(Pause.)

THE WITNESS: Shall I read this in detail?

MR. BURT: Why don't we take a ten-minute break and read it quickly.

MR. BARON: When did you want to break for lunch, Mr. Burt?

MR. BURT: 12:00.

(Discussion off the record.)

BY MR. BURT: (Resuming)

Q Mr. Kovar, did you know in 1968 that Mr. Adams planned to file a complaint with the Inspector General?

A I did not know that he planned to file a complaint with the Inspector General.

Q Have you ever seen the memorandum you have in front of you, which is Plaintiff's Exhibit 238, before?

A To the best of my knowledge and belief, I have not.

Q You say on page 12 of your affidavit that: "I know this" -- and we'll discuss in a moment what "this" refers to -- "because he frequently came to me to confirm the propriety of each step he took, apparently valuing my advice as an intelligence professional."
My question is, can you tell me with any more specificity when Mr. Adams came to you and what he came to you with?

A After he had gone to the Inspector General.

Q Excuse me?

A After he had gone to the Inspector General.

Q Can you tell me in more detail what he said?

(Pause.)

A He reported to me -- and this may have been -- we are talking about infrequent informal conversations --

Q Sure.

A -- over a period of I honestly don't know how many months.

Q What year, sir?

A This would have been, by the date of this memorandum, this would have been some time after May 1968, probably -- let me see if I can relate myself to where I was at that time.

My memory says that when Sam was talking to me I was in the DDI's office. But my memory also says I didn't return to the DDI's office until 1969. I could
check those dates if I got back to my office, but that's
my impression at this time, that these conversations
with Sam must have taken place in 1969.

Q Can you refresh my recollection, what you were
doing say May through --
A I was working in the Office of Current
Intelligence.

Q This was when, in '67?
A This would be '68.

Q Where were you working in '57?
A I was in the DD1's office.

Q When did you leave the DD1's office?
A It would have been just about the 1st of
January 1968, give or take a day or a week.

Q Why don't you carry on?
A I want to repeat that my recollection is that
the conversations I referred to in my affidavit took
place when I was in -- when I was back in the DD1's
office, which my memory says did not occur until early
1969.

At that time Sam would drop in and tell me
where -- how his complaint and how his efforts to get a
resolution of his complaints about analysis of the Vietnam war were being dealt with by the agency. I am not going to say what he told me about what was being done about his conversations with other agency officials, but there were discussions of how far it was right and proper for Sam to go in pursuing the problem. There were discussions of what persons he could properly talk to. If I recall correctly, we talked about the President's Foreign Intelligence Advisory Board, we talked about Congressional Committees having oversight or having to do with the Central Intelligence Agency. I believe we may have talked about White House staff members, the NSC staff.

I can't recall any other people or places that we discussed where Sam might carry his problem.

Q Did Mister --

A Go ahead. I think I'm through.

Q Did Mr. Adams ask you whether he should go to the press with his problem?

A I don't think Sam ever asked me if he should go to the press. I think what he told me was that he had not gone to the press.
Q Are you sure?
A At this stage I'm not sure, but it seems to me that if Sam had said anything like that I would have remembered it, because I would have advised him, if necessary, that that was improper. But it truly is my recollection that Sam did not raise that as a possibility.
Q Do you know whether -- did Mr. Adams tell you during this time whether he had gone to the -- whether he had discussed this problem with the press?
A He did not tell me that he had discussed this problem with the press.
Q I believe you just testified that -- I'll withdraw that.

Do you know whether Mr. Adams had sent a memo to a Mr. John Cork on the National Security Staff on "Intelligence Failures" in Vietnam at this time?
A That strikes a familiar bell.
Q Do you know whether Mr. Adams had permission to do that?

MR. BARON: Would you repeat the question?
THE REPORTER: "Question: Do you know whether
Mr. Adams had permission to do that?"

MR. BARON: Object to the question.

Permission from who?

MR. BURT: From the CIA.

THE WITNESS: I recall Sam mentioning that. I can't recall -- I don't think I can give you an answer to your specific question. But I assume now that I either assumed he had permission, I may have asked him specifically, do you have permission. If he had said, I do not have permission, it's my belief that I would have advised him not to do that.

BY MR. BURT: (Resuming)

Q Do you know whether Mr. Adams discussed the order of battle controversy with a member of the press in 1967?

A If he did I didn't know about it.

Q Did Mr. Adams ever tell you that he discussed the order of battle controversy with a member of the press in 1967?

A He never told me that, and if he had told me that I would certainly have -- I believe if Sam had told me that he had done that, I would have ended the
1 informal consultative relationship at that point.

2 Q Do you know as you sit here now whether Mr.

3 Adams discussed --

4 A I do not know as I sit here now whether he

5 discussed that with a member of the press.

6 Q Would it have been improper for Mr. Adams as a

7 CIA employee to discuss that with the press?

8 A Mr. Adams would have been required to report

9 any conversation he had with a member of the press.

10 That was a regulation in force at the time.

11 Q Do you believe Mr. Adams violated that

12 regulation at the time?

13 A I have no idea whether he violated that

14 regulation at the time.

15 Q Did Mr. Adams ever make any suggestions to you

16 of actions he might take with respect to his complaints

17 that you believe were improper?

18 A I do not recall any such suggestions. Had he

19 made any such suggestions, I would have cautioned him

20 against it.

21 Q Did Mr. Adams ever ask you whether he should

22 take classified documents from the agency?
If he had ever suggested taking classified documents from the agency, I would have not only cautioned him against it, I would have made every effort to see that he did not.

Do you know whether he took classified documents from the agency?

I do not know that he took classified documents from the agency at the time.

Do you know whether anybody --

I just heard a conversation that implied that he may have at some time, have taken this document that I have in front of me from the agency. I see no classification on this document.

In 1967 did you have any reason to fear the agency would destroy documents with respect to the order of battle controversy?

Object to the form of the question.

In 1967 did you have any fear --

That's a different question.

I think we better start --
you're now going to ask me a question.

BY MR. BURT: (resuming)

Q The question pending is, in 1967 did you have any fear that the agency would destroy documents in its possession related to the order of battle controversy?

A I'm truly not sure that I understand what you're getting at.

Q Can you answer the question?

A Did I have any fear in 1967 that the agency would destroy documents having to do with the OB? I don't think that possibility occurred to me, so that I had no sense of fear.

Q Can you tell me why that possibility would not, did not occur to you?

A You're saying in 1967?

Q Yes. Other than in the normal course of recordkeeping.

A I can't think of any reason -- I could not in 1967 have -- I did not in 1967 anticipate any need for the agency to destroy documents for the specific purpose of, say, covering up something about the dispute or controversy about OB data.
Did Mr. Adams tell you --

MR. BARON: I'm going to object to questions that are in any way contingent upon a phrase that has anything to do with the normal course of recordkeeping, since obviously we can't discuss what the normal course of recordkeeping, pruning, is. And I invite the people from the CIA to confirm that they are not going to permit any discussion of what the normal destruction policies are.

MR. LAPRADE: Right.

MR. BURT: Make your objection. The CIA can take care of itself.

MR. LAPRADE: As I understand --

MR. BURT: This is not --

MR. LAPRADE: If I want to make a statement I'll make it, Mr. Burt, unless you're telling me that I can't make any statements on this record.

MR. BURT: I'm happy to have you make statements on the record.

MR. LAPRADE: Fine. I'm glad we understand ourselves.

All right, ask your question.

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THE WITNESS: Could I ask a question?

MR. BURT: Yes, you can ask a question.

THE WITNESS: Do you want to know what my personal recordkeeping routine was at that time? And if you are asking that, may I answer the question?

MR. LAPRADE: No.

MR. BURT: No, I'm not asking that. Let me carry on with my questions.

BY MR. BURT: (Resuming)

Q: Did Mr. Adams tell you in 1969 that he was afraid the agency might destroy records related to the order of battle controversy?

A: If he did tell me that I don't recall it.

Q: Did Mr. Adams tell you at the time that he was concerned that the agency might try to cover up its activities with respect to the order of battle controversy in 1967?

A: He might have. I don't have -- I do not have a clear recollection of a discussion of that kind. I will say that by 1969 Sam was very distressed and disillusioned about what was happening to him. In 1969 I think he would have been capable of expressing such a
fear. But I do not honestly recall whether he said
anything on that subject.

Q Do you believe there was any reason to fear
that the agency might cover up with respect to the OB
controversy in 1967?

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

THE WITNESS: I'll have to have it again.

MR. BURT: Would you read the question back.

THE REPORTER: Question: Do you believe
there was any reason to fear that the agency might cover
up with respect to the OB controversy in 1967?

THE WITNESS: Did I? I'm sorry, let me see.

Did I fear at the time?

BY MR. BURT: (Resuming)

Q Yes.

A I did not fear at the time that the agency
would cover up things having to do with the OB dispute.

Q Did there come a time when you began to fear
that the agency might cover up things that had to do
with the OB dispute?

A I will answer that question by saying that if
I had such a fear I would -- I very likely would have taken personal steps to see that it didn't happen. The fact is I did not take any particular steps to squirrel away, for instance, material having to do with the OB controversy.

What I did was do my normal required file culling, consolidation, preservation. And I will only say that, as in any large agency, there were constant constraints simply on storage that required routine consolidation of files and that I, as a matter of routine, I did that.

I will say that, like any file keeper, I was not always happy about some of the things that I as a matter of routine had to dispose of. But in returning to your question, I made no attempt to squirrel away or set aside or in any way make a point of particularly taking the OB data controversy material and assuring its preservation.

Q. Turn to page 6 of Mr. Adams' memorandum to the Inspector General. You see in paragraph C under paragraph 15, which begins on the preceding page: "This memorandum, written in the first quarter of 1956
concerning Viet Cong irregulars suggesting that their
strength was, '250,000--300,000 or more,' instead of the
112,760 then carried in MACV's order of battle was
killed by the DDI in February 1967 for the stated reason
that MACV was about to publish a new set of irregular
figures. MACV did not do so until October. The
memorandum, 60 pages long with some 80 footnotes, most
referring to captured documents, is still the most
comprehensive single work on Viet Cong irregulars."

Are you familiar with that memorandum, sir?

A I'm trying to recall. The pause is because
I'm trying to put myself back at that point.

I was aware of the existence of such a
memorandum, because it was in the file. I can't say now
that I recall when it was written, and I unfortunately
do not recall its disposition. In memory, it is hard to
sort out the difference between memoranda that might
have come to me, say, in draft and were then published
and memoranda that came to me in draft but were not
published.

Q Do you remember the DDI killing any
memoranda?
That is such a general term that I can't recall an action that comes under that term. But I will say this. If this memorandum said it happened, I assume and believe that it happened. But by "kill" it could simply mean that someone, not necessarily the DDI but someone, wrote or said, return the memorandum to the office of origin, and gave reasons why it would not be published as what we would call a hardcover publication.

Q Did you speak frequently with Mr. Adams after he published — after he sent in this memorandum to the IG, between let's say May of '68 and the 1st of 1970, January 1, '70?

A My memory of '68 is faulty on this subject, because I had removed myself from the Vietnam thing.

Q How about '69?

A '69, I had what — I don't want to call it frequent, but there may have been — I would say I had perhaps six conversations with Sam Adams during '69. That is a sort of a ballpark recollection. It could have been more, probably not less.

Q Long conversations or short conversations?
This would be the kind of conversation I described earlier. I was back in the DDI office. People would drop in on either official or unofficial calls, sit in my chair and, to the extent that I had time, we would have a conversation. In those days I rarely could afford conversations of more than 10 or 15 minutes at a time that were not on some pressing problem. So I would categorize conversations I had with Sam as being ten minutes or less.

Q Please turn to page 2 of the IG report.

MR. LAPRADE: That's not the IG report.

BY MR. PURT: (Resuming)

Q Excuse me, not the IG report.

A Page 2 of the Sam Adams memorandum.

Q Yes. Paragraph 5, last sentence. You can read the whole thing for context. I'm only interested in the point, "such research should be done in cooperation with the field and with the DDP, under the direction of a person with a working knowledge of the infrastructure." Do you see that?

A I see that.
Q  Read the paragraph for context.

(Pause.)

Q  Have you read that paragraph?

A  Yes.

Q  Who would such person have been at this time?

Can you think of anyone who would have been appointed?

A  "Assign several full-time analysts to investigate systematically; should be done in cooperation and under the direction of a person with working knowledge of the infrastructure."

You're asking me to say that this person could only be Sam Adams?

Q  No. I'm just asking you who comes to your mind.

A  Sam Adams was the person who had the best working knowledge of the infrastructure. There were other analysts by then -- this is what, May '68. There were other analysts by then who would have had a working knowledge of the infrastructure.

George Allen would certainly have been Sam's equal in that area by that time and would have, of course, had all his other great talents. But a person
with the working knowledge of the infrastructure by that
time I would think could have been maybe six people.
But if you're saying who would the best person be, it
would almost, in my judgment it would have been Sam
Adams.
Q Sure. Did I ask you yesterday when the last
time was that you have spoken to George Allen?
A George Allen?
Q Yes.
A Or Sam Adams?
Q George Allen.
A I saw George Allen yesterday.
Q I see. Do you see George Allen regularly?
A We're both employed at the agency.
Q Did you discuss this case with George Allen?
A Yes, I've discussed this case with George
Allen.
Q How many times?
A How many times? The case? Since General
Westmoreland brought his suit?
Q Yes.
A Half a dozen times.
Q. No more?

A. At most, say ten times. But that to me seems the very outside number.

Q. Do you know Mr. Allen socially, as opposed to professionally?

A. I've never visited his home. Mr. Allen and I are colleagues even now, because he runs a course in -- he runs various training courses. I have occasion to go over and lecture to courses under his direction, and on such occasions we, if there is time, we inevitably discuss the Westmoreland case.

Q. Did Sam Adams tell you in 1968 or '69 that he was going to take any actions with respect to the order of battle -- with respect to his complaints about research on the Viet Cong, outside of official channels?

A. If he did -- and I do not recall that he did -- I would have advised him against it. If the course of action that he might have proposed to take jeopardized national security, I would have reported his intentions if I so believed it -- if I believed he had such intentions, to proper authorities. I don't recall
1 doing that.

2 Q  Let me suggest we take our lunch break here.

3 (Whereupon, at 12:00 o'clock noon, the taking
4 of the instant deposition was recessed, to reconvene at
5 1:00 p.m. the same day.)