO
THE BOTTOM OF THE PAGE.
A. (REVIEW), JUST TO THE BOTTOM.
Q. IF YOU NEED TO READ FURTHER FOR CONTEXTUAL
PURPOSES, YOU MAY READ AS LONG AS YOU WISH.
A. (REVIEW), ALL RIGHT. I'VE READ IT.
Q. Now, what Colonel Morris testifies here is that you would not allow Major Michalski, as Colonel Morris puts it, to "move up the chain of command" with the information that he had available with respect to the capability of the enemy to infiltrate. Is that correct, Sir?

By Mr. Murry:

Why don't we read into the record the questions and answers?

By Mr. Boies:

Okay, let me do that to begin with.

General Graham, as counsel for General Westmoreland as just requested, I will read into the record these questions and answers.

(Reading):

"Q. Let me go back to the crossover point discussion that we were having. Did you tell Mr. Crile that when you noted change in the capability of the enemy to infiltrate, to replace losses, that initially Danny, referring, I think, to General Graham, would not accept?

A. Yes.

Q. And ---"
A. He would not accept it from that analyst, would not allow that analyst at that time to move up the chain of command with the information that he did have available.

Q. When was that?
A. It would have been early November.

Q. Who was the analyst?
A. Jack Michalski, a major at that time."

Now, General Graham, do you have any idea what Colonel Morris is testifying about here, this incident?

A. I've got an idea. I'm not sure. Uh, -- An analysis was made of the capability of North Vietnam to continue to produce, uh, people just indefinitely, you know, forever to keep up the rate of infiltration that they had. I doubted that to be the case. But I am not sure that this is the issue involved.

Q. Well, do you recall any incident in which you directed Major Michalski not to move up the chain of command with information that he had available to him with respect to the capability of the enemy to infiltrate?
A. No, and I don't think I could have because he didn't report to me. And the fact that he did
TELL THAT TO CHARLIE MORRIS MEANT THAT HE WENT UP THE CHAIN OF COMMAND.

Q. WELL, WHAT COLONEL MORRIS TESTIFIES TO ABOUT THAT SITUATION, GENERAL GRAHAM IS CONTAINED ON THE NEXT PAGE, AND I WILL READ THAT INTO THE RECORD, IF GENERAL WESTMORELAND'S COUNSEL THINKS IT IS A GOOD IDEA, OR I CAN SUMMARIZE IT -- WHICH WOULD YOU (MR. MURRY) PREFER?

BY MR. MURRY:

I WOULD PREFER THAT YOU READ INTO THE RECORD.

BY MR. BOIES:

OKAY, I WILL READ INTO THE RECORD. THIS IS AN ANSWER THAT APPEARS ON PAGE 38, LINE 13. ANSWER -- THIS IS FROM COLONEL MORRIS -- (READING):

"A. I CAME UPON MICHALSKI, WHO WAS WORKING ONE NIGHT WELL BEYOND WHAT HIS NORMAL SHIFT TERMINATION TIME WAS, AND ASKED HIM WHY HE WAS THERE. AND HE SAID, "WELL, I'M TRYING TO GET MY DUCKS IN A ROW TO CONVINCE MY BOSS THAT WE'VE GOT TO BRIEF SOME ACTIVITY THAT IS GOING ON IN NORTH VIETNAM AND LAOS." AND HE SAYS, "AND I CAN'T DO IT UN-TIL I DO GET MY DUCKS IN A ROW." --
THOSE AREN'T HIS EXACT WORDS, THIS IS THE GIST OF THE THING. I SAID TO HIM "WELL, THE HECK WITH DANNY -- TELL ME WHAT YOU'VE GOT." AND HE DID. AND I MADE THE DECISION AT THAT TIME THAT REGARDLESS OF THE FACT THAT WHAT HE HAD WAS VERY TENUOUS AND DID INDEED NEED FURTHER RESEARCH THAT WE HAD NO CHOICE BUT TO BRIEF THE J-2 AT THE EARLIEST POSSIBLE TIME. SO, -- WELL, I OVERRULED DANNY AND WE BRIEF, MICHALSKI BRIEFED DAVIDSON THE FOLLOWING MORNING."

NOW, DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT YOU WERE IN FACT MICHALSKI'S BOSS? MICHALSKI IS AT LEAST TELLING COLONEL GRAHAM (SIC) THAT HE THINKS THAT YOU ARE HIS BOSS.

A. COLONEL MORRIS?
Q. RIGHT.
A. UH -- I DO NOT BELIEVE THAT I RATED MICHALSKI, WHICH I WOULD HAVE HAD TO DO WERE I ACTUALLY HIS BOSS. THE FACT IS THAT DOWN IN THAT AREA I WAS THE CHIEF OFFICER AND HE COULD HAVE REFERRED TO ME AS HIS BOSS DESPITE THE FACT THAT I WAS NOT FORMALLY HIS BOSS.
Q. DID YOU EVER GIVE ANY ORDERS TO ANYONE, THAT YOU
RECALL OR ANY INSTRUCTIONS THAT YOU RECALL, NOT TO
MOVE UP THEIR CHAIN OF COMMAND WITH INFORMATION
WITH RESPECT TO INFILTRATION?
A. NO.
Q. IS COLONEL MORRIS HERE JUST TOTALLY MISTAKEN WHEN
HE ----
A. NO, I --
Q. ---- MAKES -- REPLIES TO THIS?
A. ---- WOULDN'T BE SURPRISED THAT THAT WERE ACTUALLY
TRUE, THAT SOMEONE WOULD HAVE AN ANALYSIS THAT I
CONSIDERED TOO TENUOUS TO GO FORWARD UNTIL IT HAD
MORE WORK ON IT. I DID THAT FREQUENTLY.
Q. TO PEOPLE WHO WERE NOT IN YOUR CHAIN OF COMMAND?
A. WELL, -- UH, -- (PAUSE)
Q. YOU'VE TESTIFIED THAT MAJOR MICHALSKI ---
A. WELL, UH --- LET ME ---
Q. --- DID NOT REPORT TO YOU.
A. --- LET ME EXPLAIN. HE -- WHAT I THINK IS
PROBABLY THE CASE IS THAT HE WANTED TO PUT IT INTO
MY WEEKLY INTELLIGENCE ESTIMATE UPDATE AND I SAID
"NOT UNTIL THAT THING IS BETTER ANALYZED" WOULD I
PUT IT IN THE -- 'CAUSE I DID HAVE CONTROL OF THAT
DOCUMENT. AND, IF -- IT COULD BE VERY WELL TRUE
THAT EVERYTHING THAT THE, UH, THAT THE INCIDENT
REFERRED TO OCCURRED. IF SO, I BELIEVE IT WAS A
SITUATION WHERE HE HAD DONE A CERTAIN AMOUNT OF
ANALYSIS AND I THOUGHT MORE OUGHT TO BE DONE
BEFORE IT WAS SENT FORWARD. COLONEL MORRIS WAS
OBVIOUSLY IN THE POSITION TO OVERRULE ME AND
APPARENTLY HE DID IN THIS CASE.

Q. YES, THAT'S WHAT HE'S TESTIFIED TO. HE ALSO
TESTIFIED, AS WE HAVE READ IN THE RECORD, THAT YOU
WOULD NOT ALLOW MAJOR MICHALSKI TO MOVE UP THE
CHAIN OF COMMAND WITH THE INFORMATION THAT HE HAD
AVAILABLE WITH RESPECT TO THE CAPABILITY OF THE
ENEMY TO INFILTRATE. THAT'S WHAT COLONEL MORRIS
HAS TESTIFIED TO.

A. NO, -- I THINK -- I'LL HAVE TO, YOU'LL HAVE TO GET
COLONEL MORRIS TO EXPLAIN HOW I COULD DISALLOW IT.

Q. COULD YOU ELABORATE ON THAT AT ALL, SIR, WHAT YOU
MEAN BY THAT?

A. WHAT I MEAN IS THAT I WAS IN NO POSITION TO, UH,
tell Michalski that he could not go up the chain
of command. I can very well tell him that I was
not going to send it up the chain of command in my
documents, but if he wanted to tell somebody about
it, there was no way that I could order him not
to, -- legally.

Q. WELL, WHETHER OR NOT IT WOULD HAVE BEEN "LEGAL"
FOR YOU TO DO, YOU WERE HIS SUPERIOR OFFICER, WERE
YOU NOT, SIR?

A. YES, I RANKED HIM.

Q. AND IF YOU TOLD HIM NOT TO DO SOMETHING, WOULD YOU EXPECT HIM TO OBEY THOSE INSTRUCTIONS?

A. I WOULD EXPECT HIM TO LISTEN TO ME, BUT I COULD NOT OR-- I COULD SAY THAT I WILL NOT ALLOW THAT TO GO FORWARD. I THINK THAT, THAT, UH, COLONEL MORRIS USED A POOR CHOICE OF WORDS THERE. I RECOMMEND THAT YOU TALK TO HIM ABOUT IT.

Q. WELL, WE HAVE TALKED TO HIM AND HE HAS USED THESE WORDS THAT YOU SAY ARE A POOR CHOICE OF WORDS AT A DEPOSITION UNDER OATH. IS IT STILL YOUR TESTIMONY THAT YOU DON'T RECALL ANYTHING AT ALL ABOUT THIS INCIDENT WITH MAJOR MICHALSKI?

A. THAT'S RIGHT.

Q. DO YOU HAVE ANY EXPLANATION WHY YOU DON'T REMEMBER ANYTHING AT ALL ABOUT THIS?

A. OTHER THAN IT WAS SIXTEEN YEARS AGO AND I JUST DON'T REMEMBER CONVERSATIONS THAT TOOK PLACE SIXTEEN YEARS AGO VERY WELL.

Q. THIS WAS APPARENTLY AN IMPORTANT ENOUGH CONVERSATION FOR COLONEL MORRIS TO REMEMBER, WAS IT NOT, SIR?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.
BY DEPONENT:

I DON'T KNOW.

EXAMINATION CONTINUED BY MR. BOIES:

Q. WELL, AT LEAST YOU KNOW THAT HE REMEMBERED IT. DO YOU HAVE ANY INFORMATION AS TO WHY COLONEL MORRIS WOULD HAVE CONSIDERED THIS MORE IMPORTANT THAN YOU DID?
A. NO.

Q. DID YOU CONSIDER THE MOVEMENT OF ENEMY TROOPS IN THE FALL OF 1967 IN NORTH VIETNAM TOWARDS SOUTH VIETNAM TO BE AN IMPORTANT MATTER?
A. YES, IMPORTANT ENOUGH TO GET RIGHT.

Q. AND WAS MAJOR MICHALSKI RIGHT THAT THERE WAS SUCH A MOVEMENT.
A. I DON'T RECALL THAT IT WAS -- THAT IT HAD TO DO WITH MOVEMENT. I THINK THAT IT HAD TO BE -- MY BEST GUESS AT THIS JUNCTURE -- IS THAT IT HAD TO DO WITH AN ESTIMATE OF WHAT THE TOTAL CAPABILITIES WERE OF NORTH VIETNAM TO CONTINUE INFILTRATION, WHICH WAS AN ESTIMATIVE QUESTION THAT WAS "HOT", BOTH BACK IN WASHINGTON AND IN MACV.

Q. AND IS IT YOUR UNDERSTANDING THAT THAT'S WHAT MAJOR MICHALSKI WAS WORKING ON AT ABOUT THIS TIME?
A. I DON'T KNOW. THAT'S MY BEST GUESS AS TO WHAT THIS INCIDENT IS REFERRING TO.
A. DO YOU RECALL WHEN YOU FIRST BECAME AWARE THAT NVA
UNITS WERE MOVING TOWARDS SOUTH VIETNAM?

BY MR. MURLRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

I BECAME AWARE, OH, -- WHAT? SEPTEMBER -- ABOUT,
THAT THERE HAD BEEN MOVEMENT OF UNITS, UM, FROM
CLOSE-IN AROUND HANOI OUT FARTHER, SOUTH AND WEST.
HOWEVER, THEY STOPPED AND WE DIDN'T GET FURTHER
INDICATION OF MOVEMENT FOR AWHILE, AND THEN LATER
THEY STARTED MOVING AGAIN. AT THAT JUNCTURE WE
REPORTED THEM AS PROBABLY HEADING FOR VIETNAM.
WE DIDN'T KNOW IN THE EARLY STAGE WHETHER THEY --
WHAT THEY WERE DOING, WHETHER THEY WERE TRYING TO
GET OUT FROM PLACES WHERE THEY HAD BEEN LOCATED
AND WERE BEING HIT, OR, UM, INTERFERED WITH BY
BOMBING IN THE NORTH, OR WHETHER THEY WERE MAKING
A MOVE SOUTH TO VIETNAM -- TO SOUTH VIETNAM.

Q. LET ME BE SURE THAT I UNDERSTAND WHAT YOU ARE
TESTIFYING TO. IN SEPTEMBER OF 1967 YOU NOTED THE
MOVEMENT OF NORTH VIETNAMESE DIVISIONS MOVING
SOUTH AND WEST?

A. YES.

Q. AND THEN THESE DIVISIONS STOPPED, CORRECT?

A. YES.
OR AT LEAST WE DIDN'T GET FURTHER INFORMATION THAT THEY WERE MOVING, THERE WERE -- WERE INDICATIONS THAT THEY STOPPED.

Q. AND THEN THESE DIVISIONS BEGAN TO MOVE AGAIN, OR AT LEAST YOU BEGAN TO RECEIVE INDICATIONS THAT THEY WERE MOVING FURTHER TOWARDS SOUTH VIETNAM, IS THAT CORRECT?

A. THAT RIGHT.

Q. WHAT WAS THE SOURCE OF YOUR INFORMATION IN SEPTEMBER OF 1967 THAT NORTH VIETNAMESE DIVISIONS WERE MOVING, AS YOU PUT IT, SOUTH AND WEST TOWARDS SOUTH VIETNAM?

A. WE -- UM, THAT'S MORE CLASSIFIED THAN WE CAN TALK ABOUT HERE.

Q. WOULD THE SOURCE GENERALLY BE WHAT WE HAVE DESCRIBED IN GENERAL TERMS EARLIER AS COMMUNICATIONS INTELLIGENCE?

A. YES.

Q. AND IN WHAT FORM DID THAT COMMUNICATIONS INTELLIGENCE COME TO YOU?

A. IT CAME TO ME IN, UM, DAILY CABLES FROM NATIONAL SECURITY AGENCY AND FROM THE NATIONAL SECURITY AGENCY REPRESENTATIVES IN VIETNAM.

Q. WHO WERE THE NATIONAL SECURITY AGENCY REPRESENTATIVES IN VIETNAM IN OR ABOUT SEPTEMBER
Q. DO YOU RECALL ANY OF THEIR NAMES?
A. NO.
Q. DO YOU RECALL THE NAMES OF ANY OF THE NATIONAL SECURITY AGENCY REPRESENTATIVES THAT YOU DEALT WITH WHILE YOU WERE IN VIETNAM?
A. I BELIEVE ONE WAS NAMED JOHN ELLISON.
Q. WHEN DID YOU DEAL WITH MR. JOHN ELLISON?
A. I DON'T RECALL JUST WHEN HE WAS THERE, BUT I DO RECALL HIM BEING THERE.
Q. DID THE CABLES THAT YOU RECEIVED FROM NSA COME DIRECTLY TO YOU OR DID THEY GO TO SOMEONE ELSE WHO THEN GAVE THEM TO YOU?
A. WELL, -- THOSE -- THAT KIND OF MATERIAL IS HANDLED BY A THING CALLED A SPECIAL SECURITY OFFICE, WHERE THE CABLES COME IN AND ARE THEN DISTRIBUTED TO THOSE WHO ARE ENTITLED TO GET THAT KIND OF INFORMATION.
Q. WHO WAS RUNNING THE SPECIAL SECURITY OFFICE IN THE FALL OF 1967?
A. I DON'T KNOW. A CAPTAIN, I BELIEVE, BUT I FORGET HIS NAME.
Q. WHERE WAS THE SPECIAL SECURITY OFFICE PHYSICALLY LOCATED?
A. IT WAS IN THE -- ADJACENT TO THE, UH, -- WING OF MACV THAT MY OFFICES WERE IN.

Q. WHO OTHER THAN YOU RECEIVED THE CABLES FROM NSA THAT CONTAINED THE INFORMATION IN SEPTEMBER OF 1967 THAT NORTH VIETNAMESE UNITS WERE MOVING SOUTH AND WEST WITHIN NORTH VIETNAM TOWARDS SOUTH VIETNAM?

A. OH, -- A -- WITHIN THE HEADQUARTERS OR GENERALLY?

Q. LET'S START WITH THE HEADQUARTERS?

A. THOSE CABLES, I'M SURE, WERE READ BY GENERAL DAVIDSON, BY HIS DEPUTY, BY GENERAL MORRISON -- I MEAN COLONEL MORRISON -- MORRIS. UH, BY ME, BY, UH, -- AND BY THE WHOLE GROUP, IF THEY WANTED TO, THAT WAS INSIDE THE, UH, THE SPECIALLY SECURED AREA THAT I OCCUPIED. ALSO GENERAL WESTMORELAND, GENERAL KERWIN, UH, -- THOSE CABLES WERE AVAILABLE TO THE TOP COMMAND IN VIETNAM, ACROSS THE BOARD.

Q. WHO WOULD HAVE RECEIVED THIS CABLES, OTHER THAN PEOPLE IN SOUTH VIETNAM?

A. UH, DEFENSE INTELLIGENCE AGENCY; CENTRAL INTELLIGENCE AGENCY; MANY OF THE BRANCHES OF THE NATIONAL SECURITY AGENCY; UH, -- THE DEPARTMENT OF STATE. ALL THE SERVICE INTELLIGENCE ORGANIZATIONS AND PROBABLY OTHERS.

Q. WHEN DID YOU RECEIVE INDICATIONS THAT THE MOVEMENT
OF THESE NORTH VIETNAMESE DIVISIONS WAS CONTINUING TOWARDS SOUTH VIETNAM?

A. TOWARDS THE END OF THE YEAR. I'M NOT QUITE SURE. I THINK PROBABLY DECEMBER, BUT MAYBE AS LATE AS JANUARY.

Q. DID YOU EVER RECEIVE ANY INDICATION FROM NSA THAT THESE DIVISIONS HAD STOPPED?

A. I -- I DON'T RECALL ANY MESSAGE THAT PUT IT THAT WAY.

Q. DO YOU RECALL ANY MESSAGE OR INFORMATION FROM NSA, OR ANY OTHER SOURCE, THAT IN SUBSTANCE SAID THAT THEY HAD AN INDICATION THAT THE DIVISIONS HAD STOPPED THEIR MOVEMENT SOUTH?

A. I DON'T RECALL SPECIFICS. THE -- WE DID RECEIVE INFORMATION THAT SUGGESTED THAT THEY HAD STOPPED. MY QUSS IS THAT THAT WAS -- I AM ALSO CERTAIN THAT IT WAS SPECIFIC (PHONETIC) INFORMATION, BUT I AM NOT SURE PRECISELY HOW IT CAME IN OR IN WHAT FORM.

Q. WELL, WHAT WAS THE INFORMATION THAT YOU RECEIVED THAT INDICATED THAT THE DIVISIONS HAD STOPPED, IF ANY?

A. I DON'T THINK I CAN DISCUSS THAT HERE.

Q. IS THAT BECAUSE OF CLASSIFICATION?

A. THAT'S RIGHT.
Q. THAT IS THAT YOU RECALL THE INFORMATION BUT YOU DON'T BELIEVE THAT YOU CAN DISCUSS IT, FOR CLASSIFICATION PURPOSES?
A. NO, I'M PRETTY CERTAIN OF WHAT KIND OF INFORMATION THAT IT WOULD HAVE BEEN, ALTHOUGH I DON'T RECALL PRECISELY THE INFORMATION.
Q. BUT YOU CAN'T EXPLAIN WHAT KIND OF INFORMATION THAT YOU ARE QUITE CERTAIN THAT IT WOULD HAVE BEEN FOR CLASSIFICATION PURPOSES?
A. THAT'S CORRECT.
Q. CAN YOU TELL ME THE SUBSTANCE OF THE INFORMATION THAT YOU RECEIVED OR WOULD THEY ALSO BE BARRED BY CLASSIFICATION CONCERNS?
A. YES, IT WOULD BE.
Q. IT WOULD BE BARRED?
A. IN MY VIEW, (AFFIRMATIVE NOD).
Q. AND THE CLASSIFICATION CONCERNS THAT IN YOUR VIEW BAR YOU FROM TELLING ME THIS INFORMATION AS CLASSIFICATION CONCERNS OF WHAT AGENCY?
A. NATIONAL SECURITY AGENCY.
Q. ALL RIGHT. LET ME RETURN TO THIS SUBJECT AFTER WE SEE IF WE CAN GET THAT ISSUE RESOLVED, EITHER BY THE COURT OR BY NSA. LET ME RETURN TO MAJOR MICHALSKI AND INFORMATION THAT HE HAD. IS IT YOUR UNDERSTANDING THAT THE
INFORMATION THAT HE HAD WAS INFORMATION WITH
RESPECT TO THE MOVEMENT OF THESE SAME NORTH VIET-
NAMESE DIVISIONS?

BY MR. MURRY:

OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

WITH -- IN WHAT REGARD? INFORMATION FOR WHAT? I
DON'T -- YOU'RE GOING TO HAVE TO BE A LITTLE MORE
SPECIFIC.

EXAMINATION CONTINUED BY MR. BOIES:

Q. WELL, COLONEL MORRIS HAS TESTIFIED UNDER OATH AND
-- COLONEL MORRIS WAS YOUR BOSS AT THIS TIME,
RIGHT?

A. THAT'S RIGHT.

Q. COLONEL MORRIS HAS TESTIFIED UNDER OATH THAT THERE
WAS INFORMATION, UH, WITH RESPECT TO THE
CAPABILITY OF THE ENEMY TO INFILTRATE THAT YOU
WOULD NOT ALLOW MAJOR MICHALSKI TO MOVE UP THE
CHAIN OF COMMAND WITH. AND WHAT I AM ASKING YOU
IS, IS THAT INFORMATION THAT YOU WOULD NOT ALLOW
MAJOR MICHALSKI TO MOVE UP THE CHAIN OF COMMAND
WITH INFORMATION WITH RESPECT TO THE MOVEMENT OF
THE NORTH VIETNAMESE DIVISIONS THAT WE HAVE BEEN
TALKING ABOUT?

BY MR. MURRY:
I OBJECT TO YOUR CHARACTERIZATION OF COLONEL MORRIS' TESTIMONY. I DON'T THINK THAT IT IS COMPLETE OR ENTIRELY ACCURATE.

BY MR. BOIES:

YOU MAY OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:

WELL, IN ANY ---

BY MR. MURRY:

I OBJECT TO THE FORM OF THE QUESTION.

BY MR. BOIES:

YOU DON'T HAVE THE RIGHT TO TELL THE WITNESS WHAT TO ANSWER.

BY DEPONENT ---

WELL, ---

BY MR. MURRY:

I DID NOT EITHER ATTEMPT TO DO SO OR INTEND TO DO SO.

BY DEPONENT:

--- IN THE FIRST PLACE, WITHIN YOUR QUESTION IS THE ACCUSATION THAT I DID NOT ALLOW MICHALSKI TO, TO, UH, -- UH, SEND -- UP, TO PUT -- TO MOVE SOME INFORMATION FORWARD.

EXAMINATION CONTINUED BY MR. BOIES:

Q. THAT'S WHAT COLONEL MORRIS HAS SAID. HE IS THE ONE THAT IS MAKING THE STATEMENT. COLONEL MORRIS
Was your boss at this point, right?

A. That's correct.

Q. And Colonel Morris was one of the people that appeared with you at this press conference that you and Colonel Morris and others had to attack the CBS program, correct, sir?

A. That's correct.

Q. You believe that Colonel Morris is a person of competence and integrity in your view?

A. Yes, he is.

Q. Do you have any reason to believe that he would make up this instance, if it didn't happen?

A. I have said before, I think his choice of words you're going to have to talk to him about. As far -- and I have told you what I think Michalski was -- what that thing had to do with -- was the total capacity of the North Vietnamese to infiltrate, to continue to infiltrate at the same levels, and not a matter of whether divisions were on the move. In -- and in that -- if I'm right, then, -- then it was not a matter of the divisions moving. Therefore the evidence that we have been talking about just prior to this question is not that pertinent.

Q. Well, let me show you an affidavit that has been
SWORN TO BY, UH, MAJOR MICHALSKI, AND WHICH HAS PREVIOUSLY BEEN MARKED, I BELIEVED, AS A DEPOSITION EXHIBIT, AND I WOULD ASK YOU TO LOOK AT THAT AFFIDAVIT AND PERHAPS PARTICULARLY PARAGRAPHS 6, 7 AND 8 OF THAT AFFIDAVIT, ALTHOUGH YOU MAY READ AS MUCH AS IT AS YOU THINK IS NECESSARY IN ORDER TO PUT IT INTO CONTEXT. (TENDERS).

A. (REVIEW).

Q. I BELIEVE THIS DOCUMENT HAS PREVIOUSLY BEEN MARKED AS DEFENDANTS' EXHIBIT 58.

A. (UPON REVIEW), OKAY.

Q. YOU'VE READ THE AFFIDAVIT NOW?

A. YEAH.

Q. DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT THE MATERIAL THAT MAJOR MICHALSKI WAS PREPARING RELATED TO THESE SAME NVA DIVISIONS?

A. NO, I'M STILL NOT SURE WHETHER CHARLIE MORRIS WAS TALKING ABOUT THIS OR ANOTHER ANALYSIS THAT MICHALSKI DID.

Q. LET ME SEE THE AFFIDAVIT, SIR.

A. (TENDERS).

Q. IN PARAGRAPH SEVEN, -- OR LET'S BEGIN WITH PARAGRAPH 6 -- IN PARAGRAPH SIX, MAJOR MICHALSKI SAYS "EARLY IN SEPTEMBER, 1967, COLONEL CHARLES MORRIS, THEN THE MACV J-2 DIRECTOR OF INTELLIGENCE
PRODUCTION CAME INTO THE "TANK" LATE ONE EVENING
WHEN I ANALYZING THE SITUATION WELL PAST MY NORMAL
SHIFT TERMINATION TIME. COLONEL MORRIS ASKED ME
WHY I WAS THERE. I SHOWED HIM THE INTELLIGENCE
INFORMATION AND MY PRELIMINARY ANALYSIS INDICATING
THAT POSSIBLY UP TO FIVE NVA DIVISIONS WERE MOVING
OUT FROM THEIR GARRISON POSITIONS IN NORTH
VIETNAM. COLONEL MORRIS APPEARED QUITE
INTERESTED IN MY ANALYSIS AND TOLD ME TO KEEP
CURRENT ON THESE MATTERS."
DO YOU RECALL READING THAT?
A. I READ THAT, YEAH.
Q. MAJOR MICHALSKI GOES ON, IN PARAGRAPH SEVEN, TO
SAY, "SHORTLY THEREAFTER, COLONEL MORRIS CAME INTO
THE "TANK" WITH GENERAL PHILIP DAVIDSON, THEN THE
MACV J-2 OR INTELLIGENCE CHIEF, WHILE I WAS
WORKING. I PROCEEDED TO DISCUSS WITH GENERAL
DAVIDSON THE INTELLIGENCE INFORMATION I HAD BEEN
STUDYING AND MY PRELIMINARY ANALYSIS OF WHAT THAT
INFORMATION MIGHT INDICATE."
MAJOR MICHALSKI GOES ON, IN PARAGRAPH EIGHT, TO
SAY, "FOLLOWING MY DISCUSSION WITH GENERAL
DAVIDSON, I PREPARED A BRIEFING AND SUPPORTING
GRAPHICS ON THE INDICATIONS THAT POSSIBLY UP TO
FIVE NVA DIVISION MAY HAVE BEEN PREPARING TO
DEPLOY TO NEW LOCATIONS POSSIBLY OUT OF COUNTRY.
YOU WOULD HAVE BEEN PRESENT AT THAT WIEU BRIEFING ON SEPTEMBER 16, 1967, WOULD YOU NOT, SIR?
A. YES.
Q. AND DO YOU RECALL MAJOR MICHALSKI'S ANALYSIS BEING PRESENTED TO THOSE PRESENT AT THAT WIEU BRIEFING?
A. NO, I DON'T RECALL THE PRESENTATION, BUT I DO KNOW THAT THAT ANALYSIS DID GO FORWARD AND DID GO INTO THE WIEU -- EXACTLY WHEN, EXACTLY WHAT BRIEFING,
I'M NOT SURE. BUT IT DID GO FORWARD.

Q. WHEN DID IT GO FORWARD IN THE WIEU, SIR?
A. I'M NOT SURE. I -- MICHALSKI SAYS THE 16TH -- THAT SOUNDS ABOUT RIGHT TO FINISH THAT ANALYSIS.

Q. THAT IS THAT IT SOUNDS ABOUT RIGHT THAT IT WOULD BE SEPTEMBER 16TH, 1967?
A. YEAH, IN THAT THE INFORMATION, AS HE POINTS OUT -- I WASN'T SURE WHEN IT DID IN. I THINK THAT HE IS PROBABLY RIGHT, IN SEPTEMBER, AND THAT, UH, WHEN WE HAD IT THOROUGHLY ANALYZED THAT IT DID GO FORWARD IN THE ESTIMATES BACK TO WASHINGTON.

Q. WAS THIS IMPORTANT INFORMATION?
A. I THOUGHT SO OR I WOULD NEVER HAVE PUT IT IN THE WIEU.

Q. I THINK COLONEL MORRIS ALSO TESTIFIED THAT HE THOUGHT THAT IT WAS IMPORTANT ALSO.
GIVEN THE IMPORTANCE OF THIS INFORMATION, CAN YOU THINK OF ANY JUSTIFICATION FOR YOU OR ANYONE ELSE TRYING TO PREVENT COLONEL MICHALSKI FROM BRIEFING THAT INFORMATION TO ANYONE ELSE?

BY MR. MURRY:
OBJECT TO THE FORM OF THE QUESTION.

BY DEPONENT:
I NEVER PREVENTED HIM FROM BRIEFING IT TO ANYBODY.

EXAMINATION CONTINUED BY MR. BOIES: