MR. BURT: Can we go back on the record, please.

I will be happy to state that I would like the last question read back and the witness' last answer through the time you said -- just read it back.

THE REPORTER: "Questions: When Mr. Carver returned, can you recall the first time -- can you recall when you spoke to him--"

"Answer: No."

"Question: -- about --"

BY MR. BURT: (Resuming)

Q Mr. Smith, can you answer my question, please?

A If the question is, do I recall specifically when the first time was I spoke with Carver after his return from Saigon, the answer is no.

Q Or approximately.

A I don't imagine that more than a week would have gone by without us having some kind of commerce, but I really don't have any recollection of when the first time was that I saw George after he came back.

For all I know, one or both of us went on vacation, and therefore didn't see each other for two weeks.
Q Did you speak about the events of the conference with Mr. Adams when he came back?
A Not initially. I do recall that for some reason one of us did do something else. You may recall there wasn't an immediate reporting, but it wasn't more than a week or two.

Q Did Mr. Adams work for you at that time?
A Mr. Adams did not work for me at that time.

He didn't transfer. The bureaucratic transfer was not made, apparently, until after the first of the year, because I noted -- I was reminded recently that he wasn't working for me even at the time he and I and Gains Hawkins had a very long conversation, although I would have sworn he was, because I think the arrangements had already been made, but he wasn't on the OER payroll yet.

Q Can you recall --
A So I saw Adams daily at that time.

Q Can you recall who the first person -- who was the first person you spoke with about the events of the Saigon Conference when the people who attended it from CIA came back?
A No way of knowing who the first person was I spoke with.

Q When you spoke with Mr. Carver about the Saigon Conference in 1977, did he tell you whether he had discussed the MACV position with General Westmoreland?

A My recollection is that he didn't, but I wouldn't have been as attentive to that matter as some would because my whole mind-set was analysis and not that kind of thing. So I just don't -- I just can't say.

Q Would you return to your affidavit on page 22, sir?

And at this time I would like to introduce as an exhibit which we will mark after this session, with Mr. Mastro's permission, because it may be a joint exhibit -- otherwise, we will mark it as a Plaintiff's Exhibit. It's quite likely to become a joint exhibit, but we will have to wait and see -- which is the affidavit of Mr. Ronald L. Smith, beginning with the word -- the first sentence, "I have been an intelligence officer and analyst at the Central Intelligence Agency (CIA) for 25 years, and served as Chief of the South
Q. Is it likely that if Mr. Carver told you in 1967 that General Westmoreland conspired to arbitrarily reduce estimates of enemy strength for political reasons, you would have remembered that?

MR. MASTRO: Objection to the form. Objection to the question.

THE WITNESS: Not necessarily.

BY MR. BURT: (Resuming)

Q. Why not, sir?

A. Because I don't necessarily remember everything that happened in my life 15 years ago.

Q. Was this an important part of your life 15 years ago?

A. The most important part of my life 15 years ago with respect to work, which is what we're talking about, was pursuing an analysis that would unscramble the problems that we had in the order of battle. That was my primary task of work. It was a task that took my full attention. And we had a serious problem which we
I didn't fully understand the origin of that precise time at the end of '67. We didn't know how much of it was incompetence. I suspect that it was mostly incompetence.

At that particular time I'm not sure that I paid too much attention to this command part of it except -- because I was really trying to get at the inner workings of the analysis.

Q. Do you recall whether in 1967 after the Saigon Conference Mr. Carver told you in words or substance that General Westmoreland had resolved the dispute between MACV and CIA?

MR. MASTRO: Objection to form. Objection.

THE WITNESS: No. To answer your question, I don't recall that.

BY MR. BURT: (Resuming)

Q. Do you recall whether in 1967 after the Saigon Conference Mr. Carver told you that General Westmoreland had been helpful with respect to resolving the dispute between CIA and MACV?

MR. MASTRO: Objection. Objection to form.

THE WITNESS: No. Mr. Carver never told me
that -- I mean, I'm pretty certain that Mr. Carver never
told me that General Westmoreland had been helpful in
resolving a conflict or a difference in this regard.

By Mr. Burt: (Resuming)

Q Do you recall whether you ever saw a document
that said General Westmoreland had been helpful in
resolving the conflict?

Mr. Mastro: Objection. Objection to form.

The Witness: If such a document --

Ms. Smith: Off the record a moment.

(Discussion off the record.)

Ms. Smith: Do you recall the question?

The Witness: No.

Mr. Burt: Would you read the question back,
please?

The Reporter: "Question: Did you recall
whether you ever saw a document that said General
Westmoreland had been helpful in resolving the
conflict?"

Mr. Burt: Mr. Smith -- And read back the
answer until it was interrupted.

The Reporter: "If such a document--"
MR. BURT: Did the witness say something before that?
THE REPORTER: They were both talking at the same time.

BY MR. BURT: (Resuming)
Q Go ahead, Mr. Smith.

MR. MASTRO: I objected to the form of the question. I objected to the question.

BY MR. BURT: (Resuming)
Q Mr. Smith, please continue.

A If such a document existed, I might or might not have seen it.

Am I responsive to your question? I'm a little -- I got a little lost.

MR. BURT: Wait a minute. If you want to break and you want to advise your witness again, tell us you want to break, and we'll put it on the record.

MS. SMITH: Off the record.

MR. BURT: Let the record show that counsel for the witness again wants to confer with the witness, and after this, I would like your reason for wanting to confer with the witness, if you please. The question is
very simple.

MR. MASTRAC: Mr. Burt, there's no reason to raise your voice.

MR. BURT: I'm trying to examine this man, and between you and his counsel it is getting a little slow.

MR. MASTRAC: Mr. Smith has a right to consult with his counsel.

MR. BURT: Mr. Smith, do you want to consult with your counsel?

THE WITNESS: I want to hear your question again.

MR. BURT: Would you please read my question back for the witness?

BY MR. BURT: (Resuming)

Q Mr. Smith, I will rephrase the question. The question is: Do you recall whether you saw a document in 1967 after the Saigon meeting that said in words or substance that General Westmoreland had been helpful in resolving the dispute between MACV and the CIA?

MR. MASTRAC: Objection to form.

THE WITNESS: I don't recall whether or not I saw such a document. If such a document existed, which
it could have, I might or might not have seen it.

BY MR. BURT: (Resuming)

Q Do you recall any member of the delegation to the Saigon meeting telling you after that meeting in 1967 that General Westmoreland had been helpful in resolving the dispute between MACV and the CIA?

MR. MASTRO: Objection to form.

THE WITNESS: No member of that delegation, including George Carver, could have, from the point of view of the intellectual and analytical task of reconciling the MACV order of battle and the enemy strength issues as Washington analysts saw them -- it's a long sentence; I'll try to end it -- no analyst, including George Carver, could have thought General Westmoreland was helpful if being helpful meant Washington analysts agreeing with this absurd MACV order of battle.

Q Are you --

A Now, finishing the question, if in the process of performing his duties for the DCI and trying to patch things over -- kind of the political bureaucratic problem -- George Carver said something to anybody about
his colleagues, or wrote anything about General
Westmoreland being helpful as a matter of courtesy and
this sort of thing, I wouldn't doubt that; but I don't
recall any of that. That would be the motive.

Q You don't recall having seen any such document?
A I don't recall seeing it.

Q How would you know what the motive for Mr.
Carver's having written such a document would have been?

MR. MASTRO: Objection to form. Objection.

THE WITNESS: As I explained to you in answer
to an earlier question, I think it's quite clear that on
the merit of the arguments that George Carver did,
during the summer, during the fall, and while he was in
Saigon, vigorously object to the MACV order of battle.
It is, given the result and given the fact that he was
the DCI's representative, he couldn't have come to an
agreement on the NIE. This was very important. George
Carver as the DCI's representative and given the DCI's
responsibilities, could not have come to any agreement
with General Westmoreland without DCI's sanction because
this is a DCI matter.

Now, whether in the process of coming to an
agreement -- and I've already defined, made the fact
that it has to be a DCI decision clear -- in the process
of coming to that agreement, if he said some nice words
about the General, either verbally or on paper or in
cables for the record, that wouldn't surprise me. I do
not recall seeing them or hearing them, but that doesn't
mean they don't exist or that I didn't hear them or see
them at the time.

Is that responsive?

BY MR. BURT: (Resuming)

Q Yes, sir.

(Pause.)

Do you believe that in 1967 Mr. Carver caved
in to MACV at the Saigon Conference?

MR. FASTRO: Objection to form.

THE WITNESS: I believe that at the Saigon
Conference the leader of the CIA team, Mr. George
Carver, representing the DCI, agreed to the best deal he
could get from General Westmoreland on the instructions
of the DCI carrying as his representative --

Q Did any --

A -- and that that deal could not be
characterized objectively from an analyst's point of view as anything but a cave-in in the sense that when you take away any of the words, the bottom line is that the estimate is going to be the erroneous estimate that MACV was using and hardly reflect at all any of the Washington analysts' CIA objections.

Q And would you say that the position of the analysts that -- let me rephrase that.

Do you believe that the acceptance by Mr. Carver of the results of the Saigon Conference was analytically dishonest?

MR. MASTRO: Objection to form.

THE WITNESS: It's not possible to deal with the question because I've separated analytical -- the analytical plane from the bureaucratic plane. So Mr. Carver was not -- I've already said he was not being -- he was incapable of being analytically dishonest in this matter, in my view.

BY MR. BURT: (Resuming)

Q So that do you believe -- can you explain that for me, sir, what you mean by "he was incapable of being analytically dishonest?"
THE WITNESS: Well, I go back to an earlier question that I answered a few minutes ago in which I said that I think I understand very clearly how Mr. Carver felt about the -- from an intellectual point of view, about all the matters at hand: the base of evidence, the wide discrepancy between the picture of the enemy forces that was portrayed in the MACV order of battle, and that MACV was insisting be in the DCI's national intelligence estimate, which the DCI went along with only because up until that time the commander of the U.S. forces in Vietnam had the responsibility, the administrative responsibility for producing that kind of thing.

George Carver understood all of this thoroughly, in my judgment. There would have been no purpose of him misrepresenting his feelings, and to my certain knowledge he didn't, never did to my knowledge.

Then I responded to your question by saying that when George Carver went to Saigon, he went as the DCI's man. And in that capacity, he agreed to an estimate as more or less -- this erroneous estimate of
MACV's more or less dictated by them.

And I've explained that if he put some nice words like "a gentleman" around that in word -- verbally or on paper, that's fine. That would not constitute dishonesty. That's how I'm answering your question about George Carver and intellectual dishonesty.

Q Did anyone tell you in 1967 after the Saigon Conference that Mr. Helms had given written instructions to Mr. Carver to yield to the MACV position?

A I never heard of any written instructions on this matter.

Q Do you recall whether you ever saw a cable from the DCI instructing Mr. Carver to yield to the MACV position at the Saigon meeting?

A I can't say that I did or I can't say that I didn't, with regard to all the cables that would have gone back and forth between the DCI and his representative in Saigon at that time. I don't recall.

I was in a position as a result of my assignment that might have caused me to see all or none of them depending on who went to meetings and this kind of thing. It's just not possible for me to remember the
Did you discuss that Saigon meeting with Mr. Allen after that meeting took place in 1967?

A I would imagine -- and I think I've covered this already -- that I discussed aspects of the Saigon meeting, given its significance to all of us, with all of the people on George Carver's staff. It would be unlikely that I didn't.

Q And my recollection is -- but correct me if I'm wrong -- that you testified yesterday that you believed Mr. Allen had attended that Saigon meeting.

A I listed him as a person who might very well have attended. I am not exactly certain. Someone had to be home minding the store, which I indicated in my answer to a previous question, and George Allen may very well not have gone. After all, this was a quick trip. While they were gone, my attention was devoted to analysis and organizing my branch precisely. And I recall more vividly talking to Moore, Hyland and Adams, as well as Carver.

Now, beyond that, whether there were five or six people in the group, I don't remember.
Q Did Mr. Carver tell you in 1967 after the Saigon meeting whether he had discussed the disagreement over the SNIE 14.367 estimate between MACV and the CIA with Ambassador Comer?

A I wouldn't recall.

Q Do you recall who I'm referring to when I say Mr. Comer?

A Oh, yes. I know who you're referring to.

Q Can you tell me for the record what Mr. Comer's job was at the time of the Saigon meeting?

A I believe Bob Comer was the senior member of the mission. I think at the time he was CORD's chief, which included the Phoenix program and this sort of thing.

Q Do you know to whom Mr. Comer reported?

A On station I believe he was reporting to the Ambassador.

Q Do you know whether he reported to anyone else?

A I wouldn't have focused on the issue in great detail. If there was some arrangement whereby there was someone else on station to whom he reported or whether he had a link in that regard to some other official in
Washington I wouldn't necessarily be cognizant of, but I wouldn't doubt it.

Q  Do you believe, as you sit here now, that Mr. Carver told you all of the material events that took place at the Saigon meeting after he returned in 1967?

MR. MASTRO: Objection to form.

(Pause.)

THE WITNESS: I have no reason to doubt that -- there's another double negative. Let me start the question again.

There may very well be something of consequence that occurred in a week's visit to Saigon that I didn't get back from George Carver. For instance, if it's in fact true that he had a conversation with Comer, I don't recall him telling me about that.

BY MR. BURT: (Resuming)

Q  Have you ever visited Mr. Carver's residence?

A  No, I have not.

Q  Never?

A  I don't believe so.

Q  Did Mr. Carver have a rapid rise at the CIA?
MR. MASTRO: Objection. Objection to form.

BY MR. BURT: (Resuming)

Q Do you understand the question, sir? I can be more specific if you'd like.

A I would say if you put a statistical analysis on it that George Carver had a more rapid rise than the average senior officer in the agency at the time.

Q Do you have any judgment about Mr. Carver's analytical capabilities as a CIA employee?

MR. MASTRO: Objection to form.

THE WITNESS: No. I haven't made any comments on the -- I'd rather not comment on this. It doesn't seem germane. George Carver, for the record, from my view is a bright, capable person, and I enjoyed working with him.

BY MR. BURT: (Resuming)

Q You did enjoy working with him?

A Of course.

Q Did you have any experience with Mr. Carver being dishonest in any respect?

MR. MASTRO: Objection to form.

THE WITNESS: I don't recall having any
experience with any of my colleagues being dishonest.

BY MR. BURT: (Resuming)

Q. Do you have a high regard for Mr. Carver?

MR. MASTRO: Objection to form.

THE WITNESS: I have a high regard for all of my colleagues of that period.

BY MR. BURT: (Resuming)

Q. And that includes Mr. Carver, sir?

A. I have a high regard for all of my colleagues of that period, and I see no reason not to include Mr. Carver in that long list of people.

Q. Did the DCI in the fall of 1967 have the authority to publish SNIE 14.367 without accepting the MACV figures and instead accepting the CIA figures?

MR. MASTRO: I'm sorry. There was someone who entered the room, and I didn't catch the question.

Would you please repeat the question?

MR. BURT: I'll repeat the question.

BY MR. BURT: (Resuming)

Q. Did the DCI have the authority as head of the Board of National Intelligence or National Intelligence Estimates Board to publish enemy strength estimates in
SNIE 14.367 using the CIA's position on the numbers rather than MACV's?

MR. MASTRO: Objection to form.

BY MR. BURT: (Resuming)

Q Mr. Smith?

A It is my understanding that the DCI has the authority to cause anything he wishes to be put into an estimate. It is incumbent upon him by practice to put these in in such a manner that any dissenting or alternative views that are of consequence to reasonable people be expressed as well.

Q Do you know whether the DCI believed in the fall of 1967 that the CIA's position on what should be in the SNIE 14.367 with respect to enemy strength in Vietnam was analytically superior to the MACV position?

MR. MASTRO: Objection to form.

THE WITNESS: I can only provide you with my strong working assumption on that matter.

BY MR. BURT: (Resuming)

Q Please give me that, sir.

A Would you like to hear it?

Q (Nods in the affirmative.)
A My strong working assumption is that inasmuch as until that moment throughout the history of the conflict in Southeast Asia order of battle and manpower estimates on the conflict were provided to the community by the Military Assistance Command, the DCI was reluctant to change that practice. It's orderly.

He was hearing late in a long period of U.S. involvement in Southeast Asia during -- probably for the first time during the summer of 1967, that trusted staff members had serious reservations about MACV's estimates.

Since this is such an important issue, I am sure he was seized with it. And as I have explained to you, I know from firsthand knowledge, having been present at some briefings and hearing about others, that he took time to find out about it, trying to sort this out.

At the same time, he was aware -- he had to have been aware that MACV had hundreds of people involved in this matter that it was their responsibility. I think that he could have a great deal of faith in his own analysts and still be in a quandary.
as to why the problem was arising.

You will recall, and I've characterized it before, that the deception part of this thing doesn't become clear until well after the Saigon Conference. We're in a dilemma during the summer of '67 because there's been a revolution in the manpower analysis amongst -- by MACV analysts. It's causing MACV to fail to be able to take cognizance of much higher numbers that are based on documentation that's coming through the MACV system. People in Washington are in a quandary as to why this is going on. I was in a quandary watching the process. My more senior colleagues on that subject at the time were in an equal quandary.

So while I think, to answer your question in a very pointed way, I think the DCI had sufficient regard for the analysts in the agency who were making -- questioning seriously the MACV estimates, he felt as though he needed to do two things -- again, in my view. One, he needed to make sure that the marshalling of analysis was impeccable, because this was a major -- this would be a major departure for him to assert his right to produce these estimates, which he
eventually did.

And the second point, very important point, he would have to, within the wide scope of the Washington community, have to assert that he was taking this responsibility from a senior military commander while a war is going on.

So it is in that context that I say yes, the DCI probably had a lot of faith in what his senior staff were telling him.

Q But nevertheless, he published the position that was not the position that his analysts had put forward to him with respect to the enemy strength totals to be put into the SNIE.

A He published -- I would rather put it, since you did not ask me a question -- why don't we make a question out of that?

Q That was my question.

A That was your question. Nevertheless, he did something?

Q Yes.

A And I am supposed to say he didn't.

MR. MASTRO: Objection to the form.
BY MR. BURT: (Resuming)

Q If you can answer the question, Mr. Smith.

A What I believe the DCI did is published the most realistic estimate that the person who was charged with the responsibility -- that is, the commander in Vietnam -- would give him, however inadequate this was. And I believe he found it totally inadequate to the task. It did not represent what his staff was telling him.

Since the COM U.S. MACV had the responsibility for producing it, the DCI produced the best he could get from it -- a not unreasonable position to take since this is a major command with a major effort at collection and analysis on this subject, however wanting he may have come, the DCI may have come to believe it was.

Q Did you believe in 1967 that the DCI believed the SNIE 14.367 was an important document?

MR. MASTRO: Objection to form.

THE WITNESS: I believed in 1967, and I believe now, that the DCI felt, as DCI felt a very heavy responsibility for the production of adequate and one
would hope, even superior intelligence on the conflict in Southeast Asia. The estimate, the annual estimate on the 14.3 estimate, is one of several very important documents being produced. His goal would be to make it a good document. He does, however, have other vehicles for getting to senior policymakers.

I have no problem in the fact that he was willing to take the best he could get as a part of a total tactical picture of improving the situation, providing the kind of leadership that he should be providing, of saying it has been their responsibility; we will do the best we can. All of us do this in our daily lives. It is the best we can get.

As I have already explained, even before -- even before that agreement was made, the DCI had, by commitment of resources, indicated clearly that he was going to dig deeply into this subject and challenge the estimates because they were so outrageous. I do not recall -- I do not recall right offhand any other subject in which the DCI has done this. It doesn't mean there aren't some, but it is a serious thing to do.
BY MR. BURT: (Resuming)

Q    And did there come a time in 1968 when the CIA published its order of battle separate from the MACV order of battle?

A    We began, as we built up our analytical capability, we began almost immediately reviewing critically, even more critically the things we were getting from MACV. I don't recall the specific events or memoranda, but there would be -- there would be cause to deal with the strength estimate in various interagency fora, memoranda for senior members of the administration, this sort of thing, on a regular basis.

And I felt very pleased that the DCI: a) caused resources to be put in the direction of working on this; and secondly, allowed us -- I shouldn't say allowed, but DCI was not an inhibitor in this process at all, and I regarded him as a facilitator to the improvement of the previously grossly inadequate intelligence picture that we were dealing with.

MR. BURT: It is 12:00. I would like to ask two more quick questions. Then I will cease.

BY MR. BURT: (Resuming)
Q Am I correct in stating that the DCI began directing resources to the area of enemy strength estimates in Vietnam of some magnitude in the fall of 1967 at least, if not earlier?

A That's a fair characterization of timing.

Q And is it your testimony that the DCI distributed or caused to be distributed the papers and estimates that you were just referring to that the CIA began producing on this issue?

MR. MASTRO: Objection to form.

BY MR. BURT: (Resuming)

MR. MASTRO: There's no time frame at all on that question.

MR. BURT: In 1967.

MR. MASTRO: In 1967?

MR. BURT: Late 1967.

MR. MASTRO: Late 1967 is the time frame on the question.

BY MR. BURT:

Q Mr. Smith?

A That's a little precise. My recollection was
that in addition to being -- receiving orders through my
chain of command to go get the job done, from the
beginning, commentary on -- commentary on MACV issuances
were solicited and sent to the DCI, I do not recall
personally of using -- of anybody telling me, enjoining
me to use MACV erroneous strength estimates or
surrounding kind of capabilities estimates in any way,
since you're specifying the time, after the fall of '67.

BY MR. BURT: (Resuming)

Q Do you know --
A That doesn't mean there isn't a CIA paper
somewhere that has some MACV numbers in it...

MR. MASTRO: That was two questions, and I

have a plane to catch.

MR. BURT: You'll make your plane. Let me ask

him one more.

BY MR. BURT: (Resuming)

Q Do you know whether the DCI informed people
outside CIA in 1967 of the things his analysts were
telling him with respect to the MACV numbers?

MR. MASTRO: Objection to form.

BY MR. BURT: (Resuming)
Q Mr. Smith?

A I know in that regard that in early '68 he made arrangements, personally made arrangements with -- for myself and Paul Walsh to visit General Carroll, the then director of the Defense Intelligence Agency, for a long, all-Saturday morning, one-on-one analytical session, for me to explain to General Carroll all of the generic kinds of faults we had found with the MACV order of battle strength estimate issues.

So I used that as a representative case of his interest in an orderly assertion of his responsibilities in the Washington community.

MR. BURT: Okay. Now --

MR. MASTRO: We have had one more question.

Are we done now?

MR. BURT: Yes, Mr. Mastro.

Now while we are on the record, we would like to arrange for Mr. Smith's deposition to continue at the earliest possible time. It may be easier for all parties to carry on and get it out.

Would you, Ms. Smith, undertake to get back to us and tell us, as Mr. Smith's counsel, when you are
prepared to recommence this deposition?

MS. SMITH: If someone will give me some
information on how you can be contacted, I will be glad
to consult my schedule and talk to you.

MR. BURT: You don't have our telephone number?

MS. SMITH: No, I don't.

MR. BURT: We'll give you our telephone number.

MS. SMITH: Okay.

MR. BURT: Thank you very much, Mr. Smith.

(whereupon, at 12:07 p.m., the taking of the
instant deposition was recessed to reconvene at a later
date.)

SIGNATURE OF THE WITNESS

SUBSCRIBED AND SWORN to before me this ________ day
of ________________________, 19_____.

-----------------------
NOTARY PUBLIC

My Commission expires________________________.
CERTIFICATE OF NOTARY PUBLIC

I, [Name], the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand to the best of my ability and thereafter reduced to typewriting under my direction, that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

[Signature]

Notary Public in and for the District of Columbia

My Commission expires

My Commission Expires November 14, 1996