

## AFTERNOON SESSION

2:15 p.m.

(In open court; jury not present)

MR. BURT: Your Honor, may I make one point?

THE COURT: Yes, sir.

MR. BURT: We object to leaving that in front of the jury because you can't flip the page and see the rest of what's on that document.

THE COURT: Well, as long as Mr. Boies is examining about that document he can leave it there. When he moves to another subject I agree with you it ought to be removed.

MR. BURT: Thank you, your Honor.

MR. BOIES: Your Honor, we would offer the following exhibits, I think without objection: Exhibit 239 A, which is a document to which designations have been added of various CIA departments that had been blocked out of the original cable by the government --

THE COURT: If there is no objection I don't really have to hear about it.

MR. BURT: No objection to 239 A.

MR. BOIES: The others are 239 B, which is a retyped version of that --

THE COURT: Any objection to B?

MR. BURT: No, your Honor.

1 MR. BOIES: 220 C.

2 MR. BURT: No objection, your Honor.

3 MR. BOIES: 245 B.

4 MR. BURT: No objection, your Honor.

5 THE COURT: That's it?

6 MR. BURT: And 258 D, your Honor, which I have  
7 no objection to, your Honor.

8 (Exhibits 239 A, 239 B, 220 C, 245 B and 258 D  
9 for identification were received in evidence)

10 THE COURT: Somebody fetching the witness?  
11 GEORGE CARVER resumed.

12 THE COURT: Call the jury, please.

13 (Jury present)

14 THE COURT: Members of the jury, since we are  
15 going to be together and have been for a long time and will  
16 be together for a long time occasionally I will divert my  
17 attention from the straight business.

18 The clerk has called to my attention it is  
19 appropriate to wish a happy birthday to Juror No. 8, Myron  
20 Gold.

21 Now back to business. A word about the business.

22 Mr. Carver, this is cross-examination. There is  
23 a temptation from time to time for a witness being  
24 cross-examined to believe that he is engaged in a debate  
25 and to act as if he is a debater in a debate. That is not

1 the appropriate manner to submit to cross-examination.

2 The duty of the witness on the stand during  
3 cross-examination is to answer the questions that are put  
4 to him. The witness may answer fully and in his own words,  
5 but if the witness believes that after the question is  
6 answered it would be appropriate to make some remarks in  
7 the nature of rebuttal, those remarks are not appropriately  
8 made in the course of cross-examination.

9 That particular piece of information may be  
10 brought out after cross-examination by the opposing lawyer  
11 asking questions on redirect examination, but during  
12 cross-examination, indeed, at all times when you're a  
13 witness, you should simply answer the question that is put  
14 to you and not be debating.

15 THE WITNESS: Yes, your Honor.

16 THE COURT: All right, Mr. Boies. You may  
17 proceed.

18 MR. BOIES: Thank you, your Honor.

19 CROSS-EXAMINATION CONTINUED

20 BY MR. BOIES:

21 Q. Mr. Carver, I think in discussing Exhibit 226 A,  
22 which was the January 11, 1967 memorandum which you signed,  
23 you indicated that this was, as I think you described it,  
24 an internal memorandum, is that correct?

25 A. Yes, it is.

1 Q. And that means, does it not, that this was a  
2 memorandum that you within the CIA sent to somebody else  
3 within the CIA?

4 A. That's correct.

5 Q. Did there come a time in which you or, to your  
6 knowledge, someone else of the CIA expressed the view  
7 externally that the MACV order of battle was too low and  
8 should be raised?

9 A. Not in those words, that I could recall, no.

10 Q. In substance, sir?

11 A. In substance, in the sense that during the whole  
12 NIE debate there was a discussion about the figures that  
13 should be used, and frequently those in the civilian  
14 community, including the agency, felt in certain categories  
15 higher figures should be used than were then being used by  
16 MACV. But in the sense of your question, I do not recall  
17 any external statement to that effect.

18 THE COURT: Just a second. Did you ask Mr.  
19 Carver whether he made a statement outside the CIA or  
20 whether he or anybody else at the CIA had made such a  
21 statement?

22 MR. BOIES: I think I may have asked a compound  
23 question that included both, your Honor.

24 THE COURT: Did you understand that the question  
25 asked whether you or, to your knowledge, anybody at CIA had

1 made a written statement --

2 MR. BOIES: Yes, your Honor, I would restrict it  
3 to a written statement.

4 A. Not to the best of my recollection, Mr. Boies.  
5 You're talking about me or you're talking about -- did I  
6 ever make such a written statement, is that your question?

7 THE COURT: Why don't you answer that one first.

8 Q. Let me begin with that. Did you?

9 A. Not that I can recall.

10 Q. To your knowledge, did anyone else at the CIA?

11 A. Not that I can recall.

12 Q. Subsequent to January 11, 1967 there was a  
13 dispute over order of battle statistics, was there not, sir?

14 A. There was. The dispute had already begun by  
15 January 1967.

16 Q. And continued after January 1967, correct, sir?

17 A. It did.

18 Q. And did there come a time when you personally  
19 made a proposal in an attempt to resolve the dispute over  
20 order of battle statistics?

21 A. There did.

22 Q. And when was that, sir?

23 A. One such proposal was made on the 9th of July,  
24 when I was in Saigon.

25 Q. Let me turn to that, if I can, sir. I think

1 that has already been offered and received.

2 A. Could I have a copy?

3 Q. Yes.

4 THE COURT: What's the number, please?

5 MR. BOIES: 245 B, your Honor.

6 Q. Is Exhibit 245 B a copy of a cable that you sent  
7 on July 10, 1967, sir?

8 A. I believe so. I have not checked it line by  
9 line, but it looks fine to me.

10 Q. And does this cable set forth a proposal that  
11 you made on July 9, 1967 in an attempt to resolve the order  
12 of battle statistics problem?

13 A. It does.

14 Q. And at that time you proposed that the  
15 presentation of the order of battle be divided into two  
16 major categories, military and nonmilitary, correct, sir?

17 A. That is correct.

18 Q. And for the military category you proposed a  
19 military force total in the 291,000 range, correct, sir?

20 A. That is correct.

21 Q. Now, the categories that you grouped in what you  
22 call the military category of the order of battle were the  
23 categories of the main and local forces, the administrative  
24 support forces and the guerrilla forces, correct, sir?

25 A. That is correct.

1 Q. And estimates for those forces were given in  
2 SNIE 14.3-67, correct, sir?

3 A. They were.

4 Q. You estimated those forces at 291,000, correct,  
5 sir, in this July 10 cable?

6 A. Yes, in a fairly tentative way, because things  
7 were under active discussion at that time. But that was  
8 the figure that I used on the 9th of July, yes.

9 Q. It doesn't say in here that this is estimated in  
10 a fairly tentative way, does it, sir?

11 A. It says "I offer the following proposal," and  
12 then there was some discussion of the proposal.

13 Q. And that proposal prior to the time that you had  
14 offered it had been a proposal that you had discussed with  
15 Mr. Allen and, to your testimony, Mr. Adams?

16 A. That's correct.

17 Q. And you discussed it prior to the time that you  
18 went to this meeting on July 9, correct, sir?

19 A. That is correct.

20 Q. And you had satisfied yourself that that was a  
21 reasonable proposal, had you not, sir?

22 A. It seemed very reasonable to me at the time, yes.

23 Q. Now, do you still have SNIE 14.3-67 in front of  
24 you, sir? Mr. Burt showed it to you and distributed copies  
25 to the jury this morning.



1 Q. Let me ask, sir, if I could, if there is a total  
2 for these categories, go to that total in the SNIE. That  
3 is, what I am looking for is a number for the total of  
4 these three categories that you called in your July 10 memo  
5 the military category.

6 You provided a total estimate of 291,000 in your  
7 July 10 cable. What I would like to know is whether there  
8 is a total given in SNIE 14.3-67 for these same categories.

9 A. There is in paragraph 37, in a sentence which  
10 reads "The VC/NVA, Vietcong and North Vietnamese Army,  
11 military force, main and local forces, administrative  
12 service elements and guerrillas, can be meaningfully  
13 presented in numerical totals and, as indicated above,"  
14 referring to the discussion in the preceding paragraphs,  
15 "we estimate that this military force is now at least 223  
16 to 248,000."

17 Q. 223,000 to what, sir?

18 A. 223 to 248,000.

19 Q. At the time that you wrote your July 10, 1967  
20 cable what was the MACV order of battle estimate, if you

21 know --

22 A. I don't remember.

23 Q. Let me finish the question. You may still not  
24 know.

25 A. I am sorry.

1 Q. -- for these three categories?

2 A. I simply don't recall.

3 Q. Do you recall approximately?

4 A. No, I really don't. I think the regular force  
5 was approximately the same, I think the administrative  
6 support figure was lower -- I believe it was -- and the  
7 guerrilla strength was lower, but to the best of my  
8 recollection, in July they were still using an irregular  
9 number which encompassed both the guerrillas and someone  
10 else -- I don't think that at that point they had been  
11 split -- and this number was for guerrillas alone.

12 Q. Is it your testimony that as you sit here now  
13 you don't know what the MACV order of battle estimate was  
14 in July of 1967 for the categories of enemy strength which  
15 you classified as the military categories?

16 A. I do not remember precisely what numbers MACV  
17 was then using.

18 Q. Do you remember approximately?

19 A. Not really, except for what I have just said.

20 Q. Now, you have indicated that the SNIE estimate  
21 for these categories was at least 223,000 to 248,000  
22 compared to the estimate that you had in July of 291,000.

23 A. Yes.

24 Q. Now, when you made this proposal in July this  
25 was, as you have described it, an external proposal in the

1 sense that it went outside the CIA. Was it also an  
2 institutional proposal, as you have used that term before?

3 A. Not really. I was in a sense empowered to speak  
4 for the agency. I was having an essentially informal  
5 working discussion and I threw out these ideas, which were  
6 not just personal ideas, they reflected the then current  
7 views of my colleagues in Washington, and in that sense it  
8 was institutional. But this was not an up or down, take it  
9 or leave it, formal institutional proposal. I was trying  
10 to reflect our current thinking in Washington as to how we  
11 should go about addressing a common problem.

12 Q. Did there come a time when this proposal that  
13 you made in July of 1967 became an institutional proposal  
14 of the CIA?

15 A. Not exactly. There were subsequently, in  
16 subsequent drafts of the NIE, very similar though slightly  
17 modified proposals which were institutional.

18 Q. Let me be sure I understand what is meant by an  
19 institutional proposal, which is a word I have been using  
20 in my questions because you used it in your answers to Mr.  
21 Burt.

22 By an institutional proposal do you mean a  
23 proposal by the CIA as an institution, by people empowered  
24 to speak for it as an institution?

25 A. I mean a formal proposal from the CIA as an

1 institution that had been properly internally coordinated  
2 and agreed, yes.

3 Q. And at the time that you went to the Saigon  
4 conference in September of 1967 was the CIA's institutional  
5 proposal a proposal that showed a total military category  
6 of strength of about 291,000?

7 A. To the best of my recollection, yes, though I do  
8 not believe there had been formal internal agreement of  
9 splitting into a military and nonmilitary section. This  
10 was an idea that had developed from my staff that other  
11 colleagues were receptive to, but I don't think that there  
12 had been a formal internal agreement that this was in  
13 ironclad terms the way we should go.

14 Q. You were shown an Exhibit 220, which is a copy  
15 of a cable dated August 29, 1967. I would like to show you  
16 a retyped version of that, which is 220 C.

17 A. Yes.

18 Q. I believe that you have testified that this did  
19 represent the CIA's institutional view, correct, sir?

20 A. As of 29 August, definitely.

21 Q. I will look over Mr. Burt's shoulder, since you  
22 have my copy. If you will turn to page 3, paragraph 5 --  
23 and I think this is a paragraph that Mr. Burt read to you  
24 during direct examination -- the next to last sentence says  
25 "Our position essentially that outlined to Peterson by

1 Carver during conversation with General Davidson in Saigon  
2 at time of McNamara visit." Do you see that?

3 A. I do.

4 Q. And would that be the July 9 proposal that we  
5 have been talking about?

6 A. In essence, yes. But the preceding sentence is  
7 also important, because the preceding sentence takes a  
8 harder position than I took on the 9th of July with respect  
9 to the irregulars.

10 The preceding sentence -- if you want, I can  
11 read it.

12 Q. If you wish the preceding sentence, "CIA does  
13 believe estimate should reflect irregular militia, who much  
14 more than coolies and constitute principal source of Chieu  
15 Hoi ralliers, but does not repeat not advocate their  
16 inclusion in full-time military force strength figure."

17 You had put the self-defense militia in the  
18 nonmilitary category, had you not, sir?

19 A. I had, yes. But --

20 Q. And you had had in the military category the  
21 main and local forces, the administrative support forces  
22 and the guerrilla forces, correct, sir?

23 A. That is correct.

24 Q. And it had been your position in July and it was  
25 the position of the CIA on August 29 of 1967 that all of

1 these forces should be estimated, correct, sir?

2 A. Excuse me. I don't understand your question.

3 Q. Well, there are a number of categories of the  
4 enemy that are listed here, the main and local forces, the  
5 administrative support forces, the guerrilla forces, and  
6 then down in this category the political cadre, the  
7 self-defense militia, and in July of 1967 you were  
8 proposing that there be an estimate for each of those  
9 categories, correct, sir?

10 A. That is correct.

11 Q. And in August of 1967, indeed, on August 29 of  
12 1967, it was the CIA's institutional view that the estimate  
13 should include estimates for each of these forces, correct?

14 A. Not necessarily. The sentence says that the "CIA  
15 does believe estimate should reflect irregular militia."  
16 Whether this was to be done by numbers or not was a subject  
17 that had not been finally decided by that point.

18 Q. The very next sentence says "Our position  
19 essentially that outlined to Peterson by Carver during  
20 conversation with General Davidson in Saigon at time of  
21 McNamara visit," and that's this conversation, correct, sir?

22 A. If you will read a little further in the cable --

23 Q. First if I could just make sure that we are  
24 talking about the same proposal.

25 A. We are talking about the same proposal.

1 Q. Okay. Go to the next part of the cable.

2 A. -- which was then discussed, Colonel Hawkins  
3 made a suggestion in discussing all of these figures in  
4 paragraph 2 of the cable. Colonel Hawkins concurred in the  
5 116,000, said MACV was reviewing administrative support,  
6 might come out a little lower, on nonmilitary, 80,000  
7 political cadre as a good estimate, but Hawkins reserved on  
8 self-defense figure, saying evidence very inconclusive, and  
9 I added the parenthetical "which true," and perhaps verbal  
10 statement on this category might be preferable to number.

11 That was an idea that was tabled and no decision  
12 was made on it at that particular moment. But that came up  
13 during the course of the very discussion that you are  
14 talking about.

15 Q. Are you suggesting, sir, that when you went to  
16 Saigon in September of 1967 that it was not the CIA's  
17 institutional position that the self-defense forces should  
18 be quantified?

19 A. The CIA institutionally used what all people in  
20 the CIA knew was a very soft number for the self-defense  
21 forces. At that point we did use a number, but the number  
22 was not anything like the degree of solidity of the number  
23 for say the main and local forces, and we specifically did  
24 advocate splitting it away from the military force total.  
25 The question of whether or not it was better to describe

1 this self-defense force by a soft number or by a prose  
2 description was a question that was still open in July of  
3 1967.

4 Q. July of 1967?

5 A. Yes.

6 Q. Perhaps you misunderstood my question or perhaps  
7 my question wasn't clear. When you went to the September  
8 Saigon conference, at that time it was the CIA's  
9 institutional position, supported by you, sir, personally,  
10 that the self-defense forces should be quantified, that is,  
11 a number should be estimated for the self-defense forces,  
12 correct?

13 A. Not quite. I think I am a little better  
14 interpreter of what I felt at the time than other people  
15 might be.

16 At that point we had a set of figures which  
17 included a 125,000 figure for the self-defense and secret  
18 self-defense. That figure had been around for quite a  
19 while. That was a level of force structure on which when I  
20 left in September I had not personally focused very hard,  
21 and during our Saigon discussions, when that became a major  
22 issue, the more I thought about the suggestion Colonel  
23 Hawkins had made the preceding July the more merit it  
24 seemed to me to have.

25 But I did not go out to Saigon with a firm and

1 rigid position, nor did the CIA have an absolutely up or  
2 down, take it or leave it position. This is one reason why  
3 I was sent out to discuss the matter with MACV and see if  
4 we could reach common ground and common agreement.

5 Q. Let me see if I can approach it this way. We  
6 are talking about two different issues, and I may have  
7 inadvertently confused them, but let's be sure we have them  
8 straight.

9 A. Right.

10 Q. One is the issue of what categories of the enemy  
11 should be quantified, that is, for what categories of the  
12 enemy should there be a numerical estimate.

13 A. The issue never came up, Mr. Boies, in those  
14 terms.

15 Q. The issue never came up as to whether or not  
16 certain categories of the enemy should or should not be  
17 quantified, is that your testimony?

18 A. When we had the July discussion, until Colonel  
19 Hawkins made his remark, the particular issue of whether --  
20 what components of the force structure should be handled  
21 via numbers, even admittedly soft numbers, or ranges or  
22 prose had not arisen.

23 Q. Did there ever come a time insofar as your  
24 recollection has it that there came to be a debate over  
25 whether or not particular categories of the enemy should or

1 should not be quantified?

2 A. It came up very sharply in September.

3 Q. In September?

4 A. Yes.

5 Q. That's what I am trying to focus on. There came  
6 a time in September -- and let's stick with September if we  
7 have agreement on September -- when there were at least two  
8 kinds of issues: one, what categories of the enemy should  
9 be quantified, and two, with respect to those categories of  
10 the enemy that were going to be quantified, what should  
11 that quantification be or what should the number estimated  
12 be, correct?

13 A. Not quite. Almost. It was a little more  
14 complicated than that, because on the components of the  
15 force structure that were quantified. For some, for  
16 example, the main and local forces, there was agreement on  
17 a single number, for others there was a feeling that any  
18 single number would be misleading and ranges ought to be  
19 used, and I think that you will find the SNIE did use  
20 ranges on at least the administrative services and the  
21 guerrillas and I think also the political cadre.

22 And there was a great deal of argument, Mr.  
23 Boies, about what a range meant. I can only speak for  
24 myself. I can't speak for anyone else. To me a range  
25 meant precisely that, that the number was somewhere in that

1 range. It did not mean that the midpoint of that range was  
2 the number.

3 Am I making myself clear?

4 Q. I will restrict myself to asking questions.

5 In September of 1967, at the Saigon conference,  
6 one of the things that was being discussed and debated was  
7 what numbers should be estimated for various categories,  
8 correct?

9 A. That is correct.

10 Q. And a second thing that was being discussed and  
11 debated was whether or not any number should be estimated  
12 for certain categories, like the self-defense forces?

13 A. That is also correct.

14 Q. At the time that the September conference began  
15 was it the CIA's view that the number that should be  
16 estimated for what you have called here the military  
17 categories, the main and local forces, the guerrilla forces  
18 and administrative support forces, should have been about  
19 291,000?

20 A. In September I don't believe that was accurate.  
21 I have a table here that gives the numbers used in the  
22 August 28 draft of the SNIE, which is what we took, and if  
23 you will allow me to glance at it I can give you a more  
24 accurate answer.

25 Q. I will if I have exhausted your recollection

1 without the document.

2 THE WITNESS: Excuse me, your Honor. Can I be  
3 excused for just one second?

4 THE COURT: Yes. We will take a brief recess in  
5 place.

6 The jury may talk quietly among yourselves, if  
7 you wish. You may also stand up.

8 (Pause)

9 BY MR. BOIES:

10 Q. Let me ask you to look at Exhibit 254, Mr.  
11 Carver.

12 MR. BOIES: I believe 254 has been admitted, but  
13 if not I would offer it.

14 THE COURT: 254 is in evidence.

15 MR. BOIES: May I look over the witness'  
16 shoulder? That's our only copy.

17 THE COURT: Sure.

18 Q. Mr. Carver, this is a cable that has already  
19 been admitted into evidence from General Godding to General  
20 Davidson on August 24, 1967, and it purports to list  
21 estimates for various categories of the enemy that are  
22 included in what is referred to in this cable as the latest  
23 draft of NIE 14.3-67. Do you see that?

24 A. I do.

25 Q. And do you have any reason to believe that those

1 numbers are accurate or inaccurate, either way?

2 A. Well, they are doubtless accurate for the draft  
3 to which General Godding is referring, but that is not the  
4 draft that we took with us to Saigon, because we took a 28  
5 August draft that was issued four days later, and I would  
6 have to compare to see if there were any variations in the  
7 numbers.

8 Q. Do you know whether there were any changes in  
9 the numbers between the August 28 draft and the earlier  
10 August draft?

11 A. I believe there were. I have a table from a  
12 document that's already been introduced which gives the  
13 numbers in the 28 August draft, and if you will permit or  
14 would like, I can pull it out and check it right now.

15 Q. Let's go to that document. I would first like  
16 to ask you to find the document, so I know what you're  
17 talking about.

18 A. It's this, and there is a spread sheet.

19 THE COURT: What is the document number, please,  
20 the exhibit number?

21 MR. BURT: 261, your Honor.

22 THE WITNESS: 261, your Honor. I believe it was  
23 introduced. Correct me if I am wrong.

24 THE COURT: Mr. Carver, don't talk privately to  
25 Mr. Boies. Everything you say is in the nature of

1 testimony. Speak out to the jury.

2 THE WITNESS: Certainly.

3 Q. Let me just ask a couple of questions about  
4 Exhibit 261.

5 A. Certainly.

6 Q. The page that you are talking about is the third  
7 page of the document, which is a spread sheet, correct, sir?

8 A. That is correct.

9 Q. And that spread sheet was something that you  
10 prepared sometime in September, correct, sir?

11 A. It was prepared on or about the 12th of  
12 September, yes.

13 Q. And there is a column there that is headed NIE  
14 14.3, and then says August 28 draft, correct, sir?

15 A. It says 28 August draft, technically. But  
16 that's correct, yes.

17 Q. And 28 August is the way that you write August  
18 28?

19 A. Yes.

20 THE COURT: One of the ways.

21 MR. BOIES: One of the ways. I meant the way he  
22 wrote it, he personally.

23 Q. Now, that column does not include all of the  
24 categories that were estimated in the August 28 draft of  
25 NIE 14.3-67, does it, sir?

1 A. I am not sure I understand your question.

2 Q. Well, let me make it perhaps a little more  
3 pointed. There is no estimate for the self-defense forces  
4 included in your column here, is there, sir?

5 A. There is not in this column, no.

6 Q. Indeed, nowhere on this page is there a column  
7 or list for an estimate for the self-defense forces,  
8 correct, sir?

9 A. That is correct.

10 Q. But there was an estimate for the self-defense  
11 forces contained in the August 28 draft, was there not, sir?

12 A. To the best of my recollection, yes. I am not  
13 sure whether it was self-defense forces by themselves, one  
14 number, or self-defense forces and secret self-defense --  
15 in other words, I don't remember if there were two separate  
16 numbers or if there was one aggregate number.

17 Q. In the earlier August draft there was a separate  
18 number for self-defense forces and a number for secret  
19 self-defense forces, is that correct?

20 A. Yes, 100,000 for the former, self-defense, and  
21 20,000 for the latter, secret self-defense.

22 Q. And while you are unsure of whether the August  
23 28 draft included a single number for both self-defense and  
24 secret self-defense or separate numbers for each of those  
25 two categories, it is clear, is it not, that there was an

1 estimate for the self-defense forces in the August 28 draft?

2 A. There was a numerical figure, an estimate  
3 expressed in numerical terms, yes. There were numbers for  
4 both of those, as I recall, in the 28 August draft.

5 Q. But in your listing for the August 28 draft in  
6 that spread sheet you didn't list that number, correct, sir?

7 A. I did not, no.

8 Q. Could you just quickly compare the numbers that  
9 you did list on your spread sheet that you prepared in  
10 September for the August 28 draft with the numbers that are  
11 contained in General Godding's cable to General Davidson  
12 dated August 24 and tell me whether there are any  
13 differences for the numbers or for the categories for which  
14 numbers are given in both documents?

15 A. There are no differences in numbers of General  
16 Godding's 24 August cable. When it refers to political it  
17 says on the order of 90,000. There is no prose text by  
18 political in the 28 August draft. I think I was just  
19 extracting the numbers without using the prose in my  
20 presentation to the ambassador.

21 Q. Okay.

22 A. And I don't recall what prose went along with  
23 the numbers in the 28 August draft.

24 Q. Okay. Now, let me focus on the issue of what  
25 categories should be quantified or what categories should

1 be estimated.

2 In July of 1967, in at least the proposal you  
3 made, you proposed an estimate for the self-defense forces,  
4 correct, sir?

5 A. Excuse me. I think I did.

6 Yes. I said "with range figure around 125,000,"  
7 the exact language I used.

8 Q. And I think you have just testified that the  
9 draft of the SNIE 14.3-67 that you took to the September  
10 1967 Saigon conference also included an estimate for the  
11 self-defense forces, a numerical estimate, correct, sir?

12 A. Yes, it included an estimate expressed in  
13 numerical terms, yes.

14 Q. When you say an estimate expressed in numerical  
15 terms you mean that there was a category that was called  
16 self-defense forces and then there was a number estimated  
17 for that category?

18 A. That's correct.

19 Q. And that draft of the NIE or SNIE that you took  
20 with you to the September Saigon conference represented the  
21 CIA's institutional position, did it not, sir?

22 A. It did, as of that time.

23 Q. And that was a position that at least initially  
24 you argued for at the Saigon conference, correct, sir?

25 A. It is, in the sense that MACV presented its

1 views, we presented our views. Obviously both sets of  
2 participants in the discussion would have been happy if the  
3 other set had immediately said "Oh, fine, your views are  
4 great." In that sense, yes, we did argue for it.

5 Q. But neither side said that, at least at the  
6 beginning?

7 A. Neither side said that, and that is the  
8 understatement of the afternoon.

9 Q. There came a time during the Saigon conference,  
10 did there not, sir, when General Davidson and General  
11 Godding gave you what they characterized as a take it or  
12 leave it proposition?

13 A. I believe there did, yes.

14 Q. And I think that you have already testified  
15 about this, but let me see if I can find the cable that you  
16 wrote. It was 258 B and 258 D.

17 Let me show you Exhibit 258 D. And this is a  
18 cable that you wrote and sent to Director Helms on  
19 September 12, 1967, correct, sir?

20 A. That is correct.

21 Q. And paragraph 6 on page 5 sets forth that take  
22 it or leave it proposition from General Davidson and  
23 General Godding, correct, sir?

24 A. Yes.

25 Q. And what is the total for what you characterized

1 in July of 1967 as the military categories that they gave  
2 you in this take it or leave it proposition?

3 A. A spread between 219,000 and 249,000.

4 Q. 219,000-249,000. I think you said that the SNIE  
5 estimate that was ultimately agreed to for these categories  
6 was a range of 223,000 to 248,000, correct, sir?

7 A. I don't believe that's quite correct.

8 Q. Excuse me, sir. What did you say?

9 THE COURT: He said "I don't believe that's  
10 quite correct."

11 A. Let me check. We said this military force is  
12 now at least 223 to 248,000.

13 Q. And just like the MACV take it or leave it  
14 proposition, that was a range, with a higher figure and a  
15 lower figure, right, sir?

16 A. With the preface of "at least" indicating that  
17 there is no lower than this range and it could possibly be  
18 higher.

19 Q. I think that you testified that what a range  
20 meant to you was that it was somewhere in between?

21 A. A range unamplified does mean somewhere in  
22 between. But the "at least" was specifically stuck in to  
23 indicate that this -- it was at least within this range,  
24 with the indication that it could have been possibly in a  
25 higher range.

1           We said that the VC/NVA force can be meaningful  
2 presented in numerical totals and we estimate this military  
3 force is now at least 223 to 248,000. The words mean  
4 exactly what they say.

5           Q.     That was the best estimate of the range, was it  
6 not, sir?

7           A.     That was the best estimate we could device at  
8 the time, with the caution that it was at least this much,  
9 no lower, and possibly higher. That's what "at least" was  
10 intended to mean.

11          Q.     Was it intended by the people who wrote SNIE  
12 14.3-67 that the people who read it would believe that the  
13 best estimate was 223,000 to 248,000?

14          MR. BURT:   Objection as to form.

15          THE COURT:   If you can answer the question you  
16 may do so.

17          A.     This sentence and these figures appear at the  
18 end of a section of some twelve odd paragraphs, each one of  
19 which explains what each component of that total figure was  
20 intended to mean and explains the uncertainties associated  
21 with all of the figures, save for the main and local force  
22 component, and it was certainly intended by the drafters of  
23 the estimate and very clearly understood in the discussion  
24 at the United States Intelligence Board table that it would  
25 be understood that this was our best estimate, involving

1 some spongy -- some figures that were spongier or softer  
2 than others, and that we were not saying that the military  
3 force was absolutely somewhere between 223 and 248,000, but  
4 rather that these categories or components of the structure  
5 totaled at least 223 to 248,000, no lower, possibly higher.

6 Q. With the caveat that things were uncertain --

7 A. Right.

8 Q. -- and with the caveat that nobody knew for  
9 sure, was it the thrust of SNIE 14.3-67 that the best  
10 estimate that you could come up with, given all the  
11 uncertainties, for these categories was this estimate of  
12 223,000 to 248,000?

13 A. Providing you put in the qualifier "at least."

14 Q. It's that "at least" that confuses me, Mr.  
15 Carver, because I don't understand whether you're saying  
16 that you had a better estimate but you weren't giving it  
17 and you were covering that by putting in the words "at  
18 least" or whether you're saying that this was your best  
19 estimate but you simply knew it wasn't lower.

20 MR. BURT: Object as to form.

21 THE COURT: Sustained.

22 Q. The range that was given in SNIE 14.3-67 was  
23 223,000 to 248,000, a number that bears a certain  
24 similarity to the MACV take it or leave it proposition of  
25 219,000 to 249,000, correct, sir?

1 THE COURT: Sustained.

2 Q. The only range of numbers given in SNIE 14.3-67  
3 for what you have called the military categories was the  
4 range of 223,000 to 248,000, preceded with the words "at  
5 least," correct, sir?

6 A. Correct. And it did not appear on the table by  
7 design. It appeared in a paragraph explaining what it  
8 meant.

9 Q. Did you or any of the other people, to your  
10 knowledge, who worked on SNIE 14.3-67 believe that the best  
11 estimate of this category was higher than the range of  
12 223,000 to 248,000?

13 MR. BURT: Objection as to form.

14 THE COURT: You mean because it asks about the  
15 beliefs of various different people?

16 MR. BURT: Correct, your Honor.

17 THE COURT: I think you should make it clear who  
18 you're asking about, and I don't think you can ask about  
19 the beliefs of other people, but you can ask what they said.

20 MR. BURT: It's also compound, your Honor.

21 MR. BOIES: It is compound, your Honor, and I  
22 will withdraw it.

23 Q. Mr. Carver, let me start with you. At the time  
24 that SNIE 14.3-67 was agreed to did you believe that the  
25 best estimate of the strength of these three categories

1 which you classified as the military category was greater  
2 than 223,000 to 248,000?

3 A. I thought it could have been. The evidence was  
4 not conclusive or persuasive, and that is why the  
5 formulation at least in that range satisfied me as the best  
6 description we were able to make, the best conclusion we  
7 were able to draw from evidence that was very spotty and  
8 ambiguous and capable of several types of interpretation.

9 Q. What was the best range that you had personally  
10 at that time, sir?

11 A. I don't remember that I had one.

12 Q. You don't remember that you had one, is that  
13 what you said?

14 A. I felt very strongly, which is one of the  
15 reasons that I insisted that there be no table in NIE  
16 14.3-67, that we were dealing with conclusions that would  
17 be misleading to present solely in numerical form, because  
18 numbers suggested a degree of precision on our evidence  
19 that the evidence did not warrant. That is why I felt that  
20 this formulation was the best one that could be devised,  
21 given the evidence we had to work with.

22 I felt that the total military force was  
23 certainly no lower than 223 to 248, it might possibly have  
24 been somewhat higher, but I couldn't prove that it was  
25 higher, I was just dealing with evidence that was hard to

1 form a solid conclusion about.

2 Q. What I am now asking, sir, is for your best  
3 personal judgment. What I am asking is at the time that  
4 this range of at least 223,000 to 248,000 was agreed to for  
5 the SNIE what was your best personal estimate of what the  
6 range for these categories of the enemy was?

7 A. I don't know how to say other than to say that  
8 in my opinion the language used in the estimate was the  
9 best way to express what I personally believed to be the  
10 case. I had no better range.

11 Q. Did you have a better range when you went to the  
12 Saigon conference, sir?

13 A. No, because during the course of the Saigon  
14 conference I heard arguments, analysis and evidence that I  
15 hadn't heard before. This was a constantly -- the subject  
16 was constantly being reviewed, all the data and evidence on  
17 it was being shared, and judgments and impressions about it  
18 were being constantly exchanged, and these exchanges  
19 defined everybody's understanding and appreciation of the  
20 problem.

21 Q. You say you heard things that you hadn't heard  
22 before.

23 MR. BURT: Objection.

24 THE COURT: Overruled.

25 Q. One of the things that you were told was that

1 MACV had a take it or leave it proposition, correct, sir?

2 A. Yes.

3 Q. And the SNIE 14.3-67 essentially took the MACV  
4 take it or leave it proposition, did it not, sir?

5 A. No. We used very similar numbers. We put in,  
6 particularly in dealing with the administrative service  
7 component, qualifications explaining the text of the  
8 estimate which affected the interpretation, the  
9 construction put on these numbers. I do not regard it as  
10 the same.

11 Q. You say you used very similar numbers. By that  
12 you mean in SNIE 14.3-67 you used numbers that were very  
13 similar to the MACV take it or leave it proposition,  
14 correct, sir?

15 A. We used numbers that were very similar to those  
16 that were included in the MACV proposition, but the MACV  
17 proposition had only numbers, did not have the textual  
18 qualifications and explanations that the estimate had. The  
19 clearest case of that is the administrative services.

20 Q. The numbers that were used in SNIE 14.3-67 were  
21 not similar to the numbers that you had proposed in July of  
22 1967, were they, sir?

23 A. I would have to go back and look.

24 Q. Well, feel free to. You might start with  
25 Exhibit 245 B, in which you had proposed a range of 291,000

1 for categories that in the SNIE were estimated at a range  
2 of at least 223,000 to 248,000. Do you see that?

3 A. The two chief differences, and this is one  
4 reason why I would much prefer to focus on the components  
5 than the total, were that we handled administrative support  
6 in a different fashion and we made a slight adjustment in  
7 the guerrillas, which we all thought was warranted by the  
8 evidence that became available by September that was not  
9 necessarily available in July.

10 Q. Now, let me focus on that comment that you just  
11 made about guerrillas. The information about guerrillas as  
12 you understood it in terms of their strength came from  
13 where, sir?

14 A. Came from a variety of sources, documents and  
15 prisoners being the two primary ones.

16 Q. Were you ever familiar with the MACV RITZ  
17 reports?

18 A. I was familiar with them. I seldom looked at  
19 them myself. I usually had them screened by members of my  
20 staff.

21 Q. And that would have been Mr. Allen and Mr. Adams  
22 and perhaps Major Blascak?

23 A. That's correct.

24 Q. Did any of those people ever tell you what the  
25 MACV RITZ reports estimated guerrilla strength to be, sir?

1 A. They may have, but I don't recall at this stage  
2 what it was.

3 Q. Do you remember whether it was about 100,000 or  
4 not?

5 A. I just simply do not remember one way or the  
6 other as to what that single evidence stream -- what  
7 results it produced.

8 Q. Do you know whether MACV believed that the RITZ  
9 reports represented their best evidence concerning the  
10 strength of the enemy's guerrilla forces?

11 THE COURT: Sustained as to form. I don't know  
12 what MACV believed means.

13 MR. BOIES: I will withdraw the question, your  
14 Honor.

15 Q. Did anyone ever tell you whether or not MACV  
16 believed that their best estimates, that is, the best  
17 estimates of the MACV personnel responsible for estimating  
18 guerrilla strength, came from the RITZ reports?

19 A. Would you repeat that?

20 Q. I will. Did anyone ever tell you whether or not --  
21 let me take General Davidson, who was at this time the  
22 chief intelligence officer at MACV -- that General Davidson  
23 believed that the best estimate of guerrilla strength was  
24 the estimate contained in the RITZ reports?

25 MR. BURT: Objection as to form.

1 THE COURT: You're asking him whether anybody  
2 ever said anything to him as to whether General Davidson  
3 believed that to be the best estimate that MACV had on  
4 guerrilla strength, is that right?

5 MR. BOIES: Believed it to be or not to be,  
6 either one.

7 THE COURT: Can you answer that?

8 THE WITNESS: Not quite, your Honor.

9 A. I recall very brisk debates within the agency,  
10 with some of our counterparts in MACV, and even I believe  
11 within MACV itself, as to the solidity, utility and  
12 reliability of RITZ reports, but I don't remember who had  
13 which position or who argued what view on that question. I  
14 just remember that it was a hotly debated question.

15 Q. Do you remember whether the RITZ reports  
16 estimated guerrilla strength higher than the estimate for  
17 guerrilla strength contained in SNIE 14.3-67?

18 A. I simply don't, Mr. Boies, because I don't  
19 remember what numbers were used in the RITZ reports.

20 Q. I understand you don't remember what numbers  
21 were used, but do you remember whether the numbers that  
22 were used in the RITZ reports were higher than the SNIE  
23 14.3-67 number?

24 MR. BURT: Objection.

25 THE COURT: Overruled.

1 A. After 17 years, no.

2 Q. Let me turn now to the question of what  
3 categories should be quantified. We have been talking  
4 about what the numbers should be for certain categories  
5 that it was clear there were going to be quantifications  
6 for and it's clear that there were going to be, as you put  
7 it, numerical estimates for the administrative services and  
8 for guerrillas and for main and local forces, correct, sir?

9 A. Right.

10 Q. But there was a debate or a dispute as to  
11 whether there would be a number given for the self-defense  
12 and secret self-defense forces, correct?

13 A. Correct. Basically what was generically called  
14 the militia.

15 Q. Do you have Exhibit 258 A there, sir?

16 A. Can you tell me what it is? I don't know.

17 Q. Yes. That's a memorandum that you wrote to Mr.  
18 Helms. I think you may have the retyped version, which I  
19 think is 258 D.

20 A. Right.

21 Q. And this has previously been identified as a  
22 cable that you sent to Director Helms, correct, sir?

23 A. That is correct.

24 Q. I would like you to look at paragraph 10 of that  
25 cable, and the portion that I am particularly interested in

1 is the portion where you talk about the fact that you are  
2 going to stick on the political cadre figure, which you say  
3 everybody had agreed to until today, when MACV whacked it  
4 just to get the total down.

5 A. Yes.

6 Q. Do you see that?

7 A. Yes.

8 Q. When you said in this cable to Mr. Helms that  
9 MACV had whacked the political cadre figure just to get the  
10 total down what total were you referring to?

11 A. I don't, this removed, recall. There had been  
12 debate on all of these figures, and as I mentioned in our  
13 discussion earlier, at the time, until I saw General  
14 Westmoreland, who assured me this was not the case, I was  
15 still under the impression that our MACV colleague felt  
16 under some sort of ceiling or constraint.

17 MR. BOIES: May we approach the side bar, your  
18 Honor?

19 THE COURT: You want to ask me to instruct the  
20 witness?

21 MR. BOIES: I do.

22 THE WITNESS: Did I say something wrong? Excuse  
23 me.

24 THE COURT: Would you limit yourself to  
25 answering the question that's asked and not to giving a

1 debater's response to what you think the substance of the  
2 question was.

3 I believe the question that was asked was what  
4 total was referred to in the reference to a total there.

5 A. I would have to reread the whole cable. I  
6 believe the overall military strength total was the total I  
7 had reference to.

8 Q. You just said the overall military strength  
9 total. I direct your attention to the fact that we are  
10 talking here about the political cadres, and I ask you  
11 whether you still mean that answer.

12 A. No, you're correct. I mean the overall  
13 numerical force total. That's why I said I wanted to  
14 reread the cable.

15 Q. That is, there was both, as contemplated in  
16 September, a military force total and an overall force  
17 total, correct, sir?

18 A. As contemplated by some in September, but there  
19 were quite a few of us in the agency, including my deputy,  
20 Mr. Allen, and myself, who felt very strongly that a single  
21 overall total was misleading, and as you will note, there  
22 is no overall total beyond the military force total that  
23 appears in the final published version of the estimate, and  
24 that is by design.

25 Q. Yes, we have noticed that. The cable here

1 though purporting to reflect MACV's views in September  
2 clearly indicates that MACV was concerned or thinking about,  
3 if that's a more neutral term, the total force figure,  
4 including political cadre, correct?

5 MR. BURT: Objection.

6 A. They appeared to be thinking about it, or so I  
7 thought at the time.

8 Q. Let me go back for just a moment to the MACV  
9 take it or leave it proposition.

10 A. Is that the same cable?

11 Q. I think that's the same cable. It's paragraph 6  
12 on page 5.

13 A. Yes. Go ahead.

14 Q. After giving numbers for the categories we have  
15 been talking about, it says "Self-defense and secret  
16 self-defense no quantification." Do you see that?

17 A. I do.

18 Q. When we talk about this take it or leave it  
19 proposition, I think it's clear, but this was handed to you  
20 on a little white card, correct, sir?

21 A. Yes. My recollection is that's also what I say  
22 in the cable.

23 Q. Handed to you by General Davidson and General  
24 Godding on September 12, correct, sir?

25 A. That's correct.

1 Q. And handed to you by General Davidson and  
2 General Godding on September 12 before you wrote what has  
3 been referred to as the joint CIA-DIA proposal that you  
4 sent to Mr. Helms as Exhibit 258 B?

5 A. That is correct, as explained in paragraph 7 and  
6 8 of this cable, this cable being 258 D.

7 Q. When SNIE 14.3-67 was published there was not  
8 any quantification of the self-defense and secret  
9 self-defense forces, correct, sir?

10 A. There was no numerical quantification, that is  
11 correct. There was a paragraph -- several paragraphs,  
12 actually, describing their function, their role, and  
13 indicating that they in aggregate number were quite large.

14 Q. But there was no quantification, as we have been  
15 using that term, correct, sir?

16 A. There was no single number for them, no.

17 Q. Not only no single number, there was no range of  
18 numbers, correct, sir?

19 A. No, but there was a specific number in the final  
20 concluding paragraph that indicated that in the preceding  
21 year the communists themselves had said the self-defense  
22 force alone, not the secret self-defense and assault youth,  
23 was in the 150 range, and that number was specifically  
24 included to make it very clear to our readers what order of  
25 magnitude we were thinking about.

1 THE COURT: Excuse me just a second.

2 BY MR. BOIES MR. BOIES: Is this a convenient time for a  
3 break, your Honor?

4 THE COURT: Maybe it is.  
5 forces. (Recess)

6 A. (Continued on next page)

7 Q. I am correct, am I not, that you have described  
8 contemporaneously with making that decision in September of  
9 1967, you described that decision as a major concession to  
10 MACV, did you not, sir?

11 A. Not quite. I used those words in a cable, but  
12 they were used for a purpose.

13 Q. They were used for a purpose?

14 A. That is correct.

15 Q. Let me see if I understand what you are saying.  
16 You are saying that you used the words that I just said but  
17 you used them for a particular purpose.

18 A. That is correct.

19 Q. Was that purpose that you used those words for,  
20 the purpose of conveying the actual meaning of those words?

21 A. Not quite.

22 Q. You wrote these words to Mr. Helms, did you not,  
23 sir?

24 A. I wrote these words in the cable to Mr. Helms,  
25 which I thought he would probably share with other senior