Rushford

MR. MASTRO: We can't read those words, but go ahead.

THE WITNESS: That is what it looks like to me.

MR. DORSEN: "Meeting would do nothing but formalize our impasse, since Westmoreland would never accept our position. When meeting convened with Abrams, Komer, Sidel, PIO and INR reps attending, Davidson gave rather biased account of proceedings, noting our impasse on figures, saying he thought our paragraph written to avoid quantifying irregulars -- last -- para ref a unacceptable and" -- a word I cannot read -- "his draft cable."

THE WITNESS: "Outlining."

MR. DORSEN: Thank you.

"Outlining his draft cable by which General Westmoreland could advise General Wheeler of our inability to agree. Komer weighed in with replay of his thesis, recommending acceptance MACV position, but acknowledging logic in some of Washington views. I then reviewed history and context whole estimate,
the Saigon discussions and the rationale behind each of the joint Washington representative figures, and (attack fully as possible). The way the procedure through which national estimates produced reduced our negotiating latitude. I also took up quantification paragraph, indicating that Davidson had quoted out of context and showing why we thought it met both Washington and MACV needs. I concluded with general remarks, tracing history of U.S. Military estimates on Vietnam since 1955, noting that consistent record of underestimation" -- and there are a couple of words blank, and then the word "McChristian, methodology which required constant" -- the word blank.

MR. MASTRO: "Retroactive."

MR. DORSEN: Thank you.

"Retroactive juggling had contributed mightily to our credibility problems. That we agreed basically."

MR. MASTRO: Base line.

MR. DORSEN: "Base line." I cannot read a couple of words -- "would not have to
be adjusted again, and when in doubt we well advise from all angles to err on side of caution rather than optimism.

"Westmoreland most cordial and receptive. Said he agreed with most of my observations and could see the clear logic behind both sets of figures, which were really not that far apart. Also saw the rationale behind our irregular quantification paragraph and had no problems with it. Now he would want to take a final look at it in writing. He asked if I would convene both the Washington and MACV analysts to review the evidence once again and see if we could resolve our differences."

"When the analyst meeting was convened (with Davidson represented by his deputy), I took Westmoreland at his word, usurped the chair, and announced that all constraints on totals were off, and we could settle down to a serious discussion of evidence and issues. During about four hours of brisk discussion we hammered out the following set of agreed figures, which General Westmoreland endorsed:

Main and local force, 119,000. Admin services,
Rushford

35 to 40 thousand. Guerrillas, 70,000 to 90,000, for military total spread of 225,000 to 249,000. Political: 75,000 to 85,000.

"On the whole, I think we can live quite comfortably with the above figures (which the DIA team and INR rep endorse). We have no dispute on the main and local force 119,000 figure. The text of the operative sentence in our admin service paragraph, (see ref A) now reads -- in light of these considerations, we estimate there are at least 35,000 to 45,000 administrative service personnel who are performing essential administrative support functions full time. The rest of the paragraph is unchanged. We gave a little cosmetically, but I think this preserves the essence of the judgment in the 14.3 draft.

"There has been some adjustment on guerrillas, but the new figure (70,000 to 90,000) appreciably lifts MACV's previous total (65,000) and has the same median (80,000) as the spread in the 14.3 draft.

"We gave a little on the political figure, partly to keep MACV on the reservation
with respect to the guerrillas, partly because MACV did have a case on double counting (some bodies in both military and political figures, though this was not the reason MACV walked the figure yesterday)"

MR. MASTRO: It is not clear in paragraph 7, which Mr. Dorsen has read, exactly what the figures are. I believe you gave specific numbers, particularly on the third line. It is not clear what MACV's previous total was in that paragraph.

Please continue.

MR. DORSEN: The document will speak for itself.

THE WITNESS: I accept your reading. I am following you very well.

MR. DORSEN: "Primarily because the discussion and evidence had convinced me this was not a very good figure, anyway. Our present definitions are not adequate or sufficiently precise. We include much more than the real leadership and exclude many E.G. security elements, of whom formal cognizance should be taken."
"On above with endorsement Messrs. Hyland and Moore, and DIA reps, and concurrence General Davidson, I am initiating major study to refine our political categories, and hence improve our political holdings. To this end Mr. Adams will remain Saigon to go over whole subject in detail with MACV analysts and our" -- there is a word blacked out by the CIA -- "officers. Further work will then be carried on in Washington under Mr. Moore's aegis.

"Our agreed figures and irregular quantification paragraph being given General Westmoreland in writing tomorrow. Once he adds signature to already expressed verbal approval. Our session successfully completed. I have 1500 hours appointment with Ambassador Bunker on 14 September and shall give him full report.

"General Westmoreland has requested I work with General Davidson and General Sidle to prepare scenario for backgrounder. I have accepted subject to your concurrence. Please advise.

On return, early reservations out of Saigon almost impossible obtain. Subject
Rushford

your approval (please advise immediate). I have authorized Messrs. Moore and Hyland use their present 14 September Pan Am reservations. I have reservations for 16 September but will not leave until you concur. Request our wives be advised of these travel arrangements."

That is the end of Exhibit 120.

I will now read Exhibit 121 which is dated 14 September '67, Priority Director.

"General Westmoreland has formally signed off agreed figures and irregular quantification paragraph. Understand he has formally reported to chairman JCS that agreement on figures was reached and he has endorsed result. Thus our basic mission now successfully completed.

"I had good session with Ambassador Bunker. Reporting our agreement with MACV and outlining salient elements of the discussions but omitting details now better forgotten. He reviewed agreed figures and draft paragraphs and endorsed them without qualification. Ambassador most pleased that Washington and Saigon could now speak with one voice, was very
complimentary." And I think it says, "Washington delegation mission, and said" -- I can't read it, I think it may be, "Westmoreland had already phoned him to relay similar views.

"At Bunker request we then engaged in note and impression comparing discussion of current political scene, particularly Ky-Thieu relationship. Ambassador had high praise for station and support it gives him. He made particular point of praising" -- there is a word deleted by CIA -- "performance and professionalism, in which Bunker obviously has great confidence.

"After Bunker session I spent two hours with General Sidle, MACV, PIO, discussing scenario for press backgrounder on new figures. MACV presentation will make no mention whatsoever of NIE.

"Only remaining task is mending of personal fences with General Davidson. He is able officer with whom station must deal closely and with whom we Washington should maintain reciprocally full communication.

Davidson and I meeting for drinks on 15
Rushford

September."

MR. DORSEN: I will indicate that it should be, "Maintains useful reciprocal communication," but that is far from clear.

"Earliest available reservation is AM on 16 September. Will stop Honolulu to brief CINCPAC staff" -- the word "as" may be omitted -- "promised and will be at hqs Tuesday 19 September."

That terminates Plaintiff's Exhibit 121.

MR. MASTRO: I want to reiterate for the record my objection to this approach to reading these cables into the record.

Let the record show that there were words that were almost impossible to make out.

I also want to clarify for the record that these are four in a series of five cables. The first chronologically of these cables was entered yesterday as Defendants' Exhibit 120, and I want to make sure that Mr. Rushford also has that cable. That is the cable that begins, "So far our mission frustratingly unproductive since MACV stonewalling, obviously under orders. Unless or until I can persuade Westmoreland to amend those orders, serious discussion of
Rushford evidence or substantive issues will be impossible."

Do you have a copy of that, Mr. Rushford?

THE WITNESS: Look, I was under the impression that Mr. Dorsen is cross-examining me now. You didn't interrupt. I am capable of going through this. If you just let us --

MR. MASTRO: I want to clarify if you have the document. Do you have it available for you?

THE WITNESS: Are we on cross-examination or what? Come on. I don't want to lose my train of thought here, because I have a pretty thorough idea of what these mean. If you wanted to go on and question me about them.

BY MR. DORSEN:

Q Could you please state for the record your understanding of the meaning of these exhibits, Plaintiff's Exhibit 119 through 122, with particular emphasis concerning the role of General Westmoreland?

A With the caveat that there are indistinct words. And one reading sometimes isn't enough for achieving a full understanding that days of thought might give. And with the understanding I have not had the
opportunity to question everybody and think it through. But as one who spent some months questioning intelligence analysts and going over the estimated process, I consider this one of the most extraordinary series of cables I have ever seen.

To characterize it the best way I can from all I understand about estimated process, number one, it was improper for an official, for General Westmoreland to introduce his press concerns upon an estimated process. Had I asked a question as a member of a Congressional staff, "Would you ever let a general like Westmoreland, someone tell you how to write an intelligence draft," the answer would have been, "No, no."

I think that General Westmoreland very clearly has had press concerns and whether or not he was right as a general is one thing. It just does not appear -- it appears very abnormal in the intelligence estimated process. I don't think it is unprecedented.

I remember once in 1963, in the Kennedy administration, General Maxwell Taylor stepped into one of these NIE sessions. It is something that raises eyebrows very quickly, if I understood anything from the analysts I talked to.
As far as the CIA people, it looks like they just about came to the military overall figures. The discussion is one of potentates to other potentates, in my opinion. The military appear to have been better poker players.

As far as -- now, if I were writing an article now, I might have a section, "How to mislead a president."

If you are a president like Johnson, and you read a NIE like this, you would have to be sophisticated enough to realize that the figures were the result of hard bargaining, trades, deals, poker, play-offs, and you better read the pros and in between the lines and check the footnotes.

The whole thing -- you know, appears very damaging from a point of view of those of us who care a lot about the integrity of the estimative process. That is my best conclusion.

Q From the standpoint of General Westmoreland, why do you --

MR. DORSEN: Let me withdraw that question.

Q Who initiated the contact, the involvement of General Westmoreland? Was that the CIA or General
Westmoreland, pointing to these cables?

A It looks to me like General Westmoreland made it very clear that there wasn't going to be an NIE that came below 300,000. He was there, and it sounds like someone who regarded that he just made up his mind on it.

I am sorry. I know you wouldn't characterize it that way. I am trying to be as kind as possible.

Q I wanted to be accurate. That is what you are here for.

A I am trying to be accurate also. There was a phrase that I underlined that just said that Westmoreland -- "Westmoreland would never accept our position." I am just quoting one word out of a whole phrase, and you can't read half of it. It looks like General Davidson is telling Carver that you don't want to meet with Westmoreland now. He would never go unless you thrash it out ourselves first, and we did.

(Continued on the next page.)
Q What happened when General Westmoreland did get involved?
A It looks like he had achieved his figures.
Q When you say "his figures," on what do you base the implication, as I understand what you are saying, that they were his figures, prior to the time that he personally met with Mr. Carver?
A Well, it's a good question. General Westmoreland has formally signed off on the agreed figures, that the NIE came to those figures, or under 500,000, and so General Westmoreland's concerns for briefing the press seemed to have been satisfied.
Q In terms of the individual components, Mr. Rushford, let us direct our attention there. Is it your interpretation, from reading the cables, that the CIA was satisfied with the individual components making up the estimate?
A Yes.
Q Was the CIA satisfied with the individual component total before the CIA representatives met with General Westmoreland?
A I am sorry, I was thinking of something else and I didn't quite hear your question.
Q You just testified that the CIA was
satisfied with the totals that Mr. Carver and General Westmoreland agreed upon on September 13, 1967; is that accurate?

A Yes.

Q Was the CIA satisfied with MACV's position prior to Mr. Carver's meeting with General Westmoreland?

A As I read the cables -- and I am trying to understand them -- I believe the CIA, meaning Mr. Carver mainly, and the whole CIA signed off, and the NIE was satisfied that they had finished their poker game, they had concluded their negotiations, and that they could live with the NIE.

Q Prior to the time Mr. Carver met with General Westmoreland, was Mr. Carver satisfied with the totals and the various components that MACV was urging?

A I don't know whether he achieved a true intellectual satisfaction or agreement or not. It looks like he was satisfied, in the sense that he was a bargainer and he did the best he could.

Q Do you have any reason, based on Mr. Carver's contacts with General Westmoreland, to question whether General Westmoreland believed the figures that he and Mr. Carver agreed upon?
There was a paragraph that indicated that General Westmoreland did understand what was at stake. We can check the documents, if you need to. But, as I understood, General Westmoreland said he understood both sets of figures. When I read that he understood the 500,000 and the 300,000 and everything, and as long as they put some of them off in a footnote, he didn't care any more.

Q When you say he didn't care any more, what did you mean by that?

A It seems that General Westmoreland -- again, from this, it looks like General Westmoreland's prime concern was the total of enemy troop strength. One figure that he would give the press, he didn't want it high enough to cause the reporters to conclude that there were more Vietcong than General Westmoreland wanted them to conclude.

Q Did Mr. Carver appear to be satisfied with General Westmoreland's position on behalf of the CIA?

A Yes.

Q Is it your interpretation that General Westmoreland was concerned about a presentation that would have a military total of under 300,000, or was it
something --

A I believe Mr. Carver was satisfied.

Q Are you saying, Mr. Rushford, that you have an opinion, based on Mr. Carver's cables dealing with his direct relationship with General Westmoreland, as to whether General Westmoreland believed in the integrity of the figures that he and Mr. Carver agreed upon?

A Yes.

Q What is that?

A I believe that General Westmoreland -- I know how important this is and I don't want to get it wrong. May I think for just a second?

Q Certainly.

(Pause)

A It is hard for me to find the words I want, but I believe that General Westmoreland was satisfied with the agreement that was worked out as far as the NIE analyzed troop strength, and I think he recognized that there was a respected body of opinion in the CIA that wanted a different way of putting it. And, frankly, I don't think he cared and saw public-relations problems, and the CIA had its own way of the estimate, the NIE.

Q I am not sure the record is clear.
Actually, I am not sure what General Westmoreland really thought, myself. It looks to me he is acknowledging -- I don't know what he thought.

Q Is it your testimony, then, that based on these five cables, including Defendants' Exhibit 120, that the state of mind of General Westmoreland is just not clear?

A I would have to ask him more.

Q Are you saying that the cables, the five cables that we have been discussing, are consistent both with General Westmoreland wishing to hold to a military figure of 300,000 on the one hand and his acting in good faith --

MR. DORSEN: Let me withdraw the question.

Q I don't want to argue, Mr. Rushford. I am trying to ask you what it is you are unsure about, where you have doubt.

A It's like General Westmoreland is expressing a disregard for the real importance of the NIE process. Like he had a war to run. He had his own ideas of -- whatever they were -- of the important secret self-defense forces and all the other irregulars that the CIA had wanted to include in the so-called 500,000 ceiling, as opposed to the 300,000.
I do recall that after Tet, the DIA went right back up to the 500,000. So I am not attempting to analyze this in a very charitable way to General Westmoreland.

Q  Let me ask you this, now, Mr. Rushford. We can get to the question as to what happened after Tet some other time.

I am asking you, with the background and role you described, to view General Westmoreland's conduct at the time of the conference with Mr. Carver. Is the evidence consistent with General Westmoreland's acting in good faith?

A  I can answer that in two ways.

I haven't the faintest idea where the chips will fall in your lawsuit.

As far as good faith as a soldier, someone who had a war to fight, had a press to satisfy, I can see why General Westmoreland was acting in good faith.

As far as from the point of view of one who believes that you should have an independent intelligence agency and independent intelligence estimates, I would say General Westmoreland showed a contempt for the intelligence process.

So good faith is -- in one sense, I think he
had good faith. And I can see the reason for the strong feelings here, because the people -- like I grew to believe very deeply you must have independent intelligence estimated process. If George Carver and Sam Adams were wrong, get rid of them. But if they were right and 500,000 is tough as far as a press problem, they were doing their job. The pressure on them, and to make them come down to a ceiling that they could all live with, where the CIA, if it really wanted to mention the NIE in the press briefing, and to even have a PIO -- that is a public information officer, I believe, commonly called flacks -- to have them in intelligence sessions is the kind of thing that people would throw their hands up.

When the history of this is written, it won't be my judgment that is going to decide this, I would turn this over to some outside group. But from what I have seen, I bet I am not far off from what they will conclude.

There was an abuse of the intelligence process, it appears.

Q Was the abuse caused by General Westmoreland or cured by General Westmoreland?

A I am afraid it was caused by him.
Q In removing -- if in fact it occurred -- in removing constraints, if the people who participated thought there were constraints --
A I don't understand "constraints."
Q What I am asking is this: In the initial Defendants' Exhibit 120, Mr. Carver describes the events that he saw -- and I am paraphrasing -- as evidently a situation in which there were constraints imposed by General Westmoreland. Is that substantially accurate?
A Could you read that back? I am sorry. I didn't hear a thing.
Q Let me ask you again.
Without attempting to give a definitive description of Defendants' Exhibit 120, does that indicate that Mr. Carver thought or believed that General Westmoreland had imposed constraints on his subordinates based on conversations and contacts with General Westmoreland's subordinates?
A It appears to me he did.
Carver was referring to General Davidson, too, and a notice of coincidence that the figure would be under 300,000. He was doing the best he could to accommodate it. He was operating in a political
atmosphere, yes.

Q Is the next thing that happened, or one of the next things that happened, that pursuant to Director Helms' request, Mr. Carver met with General Westmoreland to see if constraints actually existed?

MR. MASTRO: Objection.

Is there a question there?

MR. DORSEN: Yes.

A Yes.

Q What did Mr. Carver say he learned, or what happened at that meeting with General Westmoreland?

A Maybe I better go back to the cable. But, as I recall, it seems that he had worked it out.

Q Did it say that he and General Westmoreland worked it out, or with General Westmoreland's concurrence, the CIA and MACV intelligence worked it out?

A Which document is it?

Q I am talking principally about Exhibit 120.

A "Circle now squared"?

Q That's right.

I direct your attention to paragraphs 4 and 5 and ask you to read those carefully and ask you whether that indicates that General Westmoreland said, in words and substance, there are no constraints and for
analysts to work out their best estimates.

A It begins: "General Westmoreland most cordial and receptive."

Q Yes.

A You say 5, too?

Q Yes.

I direct your attention to, among other things, during about "four hours of brisk discussion, we --" referring to a meeting and Carver and a deputy of Davidson -- "hammered out the following set of agreed figures, which General Westmoreland has already endorsed."

The question is: Can you tell, from reading that, whether the figures were ones that had been recommended to General Westmoreland by the analysts, which he endorsed, or figures which he dictated to his analysts?

A It looks to me like General Westmoreland had already endorsed a set of agreed figures, meaning, if you want to characterize them, dictated them to his intelligence people, I would agree with that.

Q What was being hammered out over four hours?

A Total spread, 224,000 to 249,000.
That's under that 300,000 ceiling.

Q Does that paragraph 5 indicate whether General Westmoreland endorsed the figures before or after the meeting with the deputy of General Davidson?

A It looks like General Westmoreland had endorsed the figures before, which General Westmoreland has already endorsed.

I made a note, when I read this to myself, that paragraph 4 means that it is an acknowledgment that the press problems were of paramount concern, more than the intelligence concerns.

Q In paragraph 5, wouldn't your reading require the language to be "which General Westmoreland had already endorsed"?

A No, I don't see the difference between "has" and "had."

Q I am suggesting -- and, again, the document will obviously speak for itself -- is that if General Westmoreland's endorsement came before the hammering-out, they would say "which General Westmoreland had already endorsed."

I am asking you whether, upon reflection, the word "has" in that sentence indicates that endorsement occurred after the figures were hammered
out but before the cable was sent.

I ask you to read the entire paragraph 5 again.

A You can read it both ways.

Q Is that something that you would want to ask the people before making up your mind?

A Yes.

Q Now, with respect to the press considerations, Mr. Rushford, were the numbers that were being agreed upon or discussed -- did they reflect an increase in the number of enemy or an increase in the number of enemy being presented in a report of the CIA, MACV and other intelligence agencies?

MR. MASTRO: I object as to the form.

Q Do you understand the question?

A I believe so.

I would have to check the previous national intelligence estimate to see the figures. But, as I recall, there is a lower figure.

Q Maybe my question is not clear.

I don't think there is any dispute. I am asking you that when the number of political cadre went from 339,000, which it had been for a long time, to 75,000, 85,000, did that represent the sudden influx...
of additional political cadre or did it represent an
improved counting system of adding up the number of
political cadre?

MR. MASTRO: Objection as to form.

A There have been so many charges back and forth.
In my own mind, I really don't know. I wouldn't know
one of the political cadre if he came into the room.

Q Were there any more political cadre?

Were there twice as many political cadre in October 1967
as there were in April 1967?

A I don't know.

Q Do you know whether the Order of Battle
Conference was -- what was the purpose of that
conference? Let me ask you that. What was the purpose
of the Order of Battle Conference in 1967?

A The purpose of the conference was to reach the
intelligence estimate of the Order of Battle, meaning
the troop strength of the enemy, meaning the initial
intelligence estimate.

Q For whom was that being prepared?

A The consumers of NIE would have been the policy-
making military and civilian officials, President
Johnson, the White House staff, Walt Rostow, General
Wheeler, General Westmoreland.
Q Were any of the participants in the conference misled about what was going on, to your knowledge?

Did the people who participated in the session in Saigon understand what was happening?

A Yes. They may argue among themselves to this day as to what their different understandings were.

Q Do you have any reason to believe that the people who participated in the conference did not convey to the policymakers to whom they reported what occurred at the conference?

A No.

MR. DORSEN: Off the record.

(Discussion off the record)

MR. DORSEN: We just had a brief off-the-record discussion, in which we agreed that we would conclude for the day since there are more areas that I would want to question the witness about.

(Continued on next page)
Rushford

As we previously discussed off the record, we will communicate with Mr. Rushford and agree upon a mutually convenient time to reconvene.

And, with that, we will adjourn for the day.

(Time noted: 2:50 P.M.)

Gregory G. Rushford

Subscribed and sworn to before me this day of 1983