Let me try to follow a number of things that you just said.

MR. MURRY: Do you want to take a break?

THE WITNESS: No. I just wanted to know where we are before kickoff.

MR. BOTES: I will get you out for that and for lunch and any time you want to take a break, please let me know.

Q You said it was your understanding in 1967 that the numbers imputed to these categories were pretty much agreed; do you recall that?

A Yes. In the course of this whole process.

By the "whole process", I mean the sequence of meetings that started.

Q What were the categories you were referring to?

A Mainly the secret self-defense corps and the self-defense corps.

Q When was it your understanding that the numbers to be estimated for the self-defense forces and secret self-defense forces were pretty much agreed to?

MR. MURRY: I object to the form of
the question.

A I may be wrong on this, but my memory, Mr. Boies, is that the debate shifted sometime in the summer of '67 from the question of the order of magnitude that they were prepared to agree on to how they should present those, to the distinguishable question as to how they should be presented.

Q When the debate shifted, as you say it did, in the summer of 1967 to the question of how the agreed order of magnitude estimates for the self-defense forces and the secret self-defense forces should be presented, what were the two sides of that debate as you understood it in the summer of 1967?

MR. MURRY: Objection.

A First there was, in taking stock of this, these categories which they inherited from the South Vietnamese, there were those that felt that there were two reasons for not putting a number into the order of battle.

There were some who felt that these categories, some of whom were not armed, performed functions which under other circumstances would not be in the order of battle, didn't belong in the order of battle.

Q Who thought that?
A I think that some of the military, especially military in the field, took the view that these fellows were not serious opponents and a serious military threat and they are there, but they are not a serious component like even the guerrillas, let alone the main force units. They agreed those had to be in the order of battle.

There were others who I think were still skeptical of the evidence that justified putting a number. That's a technical thing. How many are there? That's the second category of difference.

Q Who thought that?

A I cannot name you who thought that, but you are asking my impression of what the debate was about at the time. My impression is that you had on the one side, as I say, people who felt this category, the people did not belong in a military order of battle and others who retained certain reservations about how many there were and were uneasy if any fixed number were put down.

Some argued and I can't remember who they were, they argued for a range rather than a number because who could be sure because we were not in regular contact with them.
The third element of the presentation was the anxiety about what the impact would be on the press under circumstances where it would be very hard simultaneously to persuade them that this category was now -- that there had been a decline in it, but a decline from a higher level and the issue was, how can we present to a hostile press a situation where, A, the base previously used had been too low and, B, there had been a decline.

How do you avoid saying there has been no progress when in fact there was general agreement in the Intelligence community in Washington and Saigon that there had been a slow attrition and progress.

Those are the three elements that I recall.

You asked me what I recall. Those are the three elements that I recall.

Q Do you recall who took what position on those three elements?

A No. I know that General Westmoreland and Ambassador Bunker were very much concerned, given their consciousness that the press attitudes were a very important dimension of the war. They were rather despairing initially that they could do this presentation without producing a distorted version in the...
press which would not say we inherited figures from the Vietnamese that were too high. They have gone down. They were frightened of estimates that there had been an increase.

So the problem of how do you present this so it would not be interpreted as an increase, but only an increase in the bookkeeping. That seemed to worry them a great deal.

Q When you say "they were frightened" —
A Yes. They were worried.

Q And "they were worried" about the new figures being taken as an increase, who are you referring to when you used the word "they"?
A I am referring to General Westmoreland, Ambassador Bunker, Robert Komer and I guess General Abrams, too.

Q In 1967, were you aware that General Westmoreland was concerned about the press reaction or public relations aspect of enemy strengths estimates?
A Yes.

Q You were aware of that in 1967?
A Yes, sir.

Q Did you ever discuss with President Johnson the possible press or public relations implications of reporting higher enemy strengths estimates?
A. No. But I gave him my recommendation in writing.

Q. You gave him your recommendation to do what?

A. My recommendation was that we explain to the press fully what had happened, namely, that we were changing the base. That it had gone down, but that we had these new figures and I suggested that the reconciliation of the elements in that story, the previously lower base, the now agreed higher base, the decline, et cetera, could be done best by generating retrospective figures.

(Continued on next page.)
Was that done?

There is a retrospective figure that I discovered in the documents. Southeast Asia. I was fascinated to see exactly what I recommended was done by somebody and published.

Did you know about that at the time?

No. I found it only, and was educated by my association with this affair.

Who gave you that?

I found it in the submission of the Capital Legal Foundation to the court. I didn't know about it. Bill Jordan, Bob Ginsburgh and I talked a lot about this, and I don't remember talking with President Johnson, and we agreed that the only proper thing to do was to just lay it all out to the press.

And my recommendation was that a good time to lay it out would be towards the end of the year and do a year-end review.

You captured the documents, you found these figures, you are moving forward slowly, and this is what came out of it.

Obviously I would have been quite content to see the figures published for these self-defense forces.
Q Those figures were never published, were they, to your knowledge?
A They came out all over the place, I think. I don't know.

Didn't they come out in some of the press reports?
Q The new figures for the self-defense and secret self-defense?
A I don't know. I don't remember. My impression is that they were leaked. I may be wrong.

Q My question is, it was your view that the right thing to do was to make your new intelligence about enemy strength available and to explain all the circumstances?
A That's right.

Q That was your recommendation?
A I believe that I once said -- I feel confident enough that I am willing to say this under oath -- I believe I said "Lock these fellows up for three or four hours and march them through it and explain it."

That was my simple-minded suggestion.

Q Now that --
A And do retrospective figures, all the way back.

Q Now, that suggestion of yours --
Bob Cunningham also did for me retrospective figures, just to see what they might look like.

Q Did you ever get any retrospective figures from MACV?

A Well, MACV was not independent of the Southeast Asia report. I don't know who had the Southeast Asia report.

Do you have your document around here?

In any case you have it. You can find it.

Q I don't have the documents you are referring to, but the Southeast Asia report came out of the Department of Defense, I think.

A They have MACV figures. The Department of Defense couldn't have estimates of its own of these categories. It was part of the process of arriving at the common estimates.

But in any event, go right ahead.

Q Do you know whether MACV, the Military Assistance Command in Vietnam, ever prepared any retrospective figures?

A I do not believe they did.

Q Now, the Department of Defense has a lot of components other than MACV; is that correct?

A That is correct.
Q You made a suggestion that the right way to deal with this new intelligence was to officially brief the press on what that new intelligence was and the circumstance of them; correct, sir?

A That's what a professor is likely to do.

Q Now, that professor's suggestion was not accepted; correct, sir?

A Not wholly. They sure told the press an awful lot about the nature of the data.

You know, they did not do a retrospective estimate. They said it was impossible.

Q MACV said it was impossible?

A MACV said it was impossible.

Q It was more than that. They did not realize the new figures for the self-defense and secret self-defense forces; is that not so?

A That's right. I hope you are aware, Mr. Boies, normally the order of battle figures are not released to the press.

But nevertheless, carry on.

Q You would recommend it?

A That was the tradition.

Q That it be done?

A My recommendation, it was a year-end review
and this would be part of the whole process. We had better historical figures and this is what happened over the year. Yes, that's right.

Q That is, you recommended that the new intelligence on the numbers of self-defense forces and secret self-defense forces be officially released to the press; correct, sir?

MR. MURRY: Objection.

A Yes.

Q You know from your own knowledge that that was not done, at least during the time that you were National Security Advisor to President Johnson, do you not, sir?

A That's right. That was not the agreement that was reached in Saigon, because the SNIE -- yes.

Carry on.

Q If there is something you need to answer to that question --

A No. Go right ahead.

Q Do you know why Saigon did not officially release to the press, as you had suggested and recommended that they do, the new figures for the self-defense and secret self-defense forces?

MR. MURRY: I object to the form of
Rostow

the question.

A As I said, the debate evolved around a
number of elements including anxiety about
misinterpretation.

Well, I would -- I must say, as you pursue
this, that I thought that the press briefing, although
it didn't have figures, was really quite a
satisfactory reflection of the SNIE, which I regarded
as quite a satisfactory resolution of the debate.

But nevertheless -- I really don't put the
premium on, that you do, on the figures. That's all I am
saying.

Q Did you ever discuss with Mr. Carver
the MACV press briefing?

A No, not to my knowledge.

Q MACV gave a press briefing; is that
correct?

A Yes.

Q Do you recall when that was?

A I assume it was in late November, but I am
not sure of the date.

Q November of 1967?

A That is right.

Q Did you see that press briefing at or
about the time it was given?

A I assume it was sent to us. It was available to me, yes. I don't remember it really.

Q Did it go to President Johnson, do you know?

A If it came to me, it went to President Johnson. I certainly would have sent it to him.

(Continued on next page.)
Q. Did you ever discuss it with President Johnson?
A. No, I do not remember discussing it.

I would like to underline something, Mr. Boies. This business of, you know, trying to get this sorted out was an important intelligence procedure matter. But just the time when this came to a head, which was the end of November, we were zeroing in on such problems in Vietnam as sending out 10,000 men, trying to get a fix on the nature of this offensive that was coming up, and whether it was going to have any potential relationship to negotiations. And, really, it was not an issue which I would have gotten the resolution in the SNIE. I, at least, regarded it as the highest priority at the moment, even with respect to Vietnam, let alone all the other matters.

So I don't remember the briefing and I don't remember any discussion of it. I am sure that it would have been sent to President Johnson.

Q. Did you ever tell President Johnson, in words or in substance, that there was anything inaccurate or misleading about that MACV press briefing?

MR. MURRY: I object to the form of the question.
Mr. I think not; not that I remember.

Q In or about November of December of 1967, did you believe that there was anything inaccurate or misleading about that MACV press briefing?

A I thought that the -- I don't really remember focusing sharply on the press briefing. I remember focusing sharply on the SNI and the memorandum covering the submission of it by Mr. Helms. But I do not remember focusing on the press briefing. Perhaps I did, but I don't remember anything about it.

Q Did you ever discuss the November MACV press briefing with Mr. Carver?

A No, not that I remember.

Q Do you know what Mr. Carver's view was of that press briefing?

A No, I do not know Mr. Carver's view.

Q Do you know if anyone ever conveyed to the President, in words or in substance, that there was anything inaccurate or misleading about that MACV press briefing?

MR. MURRY: I object to the form of the question.

A No, I don't know. I don't know if anyone conveyed that to the President.
Q  Do you know whether or not if anybody conveyed that to the President?

MR. MURRY: I object to the form of the question.

MR. BOIES: I withdraw the question.

A  I don't remember anything of that kind. That's all I can tell you.

Q  Did you ever have any discussions with anyone as to why the new estimates for the self-defense forces and secret self-defense forces were not being released to the press?

MR. MURRY: Objection.

A  I didn't have any discussion. I passed along to the President the cables that came in, reflecting the anxieties in Saigon about this. I made my recommendation. But I never discussed it, to the best of my knowledge, with the President or anyone else.

Q  Other than passing along the cables that came in to the President, did you ever communicate to the President, either orally or in writing, any information about the extent to which there was a concern about the press or public relations effect of higher enemy strength estimates?

A  I don't remember any such conversation.
Did you ever have any conversations with President Johnson about the possible -- I may have asked you this before -- press or public relations effect of higher enemy strength estimates?

A No, sir.

Q Did you ever have any conversations -- and I mean, by "conversations," either in person or over the telephone -- with anyone from General Westmoreland's command, concerning the press or public relations implications or possible effects of higher enemy strength estimates?

A No, sir.

Q Did you ever have any discussions with anyone at the CIA about the possible public relations or press effects of higher enemy strength estimates?

A No, sir.

Q Did you ever have any discussions with anyone concerning the possible public relations or press effects of higher enemy strength estimates?

A I don't recall any conversation, but my normal procedure would have been -- before I made a recommendation of the kind I did, which I made in this area only because I had been instructed, after coming to the White House for a couple of weeks, not to
send anything up without a recommendation. I didn't regard myself as a great expert. I made my recommendation in a note to President Johnson, when the document went up, but I probably would have discussed it with Bob Ginsburg and Bill Jordan.

Q Members of your staff?
A Members of my staff. But not anyone else. It would have been unnatural for me to get into that kind of thing.

Q Now, you have testified that you were aware in 1967 that the self-defense forces and the secret self-defense forces were included in the enemy order of battle at the beginning of 1967.
A That's right. Because we inherited that category from the South Vietnamese, correct.

Q When, if at all, did anyone ever raise with you the issue of the military's desire to remove the self-defense and secret self-defense forces from the order of battle?

MR. MURRY: Objection.
A I don't think it was ever raised with me. We followed at a distance through, I would say, almost certainly Bob Ginsburg's access to the JCS cables what went on. It was not a matter in which I would have
felt it appropriate to have intervened. In fact, I didn't think it was appropriate to intervene all the way down the line, once the procedure had been established to bring these people into the debate and once the President was fully informed of the debate, which was in January of 1967.

Q You mentioned that you had made a recommendation to President Johnson in writing as to how to treat the self-defense and secret self-defense forces, and you said you recommended the new numbers on those forces be released to the press.

A Yes, that's right. They be retrospective and the new order of battle data be presented in the course of a year-end review, which encompassed the past and acquisition of new documents and procedure.

Q Have you seen that recommendation recently?

A Yes.

Q Is that included among the papers that we are going to be getting?

A Mr. Boies, I would be very surprised if you don't have it because I believe it's the covering memo that I sent up when Mr. Helms submitted to the President the SNIE, and I did a covering memo, which
I usually do summarizing it, make available the full
text, and I think in a paren that says, as a kind of
throwaway, my recommendation with the retrospective
estimates and the results of this SNE being presented
in the year-end review.

(Continued on next page)
Q I don't vouch for the fact that I have immediate instant recall of 256,000 documents that we have.

A You xerographed it yesterday, I believe.

Q I know. Those were supposed to have been given to me and they have not.

A They have not been given to me. Let's both start a war.

MR. BOIES: Mr. Burt, from time to time, eats my papers and my videotapes, but presumably at some point Mr. Murry is going to talk to Mr. Burt and he will get us each a copy of those papers.

Q Let me ask that at some point once we have each gotten the papers and it's not a very thick folder and that you pull out that recommendation and we can talk about it some more.

Let me focus on the period of November of 1967.

You have testified that in January of 1967, you were being told by George Carver that some people at least believed that enemy strength was higher than it had previously been estimated to be. That enemy strength had declined at least
in certain categories and that there was an effort

to recoup that decline by the enemy, that is to build
strength up.

A Those are the three elements I recall. That's
all I can tell you.

Q In November of 1967, did you have any
judgment as to whether the enemy had been successful
in its attempt to build up the categories that some
people believed in January of 1967 had suffered the
decline?

A Towards the end of November, the second half
of November, I became conscious of a tripartite effort
to rebuild all of their forces which I assumed by
that time was part of the process leading up to this
maximum winter-spring offensive.

The three elements were the infiltration of
regular North Vietnamese units, greater activity on
the trails, whether detected from censors or patrols
or aerial reconnaissance.

Q You mean greater infiltration activity?

A Of a kind associated with small packets rather
than large units. The source of Intelligence was
different. It was enough so that I felt that everyone
in Saigon and everyone in Washington were really
following it and sensed there was increased activity on the trails although we couldn't give a current number to it and then the vacuum cleaner operation of trying to suck everyone up to rebuild these lower level units of guerrillas, et cetera.

Then there was the post-Tet things which was quite possible they were pushing down people to the lower level guerrilla units because those were the fellows that were going to go into the towns.

In any case, it was a tremendous tripartite personnel buildup that they were putting on.

Q When you are referring to the lower guerrilla units, are you referring to the self-defense and secret self-defense?

A No. None of those were ever found in the cities, but the guerrillas. You see, the people that went into the small towns and provincial capitals as I recall, were generally units from the main force units, guerrillas and political cadres who were there to trigger the uprising.

I am not absolutely technically sure of the exact proportions that went in there, but what I am saying we were conscious of a massive effort to rebuild and enlarge their structure as of that late November.
Rostow

Let me approach it this way.

In November of 1967, did you believe that total enemy strength was larger, smaller or about the same as total enemy strength had been a year earlier? that is in the fall of 1966?

MR. MURRY: I object to the form of the question.

A My best recollection would vary some from well in early to late November because that was the period that I came to crystallize on what the enemy was doing and by the end of November, the process was already underway of moving towards the Tet offensive.

But if you ask me over the sweep of the year down to Loc Ninh and Dak To in the summer, I would say the trend which had been detected earlier of some kind of slow decline, especially the lower level, it would probably be underway. That peak had come in '66 and they would be going down. That the buildup was a product of the autumn.

Q When you referred to the lower levels, what are you referring to there?

A The attrition of the self-defense corps and the secret self-defense corps and perhaps guerrilla strength although I don't remember that very well
as opposed to main force units which I suppose were pretty well maintained.

But my impression of the year '67 was of continued slow decline in their manpower base in South Vietnam and therefore, the manpower problems which had been present and pretty well handled with a diminishing base were continuing.

Q Let me begin with the middle of November of 1967.

In the middle of November of 1967, did you believe that the enemy's self-defense and secret self-defense forces were larger, smaller or about the same compared to twelve months before?

A I don't remember any specific view of this self-defense force.

Q With respect to the MACV order of battle in November of 1967, am I correct that the components of that were the first four of the seven components that you listed? That is the regular forces, the main forces, the administrative service units and the guerrillas?

A If you tell me you may be right. I am not arguing with you. All I am saying is --

MR. BOIES: Let me withdraw the question.
A (Continuing)  We were very conscious of it. One problem that we have got to be clear about is that the published order of battle figures had a big time lag in them and we were watching an evolving war.

Q  Right now I am talking about the categories.

A  All right.

Q  You testified that in January of 1967, the enemy order of battle included NVA forces, main forces, administrative service units, guerrillas, the self-defense corps, the secret self-defense corps and political cadres.

A  The question, as I understand it, what did you understand the enemy's structure to contain.

I don't remember precisely how they were presented at that time. When I had my conversation with Mr. Carver, let us say, this is what was in my mind as the major categories to be looked at.

Q  In January of 1967?

A  Right.

Q  MACV was publishing order of battle summaries that you identified before. You said that you and the President got; correct?

A  That's right.
Q. Do you recall what the components of the enemy forces included in those MACV order of battle reports were?

A. I don't know whether they were all distinguished, but I think all of the elements except possibly the political cadres were included.

What I am unsure about is whether you broke out at that time the self-defense force and the secret self-defense force. I am not sure of that.

My best memory is the political cadres were separately listed. But okay.

Q. As I understand it, it is your recollection that the self-defense forces and secret self-defense forces were included in the MACV order of battle, but you are not sure whether they were included as part of a larger category or were separately broken out.

A. Yes. But in our minds by that time, in the Intelligence community and in the Intelligence discussions, the distinction was made. That's all I am saying.

So that when Mr. Carver discussed with me the views in the order of the battle section of the agency, I was aware of the difference between them. Okay.
Q Now, there came a time in 1967 in which the self-defense forces and the secret self-defense forces were removed from the enemy order of battle?

A That is correct.

Q And that occurred prior to November of 1967; did it not, sir?

A What I have in mind, Mr. Boies, the kind of charts that were up there at the various meetings in the middle of the year, not the published estimates and at that time in the wake of Honolulu, when there had been an agreement on the categories, one did distinguish self-defense corps and the secret self-defense corps and even though it was not strictly order of battle political people, et cetera. It was not until -- there may have been changes in how the order of battle was presented in the course of the year, but my only memory is the discussion in the SNIE just how to handle these categories.

Q At least by November of 1967, the MACV order of battle included NVA forces, main forces, administrative service units and guerrillas and did not include self-defense, secret self-defense forces and political cadres?

MR. MURRY: I object to the form.
of the question.

A. They were discussed. They were not in the formal order of battle, that's right.

Q. They were not in the MACV order of battle reports that you got, correct, sir?

MR. MURRY: Objection.

A. They were in the SNI.

Q. I want to focus on the MACV order of battle summaries.

A. I understand what you are saying.

When you ask me about my impression about the order of battle and the forces in Vietnam, they were not determined what I happened to read from a MACV summary. That's what I am telling you.

Q. That particular point I want to come back to, but what I want to now focus on was what was in the MACV order of battle reports that you say you and the President got.

Am I correct that the MACV order of battle reports that you and the President got in November of 1967 included NVA forces; is that true?

A. The order of battle reports we got in November of '67?

Q. The MACV order of battle reports
included NVA forces; correct?

A Yes.

Q And they included Vietcong main forces; correct?

A Correct.

Q And they included Vietcong administrative service units; correct?

A Yes.

Q They included Vietcong guerrilla forces; correct?

A Yes.

Q They did not include Vietcong self-defense forces; correct.

MR. MURRY: Objection.

A I don't remember. The reason I don't remember is I was getting order of battle information.

Q If you don't remember it, it is a sufficient answer that you don't remember without explaining why.

I will come to why. First I want to get what your recollection is.

A I don't remember exactly. I remember the SNIE which did not have these categories formally listed and given numbers.
Q. Do you remember whether they were in the MACV order of battle reports?

A. In November, I don't remember an order of battle report in November. I remember the SNIE, right.

Q. Do you remember whether the self-defense forces were in the MACV order of battle report for December 1967?

A. No.

Q. Do you remember whether the self-defense forces were in the MACV order of battle report for October of 1967?

A. I don't remember them by months, no.

Q. Let me focus on the four categories of the enemy that you remember being in the MACV order of battle reports.

The NVA forces, the main forces, administrative forces and the guerrilla, okay?

A. Remember them because we followed them. I do not precisely remember that MACV monthly or whenever they came out reports, because they were incidental to much more detailed analysis that we were doing every day.

Q. Were those analyses that you say you were doing every day and you say were more detailed,
were they written analyses?
A Not written down every day, but very often written. It was one of Bob Ginsburgh's functions of my staff to follow in great detail whatever information was going on on all the components.
Q Are you saying that Bob Ginsburgh prepared order of battle statistics or estimates?
A He would summarize the available figures that were circulating in DIA, MACV and keep me informed and the reason I cannot tell you exactly what the MACV summaries were, I didn't rely wholly on those. I relied on details of the order of battle and among other things that I was working on.
Q What I am asking are whether the numbers that were in Bob Ginsburgh's analyses came from any other place than MACV, if you know?
A I think you would consult MACV. All the raw materials would come from MACV. The numbers would come from MACV or DIA.
Q Did DIA ever have order of battle estimates that were different than MACV's during the period of time?
A Not to my knowledge.
Q During the period of time you were
National Security Advisor?
A But the categories.
Q There was a yes and a no in there. I want to be sure I have got an answer to my question.
A To the best of my knowledge, there were no differences in the DIA and MACV estimates.
Q During the period of time that you were National Security Advisor?
A That's right.
What I am saying is what gives me difficulty is that we followed whatever estimates were going on with the secret self-defense forces and self-defense forces, whatever the MACV summaries were. So I was used to seeing those categories.
Q What I am asking is whether the numbers that Bob Ginsburgh assembled and summarized for you ever included numbers that were different from the numbers that MACV was contemporaneously giving you for order of battle or enemy strength?
A He -- the current estimates -- he made a retrospective estimate for me and then laid out the assumptions and no one else had done that at that time.
Q Let us leave aside the retrospective
estimates and you mean he went back in time and
estimated what had been in the past?

A Correct.

Q Let me focus now on current estimates.
Did he also provide you with summaries
of current estimates of enemy strength?

A Yes. He did. They didn't differ from MACV,
but there were more ample discussions.

Q When you say "more ample discussions,"
do you mean what Mr. Ginsburgh did was more detailed
than what MACV provided you?

A He would discuss current Intelligence on order
of battle including, for example, North Vietnamese
units that might be moving down that would not appear
in the current order of battle because of the time
lags. He would try to give me an impression in the
order of battle in our discussions and memoranda which
was more up to date than the former order of battle
procedure permitted because of its inherent lags.

So it would add to the order of battle data
more current Intelligence on enemy strength and movement
of units, et cetera.

Q He did this in writing?

A Sometimes, yes. Sometimes in writing. Sometimes
informally.

Q Have you seen these more detailed analyses by Mr. Ginsburgh over the last year or two?
A Have I seen them recently?
Q Yes.
A Yes. There are some that I saw in the office this morning that have just come out from the LSU Library, the great operation going on down there.

(Continued on next page.)