Q Let me rephrase it. Did Sam Adams ever tell you --
A Ever tell me. We're talking about the whole time.
Q Do you recall whether Sam Adams ever told you in '67 that he thought the MACV press briefing was a relatively straightforward rendition of SNIE 14.367?
A I can't recall Sam ever telling me that in 1967.
Q Did he ever tell you anything like that?
A I really can't recall.
Q Is it likely that he would have said that?
A In the context of what we're discussing, it doesn't seem likely, but I have to tell you that most of my recollections about that press briefing came simply from the agitation, the general agitation at the CIA over the subject at the time, contemporaneous. And it would not -- it would have come at least to me from Sam Adams, since -- in both an official and a non-official capacity, I was dealing with people at much higher levels that were very upset about it.
Q But you didn't read that press briefing, did
you?

A It seems to me I must have read it at the time.

Q And were you unhappy with it?

A Yes, I certainly must have been unhappy with it.

Q Can you imagine that Sam was not unhappy with it?

A I truly don't know what you're at, but I can't put myself into Sam's mind at that time.

Q Did Sam ever express satisfaction with the press briefing?

A If he ever expressed satisfaction to me about the press briefing, I don't recall.

Q Does it sound possible that he would have expressed satisfaction to you?

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

THE WITNESS: At the time?

BY MR. BURT: (Resuming)

Q At any time.

A You're asking me to speculate on something
that I really can't.

Q Did you ever read SNIE 14.367 in its final form?

A In its final form, I did not read it in its entirety and I couldn't even now say for certain that I read even the pertinent parts that we've been discussing. I just can't.

I told you my problem before of seeing things in so many stages of draft that it's hard for me to separate what I saw in draft and what I saw in final. I certainly would have gotten a copy of it. I would have filed it. I would have filed the DDI copy. Whether in the process of doing that I looked at it and absorbed it, I just can't say.

Q You can't recall?

A No. But at the time it seems to me I should have been fairly cognizant with what was in it.

Q Do you know a man named -- I believe I've asked you this. You know, do you not, a man named Ronali L. Smith?

A I know -- I knew Ron Smith. I know Ron Smith, but I'm embarrassed to say -- in fact, I've probably run...
into Ron Smith as recently as the last few months if, as I understand, he's still employed. But I -- and if you had three people here and say, which of these people is Ron Smith, then I'd say that's Ron Smith. But I can't say specifically.

Q Would you recognize General Graham?

A I sure as hell would.

Q Can you recall the last time you met General Graham, if you did meet General Graham at any time?

A I can recall seeing -- actually, the scene I described a little while ago is fixed very firmly in my memory and it was probably the last time I saw General Graham. It was almost certainly at the CIA headquarters building.

General Graham would have been in uniform, and I'm almost sure with three stars. I believe he was in the company of some other people. I was in the company of some other people.

More than that I can't recall. And there was some kind of a -- it was, as I recall, a casual encounter. Somebody in my party called out to General Graham or somebody in his party or the reverse, and
there was a standup conversation back and forth. If I
said anything to General Graham, it would have been in
the context of a sort of group comment on whatever it
was under discussion.

I doubt very much whether General Graham at
that time had the faintest idea who I was.

Q Did General Graham have a rapid rise in the
military hierarchy?

A I wouldn't be able to say whether it was
rapid, but it was certainly -- I don't know the -- if
you gave me his biography, I could give you an opinion
on whether it was rapid or not, but I don't know.

Q Do you know whether Mr. Adams in 1967 or '68
personally briefed the Board of National Estimates with
respect to enemy strength in Vietnam?

A I believe that to be true.

Q Do you know what he told them?

A I wasn't there.

Q Do you know when that briefing took place?

A Only that it would have been in the course of
development of 14.367.

Q And do you know whether Mr. Adams -- did Mr.
Adams ever discuss that briefing with you?

A He could have, although if he had discussed that with me in '67 it wouldn't have been on more than one occasion. I think I said before, my contacts with him in '67 were infrequent.

Q I believe you testified before the lunch break that you had had discussions with George Allen about this period of '67 and the events related thereto that we've been discussing this morning after General Westmoreland had filed his suit against CBS; is that correct?

A That's correct. We are both still employed by the CIA.

Q My recollection is you said first you had perhaps six conversations, then you said perhaps as many as ten. But I don't want to hold you to that. I'm sure you said six.

A I said something like that, and my recollection is that vague.

Q And did Mr. Allen --

A Excuse me. I should qualify that. I certainly remember that there was a period when George
and I were working in the very same office, and that
would have been -- excuse me. This is simply a total
lapse.

Just before I retired from the agency, which
would have been I think 1970 -- anyway, I worked in a
study center, and toward the latter part of my tour
there George became the head of that center, all right.
And so we were in regular contact.

Now, I can't now -- when was the CBS
broadcast?

Q January 23, '82.

that's not relevant; since '82. Excuse me, I had just
sort of lost that on my screen. That was before the
broadcast.

MR. BURT: Is that a classified comment, on
his screen? We're talking a --

Relax, I'm teasing.

BY MR. BURT: (Resuming)

Q Can you recall -- it's Friday afternoon. Can
you recall the substance of the conversations you've had
with Mr. Allen about the broadcast?
These were all -- these were quite general conversations. George had been drawn into -- George had been drawn into the suit. Occasionally he would have talked about his experiences, I suppose.

I have to say I didn’t pay -- it’s not that I didn’t pay a lot of attention to it, but it was not -- the conversations were not the kind of things that I consciously stored in memory.

Okay. But can you try a bit? Can you recall any specific points?

I would do better if you asked, as you have on other things, if he ever mentioned this.

I'd be happy to.

I wouldn’t mind proceeding in that way, and then I would probably be able to at least give you some clear idea.

Did he tell you when CBS first asked him to appear for filming on the broadcast?

I don’t remember anything that specific, no.

Did he tell you of any meetings he had with a man named George Crile?

I don’t think I really heard Mr. Crile’s name
1 until I started reading newspaper accounts of the suit.
2 So if George mentioned his name, it didn't register.
3 Q Did Mr. Allen tell you in the course of any of
4 his conversations that he thought the issue that was
5 discussed in the film on the order of battle dispute was
6 an important issue?
7 A I think he said -- did he say that it was
8 important?
9 Q Yes.
10 A I'm sure he must have, because it was an
11 important issue. It was certainly important to him. It
12 was important to me.
13 Q Did Mr. Allen ever tell you he thought the
14 broadcast was making a mountain out of a molehill?
15 A He certainly did not say to me.
16 Q Can you imagine him saying that to anyone?
17 A The broadcast was making a mountain out of a
18 molehill?
19 Q Yes.
20 A He didn't say that to me.
21 Q Does it sound like something he would say?
22 A I really can't speculate.
Q: I believe you say in your affidavit -- and I am looking for it now, and I remember -- I thought I remembered where it was -- at some point that both the Pentagon and the State Department skewed intelligence analyses.

A: Let's find that.

Q: Let's find that section.

A: Yes, here it is. It's page 8, beginning with paragraph 11 on page 7. You say: "Since the early days" --

A: Let's go back to the beginning of 11.

Q: Why don't you read that into the record.

A: I read it into the record?

Q: If you like.

A: This is paragraph 11 of my affidavit:

"One explanation for the CIA's initially deficient intelligence analysis of the Vietnam situation was the fact that Vietnam itself was viewed at the CIA as an intelligence sideshow. We had some dedicated and talented people working on Vietnam, but not enough to meet the constantly growing demand for the kind of objective analysis for which the CIA was highly
"Overworked and undersupported, we had too often been told that Vietnam was the Pentagon's problem. There was a reluctance at the CIA to press our current intelligence analyses over the objections of the Department of State or the Pentagon, even when the highest ranking working level analysts, and their superiors as well, believed the State and Pentagon analyses to be skewed by political considerations."

Did you want me to stop there?

Q Yes, if it's all right with you.

A Let me go on to the next sentence, which may actually clarify the matter: "Bureaucratic battles were fought over the Special National Intelligence Estimates -- SNIE's -- every few months or so, but there was rarely time between these brief estimative efforts to press our arguments in detail."

All right, that last sentence relates -- starting in 1963, possibly before then, we were doing Special National Intelligence Estimates, whose titles would have been something like "Situation and Prospects in Vietnam," which were attempts to forecast events in
Vietnam over about a six-month period.

At these sessions, there would be disagreements. There would be agreements, disagreements. It was to a considerable extent -- I was about to say speculative, but that's a little too loose. There would be disagreements having to do with where are we going to be six months from now.

The reason -- one reason such disagreements would arise would be that the Pentagon and various elements of the Pentagon and the Department of State were charged with policy actions in Vietnam and, depending on their departmental bias as a result of these policy directions, they would want to have their own prognosis or forecast of where we would be six months out.

And it is these political considerations I'm talking about having therefore -- skewing or causing State Department as well as Pentagon analysts to skew their analyses. They would be affected by a desire to predict that their efforts, that the efforts of their Departments, would be successful.

For instance -- I'm giving you a for-instance
here. Is that responsive?

Yes, although I hadn't asked that question, but that was going to be the question and you anticipated it. My question now is, did you intend any criticism of State or Pentagon analyses when you said they were skewed by political considerations?

Such skewings -- and sometimes they're great, sometimes they are small -- are a fact of life in the United States intelligence community. They have been referred to in another context as honest disagreements among gentlemen. There were such honest disagreements among gentlemen. It made it no less unfortunate. It made us no less unhappy, particularly in the CIA, where we were happily free of such departmental constraints. And that's what I'm referring to here.

But I think I had better pursue the answer to this question. What I'm saying there is is not much of an analogy between these kinds of problems and the problem that is central to this case.

Why is that, sir?

Because these, as I stated, were typical of
what we call in the agency problems among gentlemen.
And this was pre-modern consciousness. Now it's among
gentlemen and ladies.
And the dispute over the OB data was not a
disagreement among gentlemen.
Q What was it?
A It was a fundamental abdication by one set of
analysts of their duty and an insistence by those
analysts on arbitrary imposition of data, and the
acquiescence in that arbitrary action by other elements
in the intelligence community. It is not on the same
planet, much less the same ballpark, in my humble
opinion.
Q You testified yesterday, I believe, that you
spoke with Mr. Adams last about a year ago, am I
correct?
A What are we, we're in June?
Q June of '84.
A The date of my affidavit is what?
Q July of '83, if I remember correctly.
A It would have been some time before July of
'83. It would have been in -- I'm almost certain it
would have been early in 1983, but I truly can't put it
-- wait a minute. I can. It would have had to have
been spring or later, because I invited Sam over for --
all right, it would have been, I would think, after the
spring of '83. Good weather, right.

Q  You invited Mr. Adams over?
A  I invited Mr. Adams over to my house, yes.
Q  How did that come about?
A  He had asked me some time after this suit was
brought -- and I think it was while I -- it may have
been immediately after the suit was brought. Could
somebody stipulate to me on what date?

Q  September 13, 1982.
A  1982. All right, then that does -- at some
time before I returned to the agency, which was late in
December of '82, Sam called me and said that he was a
Defendant in this suit or words to that effect, and if
necessary would I be willing to speak for him. And I
agreed, all right.

Therefore, some time in the spring, I believe,
of 1983 Sam came and said, would you be willing to write
an affidavit for me in the Westmoreland versus CBS suit,
1 and I said I would. So that was the occasion and I
2 invited him over to my house to talk about it.
3 Q How long did you talk about?
4 A Through dinner.
5 Q When did he come?
6 A He came just before dinner and left
7 immediately after.
8 Q What time did he come, 4:00 o'clock?
9 A Oh, I really don't recall. Wait a minute. He
came in time for us to have a beer and for me to cook a
10 steak.
11 Q Did he bring any papers with him for you to
12 read?
13 A I don't recall he brought any papers, no. We
didn't go through any papers.
14 Q Did you meet with him after that meeting?
15 A I am less sure of that. I just truly don't
16 recall. It is possible that we had one more meeting,
17 that we had one more discussion, but I don't really
18 recall. As I recall, we concluded our discussion that
19 same evening.
20 Q And did you draft an affidavit for Mr. Adams?
I then came to draft an affidavit for Mr. Adams, my own work. You didn't have a draft sent to you from Mr. Adams' counsel? I didn't receive anything. Mr. Adams counsel? This is Mr. Adams' counsel? One of them, yes. I'm willing to have him correct me if I'm wrong, but I do not recall receiving anything from Mr. Adams' counsel or being in any meeting with Mr. Adams' counsel as far as I know. But if I'm wrong, correct me.

This has not been until very recently at the center of my existence. I understand. Are you prepared to testify at trial on behalf of Mr. Adams? Yes, I am. And you will come if called? And I will come if called. Assuming you are well? Assuming I am well.
MR. BURT: Give me just a second.

(Pause.)

MR. BURT: Back on the record.

BY MR. BURT: (Resuming)

Q Mr. Kovar, we served you with a subpoena, I believe, and request that you produce documents. I asked you yesterday whether you had any documents with you pursuant to that subpoena. I asked you that in substance and you told me you had a document that has been prepared by CBS which contains various affidavits. Do you have any other documents with you?

A No, I don't. I have only those three documents which are --

Q Provided to you by CBS?

A Provided to me by lawyers for the defense.

Q Did you receive any other documents?

A I received initially a copy of my typed affidavit from CBS.

Q Do you have any drafts of your affidavit?

A I don't have any drafts of my affidavit.

Q What happened to them?

A They would have been destroyed, because I
believe I typed it in my office.

Q Did you read any depositions, as opposed to affidavits?

A At the time I wrote my affidavit, I had read nothing about this case, not even including, I believe, anything in the press.

Q Have you read any depositions?

A Have I read any depositions? I have not read any depositions per se, but there are depositions referred to in here.

Q Do you have any notes in the documents you have before you, which I will identify for the record as what appear to be the motion for summary judgment, the brief for that motion, and two appendices?

A I have one page of penciled notes somewhere in the memorandum in support of summary judgment.

Q Did you make any notes on the documents in front of you?

A I don't recall making any notes. I am flipping through quickly to -- I see an underline, I see a note on page 172 which says -- if that's what you're looking for.
Q Let me tell you what I am going to kindly request and which, unfortunately, you have no recourse but to do: that is for you to leave these documents with me, including your notes, and I will make a copy and return the originals to you.

A With one stipulation, that I want to check through it and make sure that I have not written anything that I consider to be --

Q Why don't we do it this way. If you will turn those documents over to the CIA, let them review them. The CIA I assume will undertake to pass them on to me as soon as they have done that.

Mr. Laprade, will you state that for the record?

MR. LAPRADE: Certainly.

MR. BURT: Done.

Mr. Kovar, I'd like to thank you for your time and your courtesy and your forthcoming appearance. Very good.

MR. BARON: Okay. Then the deposition is adjourned until such time as it shall be resumed at the convenience of the parties and the witness.
MR. BURT: Right.

MR. LAPRADE: Off the record.

(Whereupon, at 2:40 p.m., the instant deposition was adjourned.)

* * *

Signature of the Witness

Subscribed and sworn to before me this ___

day of ____________, 1984.

NOTARY PUBLIC IN AND FOR

My Commission expires: