Q During the Saigon conference, if General Westmoreland had not budged from the MACV position, what would that have signified to you?

A It probably would have influenced me to interpret the document negatively.

Q What do you mean, negatively?

A This is very nearly a stand-alone document of evidence of a conspiracy. If I had nothing else but this, nothing else, this would be enough to immediately bring the word "conspiracy" into my mind.

Q If General Westmoreland had budged, what would that have meant to you?

MR. MASTRO: Objection to form.

A I would have hoped he would be able to explain it.

MR. MASTRO: I do have to make a couple of calls before noon, and I am not going to make it if we continue along this line. Can we take our break?

THE WITNESS: Whenever you are ready.

MR. DORSEN: I am in the middle of a line of questioning.

Q I would just ask you, Mr. Rushford, if you would just keep where you are and not speak to me.
and not speak to anybody else, and we will pick up this line of questioning in the afternoon, if that is satisfactory to everybody.

A Whatever you want.

MR. MASTRO: Let us recess for lunch until 1:00 o'clock.

(Whereupon, at 12 Noon a luncheon recess was taken.)
GREGORY G. RUSHFORD, resumed,
was examined, and testified further as follows:

MR. DORSEN: Back on the record, please.

EXAMINATION (CONTINUED)
BY MR. DORSEN:

Q Mr. Rushford, just before the break, we were discussing the Saigon September 1967 National Intelligence Estimate Conference. Is it your understanding, Mr. Rushford, that the conference was a very heated and emotional one for the people involved?

A You mean the Order of Battle Conference?

Q Yes.

A Yes, so I understand. Heated and emotional.

Q Tempers were frayed?
A I believe so.

Q In the Defendants' Exhibit 120, which is the cable that was shown to you yesterday by CBS's attorneys, I am going to read into the record paragraphs 7 and 8:

"I hope to see Komer and Westmoreland tomorrow (11 Sept) and will endeavor to loosen this straitjacket. Unless I can, we are wasting our time. To show, however, that we are willing to go even beyond the last mile, Messrs. Hyland, Moor and Adams are going to sit down with MACV's working level analysts and review the evidence on admin service, guerrillas and political cadre document by document.

"For cosmetic reasons, given the situation and the fact that Komer and Westmoreland will not arrive until 11 September, it would be a political error for us to leave on 12 September as planned. Thus we will have to remain an additional day or two for appearances sake if nothing else. If I can budge Westmoreland, this whole matter can be resolved to everyone's satisfaction in a few hours of serious discussion. If I cannot, no agreement is possible."

Before the break, you referred to two possibilities that Westmoreland might budge the CIA, or
the CIA might budge Westmoreland.

Do you recall that?

A Yes.

Q I had the reporter mark that, and I am going to ask the reporter to read that back again. So he will read something to you.

A All right.

MR. DORSEN: Read back the question and answer.

(A portion of the record was read back by the reporter.)

Q What did you mean by your statement that you would like to have known whether he budged the CIA or the CIA budged him?

A Those are the words I recall, and those are the words that you just read.

If I can budge Westmoreland. "I," presumably, being George Carver. I have not been told for certain who wrote this. This is my guess.

Q I believe the record will reflect that it was written by George Carver.

A Then I would have asked him what in the world happened.

Q What would be the significance of that, in
This -- you know, we had thousands of documents and four or five or six that we talked about before I even knew about this that had already given rise to the strong suspicions that there was indeed a conspiracy to distort intelligence. Even if we had not had any of those documents from this, we would have had enough reason to question whether or not there was a military conspiracy. Carver seems to have thought so at one point. This is when we would have called in everybody and formally asked them what happened.

Q What would be the significance if the CIA budged Westmoreland, in your mind?

MR. MASTRO: Did the witness define what he meant by "budged Westmoreland"?

A Well, just to go by the ordinary meanings of the terms. If the CIA had gotten General Westmoreland to drop the insistence on going below 300,000 ceiling and quit interfering in intelligence matters, it would have been fine with me.

Q When you say it would have been fine with you, what do you mean by that? What would you have concluded?

A Well, you always hope when you investigate,
there isn't any crime or conspiracy at the root. You don't seek controversy. That is what I meant.

Q Would you just explain it?

A I just would like to -- I would have liked to resolve the matter. I would have liked to then.

Q In your mind how would it have resolved the matter if General Westmoreland had permitted the figures to rise?

A It appears that the CIA was on the right side of the argument intellectually in arguing for the 800-some thousands of these various types. It appears that there were -- I mean, that MACV was stonewalling, obviously under orders. It would have been a happy outcome if the military would have stopped doing that.

Q If Westmoreland would have agreed to raise figures, what would you have concluded from that?

A If he had --

MR. MASTRO: Objection to form.

What figures?

Q If General Westmoreland had agreed to a solution satisfactory to the CIA at that point, what would have you concluded from that?

MR. MASTRO: Objection as to form.
A: I would have concluded that the controversy had been resolved. The conspiracy -- I wouldn't be using words like "conspiracy." They would have settled it.

Q: There would have been, in your opinion, no conspiracy, is that correct, or the conspiracy would have stopped?

A: I believe so, yes.

MR. DORSEN: Could we have marked as Plaintiff's Exhibit 118 a cable stamped 12 September '67, bearing the number 291 written in the lower right-hand corner, released by the CIA on August 6, 1983.

(Cable stamped 12 September '67, bearing the number 291 written in the lower right-hand corner, was marked Plaintiff's Exhibit 118 for identification, as of this date.)

Q: This is a copy, as are the other copies, of other cables which we will be dealing with in the minutes ahead. A very poor one.

I am going to make a copy available to you. Defendants' counsel has a copy. The reporter will have a copy. I will have a copy.

I will endeavor to read this out loud, and I will welcome anybody who wishes to correct what
my interpretation is. Unfortunately, these are bad copies, and at any point if a word troubles you or you feel that a word cannot be read, and that it interferes with the meaning, please make that statement, and I welcome anybody else.

MR. MASTRO: I object to that approach. Mr. Rushford is capable of reading the document, and you will undoubtedly question him about the substance of this document. And therefore, Mr. Rushford is the one who should read into the record what he thinks the document says.

Please, would you read it into the record, Mr. Dorsen. I am used to seeing copies of intelligence documents. This is a lot better than the best we have seen. You have already had time to study it.

Q Thank you.

On this document, I am going to start on a page, which is the fifth page, which states, "Other Communist elements."

A Would you give me a few minutes.

MR. DORSEN: Let me mark a series of cables, and the witness can then read them during a break.

Just so the record is clear, we just
marked 291 as Plaintiff's Exhibit 118.

As Plaintiff's Exhibit 119 we have a cable with the page number 292.

(Cable bearing page number 292 was marked Plaintiff's Exhibit 119 for identification, as of this date.)

THE WITNESS: I am trying to get the chronology straight.

MR. DORSEN: I understand that. I think it would be helpful if you had a chance to look at the whole series of cables. You could mark it up and keep it, if you like, as long as it is not the marked exhibit.

We just had marked as Plaintiff's Exhibit 119 a CIA cable with the same date with the notation handwritten, 12 September 67 and bearing in the lower right-hand corner number 292.

I would like to have marked as Exhibit 120 a cable dated 13 September 67, bearing the handwritten number in the lower right-hand corner, 294.

(Cable dated 13 September 67, bearing the number 294, was marked Plaintiff's Exhibit 120 for identification, as of this date.)
MR. DORSEN: As Exhibit 121, a CIA cable dated 14 September 67 with the number 295 in the lower-right-hand corner.

(A CIA cable dated 14 September 67 bearing the number 295 was marked Plaintiff's Exhibit 121 for identification, as of this date.)

MR. DORSEN: Off the record.

(Discussion off the record.)

BY MR. DORSEN:

Q We just took a break, at which you were given an opportunity to look at the four exhibits that were marked, Plaintiff's Exhibits 118 through 121.

I am going to read into the record, as we discussed earlier, the last three pages of Plaintiff's Exhibit 118.

MR. MASTRO: Can I have a standing objection to reading things into the record from these four cables.

MR. DORSEN: I don't know what the objection is based on, since lawyers ordinarily read into the record.

MR. MASTRO: Mr. Dorsen has already stated on the record these are poor copies and difficult to read.
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It makes more sense for the witness to read them into the record.

As long as I have a standing objection, we can proceed.

MR. DORSEN: "Other Communist elements. The Communists make a deliberate effort to organize most of the people under their control and into various work forces and (illegible) -- military organizations, and when occasion demands, almost every able-bodied person under VC control may be called on to support the war effort. Among the more significant organizations are the self-defense forces, secret self-defense forces and other groups such as the 'assault youth,' the SDS regularly portrayed by the Communists as a military organization similar to village and hamlet guerrillas. But it is clear, however, that their organization and mission differ. They include personnel of all ages, a higher percentage of females, elderly persons, and children. They are largely unarmed and only partially trained. The duties of self-defense units include the maintenance of law and order, and protection of
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villages and hamlets in enemy-controlled territory. The construction of the fortifications, propaganda and intelligence work. Their existence possess an impediment"

There is an illegible word.

MR. MASTRO: "Regularly," I believe that says.

MR. DORSEN: "An impediment regularly to the allied pacification efforts. Self-defense forces do not leave their home areas, and members generally perform their duties on a part-time basis. In their defense role they inflict casualties on allied forces.

"Secret self-defense forces are an additional element which operate in government-controlled and contested areas. They provide support to the Communist effort, primarily by clandestine intelligence activities, and as a residue of the Communist presence in such areas.

"During the last year we have learned more about a VC organization called "Assault youth." They serve full-time at district level and above, and they are organized into
battalion companies and platoons. Although some are armed, the Communists do not consider them as combat forces. Their primary mission seems to be a logistical one, frequently in battlefield areas. Some of the casualties inflicted by allied forces in battle are inflicted by the assault youth. This organization also serves" -- and I cannot read the last line.

There is one line missing, and then proceeding: "into the VC main and local forces. Little information is available to indicate the strength of" -- it's either "strength of" or --

MR. MASTRO: I believe it says "of."

If I can clarify something. Something was illegible in the previous line. But as I read it, the line reads, "For youth and later go into the VC main and local forces."

MR. DORSEN: Thank you.

"Our current evidence does not enable us to estimate the present size of these groups with any measure of confidence. Some documents suggest that in early 1966 the aggregate size of
the self-defense group was then on the order of 150,000. These irregular components, however, have traditionally suffered" --

MR. MASTRO: I don't believe that is "traditionally."

THE WITNESS: "Unquestionably suffered attrition" --

MR. MASTRO: I can't read that.

MR. DORSEN: The document will obviously speak for itself, but it might be "unquestionably suffered attrition since that time as well as an appreciable decline."

MR. MASTRO: You can only see minimal parts of these words. I think we are just playing a guessing game on these lines.

(Continued on the next page.)
MR. DORSEN: I think the document will speak for itself. But we are trying collectively to do a job.

THE WITNESS: Better than many I have seen. That's fine.

MR. DORSEN: The last words are: "...some of their members into the" blank, and then the rest of the line I have trouble with.

Mr. Rushford, maybe you can read it.

Going on to the next line.

THE WITNESS: I can't seem to -- I can't understand well enough what they are getting at.

MR. DORSEN: The last few words are: "...the control of populated areas," then a couple of words are illegible.

"In aggregate numbers, these groups are still large and they still comprise -- constitute a part of the overall Communist effort. They are not offensive military forces and should not be included in the military Order of Battle total, even though some of their members are probably included in our casualty figures and they account for a small percentage of the Chieu Hois."
MR. MASTRO: Let the record show this is a cable from Mr. Carver for Mr. Helms.

MR. DORSEN: Fine.

I will read Exhibit 119. This is dated September 12, 1967. There are several references indicated.

"September 11 and 12 full of action and behind-scenes scurrying in MACV but have produced little movement. At present we are at an impasse.

"I have seen Komer," and then there is a word that is illegible. "Having dinner with him tonight. I see Westmoreland," something I cannot read, and then "Komer, Davidson, the DIA principals, and Mr. --" -- I cannot read that word.

MR. MASTRO: Again, for the record, these several lines are almost impossible to read.

MR. DORSEN: A couple of short words which are illegible, which may be the time, 11 September. "This may clear the air, but it may lock us in where we now are.

"I will see the ambassador after the Westmoreland session."
On 11 September, Messrs. Hyland, Adams and your --" --

THE WITNESS: Probably "yours truly."

MR. DORSEN: -- "review the detailed evidence on, respectively, admin services, guerrilla and political cadre.

"Mr. Adams managed to get MACV's guerrilla figures appreciably raised. Mr. Hyland made no changes in MACV's admin service holdings but saw in detail how weak their case was, e.g., a document used to provide the model for one of the three districts on which MACV's district-level case was based.

"MACV did not cite providing additional support for Mr. Adams' extrapolated admin to combat ratio at district level. Mr. Moore made no changes, but on 11 September our positions on political cadre were very close.

On 11 September, General Davidson and I spent two hours with Mr. Komer, accompanied by General Godding and Colonel --" -- I can't read that -- "(DIA delegation head). I reviewed the history of the estimate, its various drafts, the August Washington discussions in which MACV's
representatives had participated, although that may be incorrect, the figures in the 28 August draft, and the results of our 10 September conference with the MACV staff.

"While covering the last point, I was repeatedly -- frequently and sometimes tangentially interrupted by Davidson, particularly when I stressed that our substantive differences were probably not great and could swiftly be resolved if we could proceed category by category without any weather eye on a final total.

"Davidson angrily accused me of impugning his integrity since he had assured me we had no predetermined -- assured me he had no predetermined total.

"I presented my thoughts on the public relations problem, noting that a clearance of the atmosphere, no matter how short terms static produced, would benefit our credibility posture, that it was essential to establish a valid baseline we would never have to retroactively adjust upward, and that if MACV went to the press with the line taut after an exhaustive
review of all its evidence and methodology, it came out with a military plus political total of (by strange coincidence) 298,000, it really would be crucified.

"Komer then launched into an hour-plus monologue, reviewing his and Westmoreland's problems with the press, their frustrating inability to convince the press (hence the public) of the great progress being made and the paramount importance of saying nothing that would detract from the image of progress or support of the theses of stalemate.

"He then opined a strong --" -- I am sorry -- "opened a strong attack on the estimate draft, faulting the quality of its procedures and its analysis and calling it sloppy where it was not actually wrong. He noted that OCI and ONE had only a small number of analysts working on Vietnam, none of whom knew much about OB. The agency's analysis, consequently, could not expect to compare in depth and quality to that of MACV, with its batteries of specialists. He had much more faith in MACV's figures than ours (though he thought MACV's too high) and would,
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hence, recommend to Westmoreland that ours be rejected. He did say, however, that he agreed that the 298,000 total had to be changed for public-relations reasons. And he agreed with me that the final estimate should show ranges rather than sizable -- "I am sorry -- "single figures. He was adamant, however, in insisting that there must not be any quantification of irregular forces on the grounds that the press would add all figures together, and, hence, quantifying the irregulars would produce a politically unacceptable total over 400,000.

"The atmosphere changed markedly after the Komer session. Davidson chortled his delight at scuttling the 298,000 total. He said he would have General Godding work out the spreads. I suggested we develop spreads together category by category, but Davidson demurred.

"Shortly before we left, however, Davidson's deputy sidled up to Mr. Hyland to ask, 'How would you get to 309,000? Show me and you will have a proposition.'

"When we went to MACV on 12 September, General Davidson and General Godding handed me..."
a white card with the following typed thereon:
'Main and local forces 119,000, adm service 25
to 35,000, guerrillas 75,000 to 95,000, total
219,000 to 249,000, mean 234 thousand, political
cadre 70 to 80,000. Self defense and secret
self defense, no quantification. Optimistic
atmosphere in NIE.'

"I suggested we get our analysts together
and review the spreads category by category.
Davidson refused, saying that was MACV's final
offer, not subject to discussion, we should take
it or leave it.

"I then convened the entire Washington
dellegation to see if we could hammer out a position
DIA and INR would join us in. It took six hours
but we succeeded. I then wrote our position out
as a formal memorandum (text in refc) which I
presented to General Davidson at 1800 hours.

"You will note I have made a major
concession in not quantifying the irregulars.
It seemed to me this was MACV's major sticking
point, that our figures were not all that firm,
and that the prospect adopted makes it clear
that we have the 100,000 range --" -- I can't
read that -- "even though no precise figure is.

"For the rest, and by MACV's position on
main and local forces and their new position,
courtesy of Mr. Adams, on guerrillas, we are
sticking on the political cadre figure everyone
had agreed to in a 1 September MACV study.

"Until today, when MACV --" -- I cannot
read that word -- "wacked it just to get the total
down. On administrative services, I and my
colleagues --" -- I believe it is "believe we
have given all the --" -- I can't read that
word -- "we can without violating our professional
integrity.

"After reading my memorandum, Davidson
said this" something "the issue." I cannot read
the word before "issue." "MACV had made its
final offer and there would be two sets of
figures.

"I said there had to be some further
discussion since I was under your instructions
to discuss the subject personally with General
Westmoreland. As noted above, the Westmoreland
session is now scheduled 13 September --" -- I
can't read the word before "13 September." "If
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he refuses to remove the stricture of a predetermined total fixed on public-relations grounds, we can go no further unless you instruct otherwise. If he lifts this stricture, MACV's analysts are dying to have our revised figures accepted.

"I will report tomorrow on the Komer dinner and Westmoreland meeting and would welcome headquarter's comments and guidance before the latter. We have reservations for Thursday, 14 September, putting us in Washington 17 September, but will not leave without your explicit authorization for Reference B."

That concludes Exhibit 119.

Plaintiff's Exhibit 120 is a cable, immediate director, dated 13 September 1967. Skipping the references and proceeding to the text:

"Circle now squared, chiefly as result of Westmoreland session (and perhaps Komer dinner). We now have an agreed set of figures Westmoreland endorses. Mission seems on verge of successful conclusion, though final T's to be crossed tomorrow."
"Komer dinner was relaxed, frank, cordial and (most usefully) private. We reviewed whole estimate exercise. I have blunt outline of weaknesses --" -- "I gave blunt outline," I believe that is, "of weaknesses in MACV case of peculiar MACV behavior, and, in fact, that agreement impossible unless estimate improved enough to permit serious discussion. Komer did not agree with our substantive position and repeated some caustic remarks about the estimate, but he did listen.

"On morning 13 September, General Davidson advise immediate Westmoreland meeting."

That's what it looks like.

(Continued on next page)