I sent this to Gen W.'s (more experienced) assistant counsel (not the one who ran the case), a few days, or weeks, after visiting the trial, but not long before Gen W. dropped the case —

January 30, 1985

Dear Mr. Dorsen:

This will give you an idea of the kind of testimony I see myself giving, if called...

Q. Please give your name.

A. John H. Cushman, Lieutenant General, U.S. Army, Retired. I retired from active service in February 1978.

Q. General Cushman, we have your official Army biography (note, if this is needed, I can provide). Please describe your assignments in Vietnam.

A. I served in Vietnam three times. In 1963-64, as a lieutenant colonel, I was senior advisor to the ARVN 21st Infantry Division deep in the Vietnam Delta region. In 1967-68, as a colonel, I was a brigade commander in the 101st Airborne Division, at first near Saigon and then during the fighting of Tet and afterward, around Quang Tri and Hue in northern I Corps. In 1970-72, as a brigadier general and major general I was again an advisor in the Delta, with the Vietnamese IV Corps and Military Region 4. Altogether, in the period from April 1963 to January 1972, I served about three and one-half years in Vietnam.

Q. General Cushman, my first contact with you was on January 29th, when you telephoned me that you wanted to testify as a witness for General Westmoreland. What was your reason?

A. I had been following this case in the newspapers. I had concluded that it was drifting from what I thought was the essential nature of General Westmoreland's action at law -- namely that he had been accused in a nation-wide television broadcast of lying to the President and others, of deliberate deception, and of organizing a conspiracy of deceit. I thought that recent testimony had been dwelling on the mechanics of intelligence estimates and on differing intelligence judgments. To my mind this was losing sight of the fundamental issue -- the public charge of deceit.

Q. Anything else.

A. Yes. The week before Christmas I had visited this courtroom. Mr.Crile was on the stand. The subject came up of the (September?) 1967 cable from General Abrams, deputy to general Westmoreland in Vietnam, to General Westmoreland, who was at that time in Washington. General Abrams died in 1975. I thought that in his testimony Mr.Crile had maligned as honorable a military officer as I have ever known, a man unable to defend himself. I did not want so base a charge to go unanswered.

Q. In that cable to General Westmoreland, and to other addressees in the White House and the Pentagon, General Abrams said... (fill it in...). To your recollection, what did Mr. Crile say about that?

A. Mr. Crile testified that he was convinced that General Abram's message was a deliberate deception; he used the words "intelligence atrocity." I take the most serious exception to such a characterization. General Abrams did not have a dishonest bone in his body. After reflecting on Mr. Crile's testimony for a few days, I concluded that, while it might not be surprising that someone of Mr. Crile's experience and position could think that responsible commanders like General Westmoreland and General Abrams would lie and cheat and conspire against their President, the men of the world who were at the top in the Columbia Broadcasting System should be expected to look carefully into truth of so grave a charge before putting it on the air.

Q. Did anything else lead you to volunter to testify?

A. Yes. I considered that the CBS television broadcast and the charges of the defendants who are testifying in this case raise the most profound of issues -- namely the ethical standards of the U.S. officer corps, and whether in this case responsible senior officers met those standards. Inasmuch as I believed that these two officers -- Generals Abrams and Westmoreland -- did meet these high professional standards of personal integrity, and since it appeared that no one else was going to speak to that point, then I decided that I would offer to do so. I had no illusions that it would be a pleasant experience.

Q. Where does one go for a description of the standards of integrity of the officer corps?

A. There is no single repository of those standards. They are distributed in many places -- in regulations of course, and in the Uniform Code of Military Justice. They are in the minds and examples of senior commanders and of junior officers as well, in

textbooks and classrooms at the military academies and in the service colleges and schools. They are a matter of continued emphasis and discussion in units and headquarters throughout the Army, I know, and I understand throughout the military services.

Q. Did you ever have particular occasion to dwell on these standards?

A. Yes, throughout my military career, but more frequently as I became more senior in rank and most specifically when I was Commandant of the Army's Command and General Staff College at Fort Leavenworth, Kansas, in 1973-76.

Q. And since retirement?

A. Yes. In late 1978 I read a book by Dr. Sissela Bok, of Harvard University, called "Lying." I was struck by the tone of this book and by the principles Dr. Bob set forth for telling the truth. I called Dr. Bok on the telephone, to let her know of the work we had done at the Command and General Staff College on teaching what it means to speak the truth. She described to me her similar work with the Hastings Institute, which happens to be not far from my home in Bronxville, New York. In due time I visited the Hastings Institute and gave a seminar for the staff on my own experiences at Fort Leavenworth in "The Teaching of Ethics."
(Note: I have a copy of that talk.)

Q. How did you go about teaching ethics at the Command and General Staff College in 1973-76?

A. We used cases, either actual or true-to-life fiction. We called the cases "Dilemmas in Officer Responsibility." The students, generally in the rank of major and with an average of twelve years officer service, discussed the cases in small groups with faculty leadership. The purpose was to raise each officer's sensitivities, to increase his consciousness, to give him practice in a classroom setting looking at these kinds of tough issues. The idea was not only to develop his standards but to prepare him for dilemmas and decisions like these in the classroom, which he would have to recognize and then make his mind up on later in real life. We did not call the materiel "ethics" but rather "officer responsibility."

Q. Can you give an example of a specific case?

A. This is one I wrote myself. It is based on an incident in the life of General Abrams, told to me by someone who I believe knew of the event firsthand. It said to the student something like this: "You are a lieutenant colonel, stationed at a Stateside Army post right after World War II. You are at party at another officer's quarters. In his dining room he is showing you a china cabinet with a dozen or so beautiful silver goblets and some other fine silver things. In a conversation tone he goes on to say that he 'liberated' them from a castle his unit captured in Germany in the war. What do you do?"

Q. What was the school solution?

A. Ordinarily we did not issue school solutions. We let the students learn from their faculty-led discussion, and arrive at their own solutions. There are few absolute rules that can be written to say exactly what to do in any given case. That is why we called them "dilemmas in officer responsibility." But in this particular case, we contributed to the students' thought and to the development of his own standards by having each small group instructor say that this was a true case, that the lieutenant colonel in question was General Abrams at about age 33, that the Army post was Fort Knox, Kentucky, and that upon being shown these goblets and other silver in that officer's quarters, General Abrams turned to him and said: "You God-damned crook." We let it be known that such a solution was to be admired.

Q. What are the fundamental officer responsibilities?

A. The fundamental officer responsibility is to be true to his oath of office.

Q. What does the oath of office say?

A. (This may not be exact; it is from memory) I, (name), solemly swear that I will preserve, protect, and defend the Constitution of te United States against all enemies, foreign and comestic, that I will bear true faith and allegiance to the same, that I will obey the lawful orders of all officers appointed over me, and that I will well and faithfully perform the duties of the office upon which I am about to enter, so help me God.

Q. That seems rather general. Can you be more specific as to an officer's responsibilities?

A. Yes. Four responsibilities of an officer, of whatever rank and position, are: (1) to accomplish his mission, (2) to take

care of his men, (3) to safeguard government resources, and (4) to tell the truth. The higher the rank, and the greater the responsibilities, the more weighty become these responsibilities.

Q. Dis your instruction at the Command and General Staff College have any cases relating to Vietnam?

A. Yes, many such. Here is one we placed in a Vietnam-like setting. It was called "Newspaper Reporter Visit." It said to the student essentially this: "You are a province senior advisor. You know that the situation in your province is not good. A newspaper reporter is about to visit your advisory team. In the light of what you have been hearing from higher headquarters, namely that, quote, our effort in-country is making good progress, end quote, and, quote, "we should place a positive light on our situation, end quote, what do you say to this newspaper reporter? We used this case in a Symposium on Officer Responsibility to which we invited as a guest speaker Mr. Philip Geyelin, editorial page editor of the Washington Post. You can imagine what he told the assembled students to do in this case. Later he devoted about one-quarter of his op-ed page to the theme "Province advisor, tell the truth."

Q. What was the message of this case.

A. Tell the truth.

Q. To a newspaperman?

A. Not always. The commander has many responsibilities -- to his troops, to his mission, to the public. In some cases, telling a newspaper reporter the truth, say about a forthcoming operation, might lead to harm to his troops. That is why we called these dilemmas in officer responsibility. There are rarely simple answers. But in this case, the enemy knows the real situation in the province and so do our own troops if they have eys and ears. Why not tell the public, too? Again, that was not our school solution; we let the students decide themselves, but using Mr. Geyelin and other discussion, we got the point across, I think. The province senior advissor should tell the truth, or decline to see the reporter. Of course, not all the students agreed; many of them had serious doubts about the trustworthiness of newspapermen in general.

Q. Did you ever have a case in which an officer would be justified in lying to his commander?

Q. I don't remember any. You could perhaps construct such a case, in which there was some justification. For example, let's say that you were a battalion commander and your brigade commander gave you an unlawful order. You could perhaps justify the battalion commander saying, "Yes, sir," indicating that he intended to comply even though he had no intention of doing so. Some might call that lying.

Q. Is my question germane to General Westmoreland's case.

A. Yes. To lie to your commander, say, about your situation, whether you are a second lieutenant platoon leader deliberately giving an inaccurate position location or a more senior officer about some other aspect of his situation, would be a violation of the officers' code.

For a senior commander, someone of General Abrams or General Westmoreland's position, to lie about his situation would be the gravest sort of violation. Occupying positions of trust as these officers did, to lie in this way would be the equivalent in the legal profession of a Supreme Court justice taking a bribe in exchange for a judicial decision.

CBS television charged General Westmoreland, and General Abrams who was dead, with a monstrous violation of their sworn responsibilities.

Q. Were you ever under pressure to lie?

A. Yes.

Q. In Vietnam?

A. Yes. At least to shade the truth. We all were. It comes with the job. And no doubt my subordinates often thought that I was putting pressure on them to lie.

Q. Explain that, please.

A. There are two basic responsibilities of an officer that can come into conflict. One is, accomplish the mission. The other is. tell the truth. When an officer is not accomplishing the mission -- that is, when things for which he is responsible are not going well, and he is asked for a report -- it takes a certain amount of fortitude to tell it like it is, and then take the rap from your boss for lack of progress. The Chinese proverb is that the messenger who brings the bad news is sometimes shot.

Q. In the case of the intelligcne extimate of the guerrilla forces, was General Westmoreland telling the truth?

A. General Westmoreland does not have it within himself to lie. He was telling the truth as he saw it. There was no attempt whatsoever to deceive. The whole process was out in the open. There was disagreement, yes, but no deceit. There could not have been; the process was too open.

Q. You said that General Westmoreland told the truth as he saw it. Did he see it accurately?

A. You mean the guerrilla count?

Q. Yes.

A. The guerrilla count, and the elimination of the guerrilla numbers from the order of battle, were entirely consistent with General Westmoreland's perception of the Vietnam War.

Q. When did you arrive at your own perception of the Vietnam War?

A. On my first tour in Vietnam, in 1963-64, when I was senior advisor the 21st ARVN Division in the lower Mekong Delta.

Q. What perception did you gain?

A. That the essential nature of the war was that there were two separate nations occupyng the same territory. One was the Government of the Republic of Vietnam, which we were supporting, and the other was the Viet Cong, and their masters, the North Vietnamese. Each had its school teachers, its tax collectors, its intelligence structure, its district chiefs and province chiefs and its regular and irregular military forces. The fight between the regular military forces was only a small part of the struggle for control of the largely shared population and the countryside. To be successful, our side had to wage the struggle across the whole spectrum.

Q. And how was progress to be measured, in this perception?

A. Not by counting the numbers, but by the far more subtle calculations and judgments as to how well our side was doing in extending the reach of its government's protection and control,

and in conveying a fundamental concern for the people's well being, in the countryside.

Mr. Dorsen, I have edited the foregoing to some extent. What follows is unedited. I send it just as I typed it on my Radio Shack Model 100, very early Thursday morning...

Q. Then why all he emphasis on numbers?

A. Because that's what the the responsible authorities in Washington wanted.

Q. So you are talking about a different conception of the war, is that right?

A. Yes.

Q. What did you do about that?

A. We worked with the ARVN 21st Division, for whom we were the advisors, and developed an approach to regaining control of the countryside in the provinces and districts, and villages of our division tactical area. I was fortunate to have in my advisory team a brilliant officer, then Lieutenant Colonel, later Brigadier General, Robert M. Montague. We saw eye to eye on the situation and on the approachwe should try to get the Vietnamese to take. He was a marvelous conceptual man and organizer, and we put our program into effect. Years later, Bob Montague was very instrumental in putting together the program known as pacification under Ambassador Komer in Vietnam.

Q. Did you try to tell people, to bring them around to your way of thinking?

A. Yes. Both in that tour in Vietnam and when I came home. I brought home a big roll of briefing charts, copies of those we used in the Delta, and I must have made fifty or more presentations in the next year or two, in the Pentagon, in various service schools, to civic groups, at the school my children were going to. The year after I returned from Vietnam I was a student at the National War College; I made myself somewhat obnoxious with my pitch.

Q. What was your pitch?

A. Among other things, that it would be a grave mistake to introduce American troops into the Vietnam countryside. They would never be able to really tell friend from foe among the villagers and farmers, and would end up doing more harm than

good. I said that if American troops were to be introduced they should be used in Laos and along the the 17th parallel, South Vietnam's northern border and its extension into Laos, to inforce the provisions of the 1954 Geneva accords which prohibited the use of Laos for infiltration. I wrote my student thesis along those lines, a Top Secret paper. In my paper, I said that we should leave the process of taking back the countryside inside South Vietnam to the Vietnamese, with our advice and support but not with American troops.

I suspect -- no, I am fairly sure -- that I made myself somewhat obnoxious to some people of the National War College faculty, beating the drums for this point of view. I did not press my views as strongly as Mr. Adams pressed his on the intelligence estimates, but the phenomenon was similar. People with strong convictions, and who press them hard, tend to become obnoxious to the system.

Q. Did you have any success?

A. Some, but not enough to influence the direction of U.S. policy development. I had some connections in the Pentagon who would listen. But the year I was at the War College was 1964-65. The summer of 1965, we sent American troops into Vietnam and the die was cast for the wrong strategy.

Q. Did anyone try to stop you from telling your story?

A. Not from giving presentations or making arguments among the policy-makers, no. But I did have an interesting experience when I wrote an article describing our efforts at pacification in the 21st ARVN Division area. The adjectives I used to describe the situation and were literally cut out with a razor and other words substituted. Even then, I was not allowed to publish the article until later in the war. My article was stamped For Official Use Only and allowed to be placed only in War Colleges as reference material; it was not released for appearance in the public print.

Q. Did you consider that the people who disagreed with you, including those who censored your article, were dishonest?

A. Absolutely not, any more than they considered me dishonest. I simply considered that they were misguided, that they did not understand the situation. Of course, they had a right to their opinions, including any opinion they might have had that Lt. Col. Cushman was a troublemaker. That's the way the world works, with differences of opinion.

Q. Do you think Mr. Adams has a right to consider General Westmoreland dishonest?

A. Yes, he has that right.

Q. Do you think he has a right to tell others that General Westmoreland is dishonest?

A. I have no opinion on that. That is for this court and jury to decide. But I do not consider it admirable to do so, whether he has the right or not. General Westmoreland is an honorable man.

Q. Do you think Mr. Adams is dishonest?

A. Absolutely not. I think he, like General Westmoreland, deserves to be considered an honorable man. I do think that he carried his convictions too far when he maligned honorable men over a difference of opinion as to the situation in Vietnam, and then persuaded CBS to do the same.

Q. General Cushman, let's get back to your experience in Vietnam. You have told us about your experiences in 1963-64. I'd like to ask you about your experiences in 1967-68. In what capacity did you serve in Vietnam in those years.

A. In mid-1967 I was stationed at Fort Campbelll, Kentucky, as Chief of Staff of the 101st Airborne Division. At that time, the 101st Airborne Division had only two brigades at Fort Campbell. The First Brigade had gone to Vietnam in the summer of 1965; it was one of the first American units to move to Vietnam. In September, 1967, I took command of the Second Brigade of the 101st. Just the month before, I believe it was, the 101st had received its orders to get ready to deploy by air to Vietnam. In mid-December we did so. My brigade went to the base camp at Cu Chi, near Saigon. We operated in the area around Cu Chi for about six weeks. In late January 1968, we were ordered to move by air to the airfield at Hue-Phu Bai, and then to come under the operational control of the 1st Cavalry Division which was operating around Hue and north to Quang Tri.

Q. What is the size of a brigade?

A. A brigade, normally commanded by a colonel, consists of three, sometimes four, battalions. We were organized as an airborne brigade, although by the time we got to Vietnam we were nor longer prepared for airborne, that is parachute operations; that

takes special training and equipment. Our specialty was air-mobile, helicopter mobile, light infantry operations. A battalion, normally commanded by a lieutenant colonel, has four rifle companies, one compbat support or weapons company,and one headquarters company. There may be 2,500 to 3,500 men in a brigade, not including the other units which make up a brigade-size force -- its supporting artillery battalion, engineer company, medical company, and so on. The companies are commanded by captains. If I do say so, we had a very good brigade.

Q. The 1968 North Vietnamese Tet Offensive began the night of 29-30 (is this the date?) January. What was the status of your brigade?

A. One battalion, the 1st Battalion, 502d Infantry, had just moved to Quang Tri, to be under the 1st Cavalry Division's 1st Brigade. Another battalion, the 2d Battalion, 501st Infantry, was at Camp Evans, north of Hue, under the 3d Brigade of the 1st Cavalry Division. My command post and the remaining battalion of my brigade, the 1st Battalion, 501st Infantry, had just that afternoon completed a move by road and helicopter to LZ Sally, where we had taken over from a battalion of the 1st Cavalry Division which was to go elsewhere on operations, later to be under our control. The night before the NVA struck in their Tet offensive, we had just closed in and occupied LZ Sally. I should say that the term "LZ," which means "landing zone," was the term used by the 1st Cavalry Division for what other units called a "fire base" -- that is a position at which there was stationed an artillery battery and some infantry troops for its protection, the position itself being used as a base of operations out in the surrounding area.

Q. Tell us what happened that night?

A. We were attacked. Our perimeter, just established at dusk, and for which we had taken over the foxholes, barbed wire, and so on of the 1st Cavalry's battalion, was hit by sappers. These are Viet Cong/NVA specialists in penetrating wire and other obstacles and getting inside a position.

Q. What was the outcome?

A. I don't remember exactly. I believe we had five or six men wounded, and that the next day we found something like six enemy bodies, enemy killed as they had been hit by defending small arms and hand grenade fire.

Q. Was it an all-out attack on your position?

A. No. The main enemy forces attacked the nearby district town, Phu Vang, and other civilian targets. I expect we had no more than fifty or sixty men, perhaps a company, attack us at LZ Jane that night, along with some light mortar fire.

Q. Were you surprised?

A. No. Our troops were in a normal, that is to say excellent, posture of alert and readiness. Those on the perimeter detected the attack and fought it off under the command of their company commanders and platoon leaders.

Q. General Cushman, the enemy's Tet offensive has been called a failure of intelligence. It has been said that the command in Vietnam was completely surprised, and that the result was a Pearl Harbor-like intelligence failure and defeat. What do you think of that characterization?

A. I can speak only from my viewpoint as a brigade commander. To begin with, when our brigade was moved north we were told that the reason was because there was an enemy buildup in northern I Corps. From what we heard on arrival from the 1st Cavalry Division, we knew something was coming. In military terms, surprise means that the enemy engages you at an unexpected time, in an unexpected place, or in unexpected strength. From my brigade's point of view, we were not surprised. From the viewpoint of the command in Vietnam, I would say that the time was not unexpecte, tht each of the separate places was not unexpected, but that what was unexpected was the scope and total strength of what was a brilliantly prepared and very well concealed massive attack. To that extent, it was a surprise.

One obligation of commanders is to avoid surprise. Another obligation is to be in a posture from which, if surprised as to time, place, or strength, you can quickly react and overcome the temporary advantage the enemy gains from surprise.

In the case of Tet of 1968, the enemy's advantage was short-lived and the offensive, although a brilliant psychological victory on the American home front, was a military disaster for the enemy. The next few weeks of fighting, in which my brigade participated, saw the heaviest fighting of the Vietnam war. We were engaging North Vietnames Army and Viet Cong main force units toe to toe in the countryside, and wiping them out. In one of my battalions alone, on the 22d of February, two men earned the Medal of Honor in heavy close combat near Hue; this was the 2d

Battalion of the 501st Infantry which shortly after that entered Hue relieving the seige of that city from the north.

The NVA Tet Offensive may resemble Pearl Harbor as to those aspects of surprise which involve the place and strength of the enemy attack. But as to the readiness of the command it bears no resemblance to Pearl Harbor. If the Japanese in the month after Pearl Harbor had taken the kind of beating that the NVA and Viet Cong did in the month after Tet, the war in the Pacific would have been ended within a year.

Comparing Pearl Harbor and Tet is the kind of typically superficial analysis made by people who don't know enough, I expect, about either event.

Q. Do you see any connection between the disagreement over the intelligence estimates of the number of home-guard type guerrillas and the so-called surprise at Tet?

A. None whatever. The Tet attack, including the small attack we received at LZ Sally, was carried out by main force and local force Viet Cong and, it should be understood, by units of the North Vietnamese Army. Those home-guards had at most a base area defense and support (medical, etc.) mission.

Q. What was the military significance of these home-guard units?

A. They had a major role in security and protection of, especially the populated, areas under Viet Cong/NVA control. Not very well armed, generally, and not full-time soldiers, they were ill-equipped and ill-prepared for attack operations.

Q. What percentage of the casualties in Vietnam were caused by these units?

A. I know that this has been a frequent topic of discussion and questioning at this trial. Unlike some of your witnesses, I will not try to generalize. Each area of operations, each brigade's situation, is different -- and the situation varies from time to time even in the same brigade. In the period in which we were around Cu Chi, where we were patrolling by day and patroling and ambushing by night in contested and enemy-held areas, we took a fair amount of casualties from low-grade mines and booby traps and snipers, some of which could have been the work of these home guards. During the heavy fighting of Tet and its aftermath, almost all our casualties came from enemy main force or local force units, or from the NVA. In our contacts with these units, we hurt them far more than they hurt us.

Q. What do you have to say about the controversy as to counting these home-guard enemy?

A. I think it is to a large degree pointless. It is a typical exercise of intelligence specialists, encouraged by those at higher levels who engage in the numbers racket. To the extent that such counting illuminates the nature of the enemy, and the nature of the situation, it helps.

I think it would be useful to explain the difference between the viewpoints of the intelligence officer, or intelligence specialist, and the commander. The insights of the intelligence officer are very important; commanders must take those insights into account,and commanders ignore or modify those insights at their own risk. But they are not the final insights. The intelligence officer or analyst does not have the lat word. Ultimately, the commander must make his own judgment. Because the commander, not the intelligence officer, is responsible for the mission and its accomplishment. His is the governing estimate as to what the enemy is doing or may do.

Q. What does this have to do with General Westmoreland's case?

A. Well, General Westmoreland is accused by CBS of lying, of cooking the figures, deceit, of conspiracy. This is outrageous on its face. General Westmoreland was doing his duty, estimating his situation.

Q. Do you think General McChristian and Mr. Adams were wrong in their count?

A. I think that, in their own minds, they believed they were right. I challenge anyone to come up with an accurate count, however. Who knows where the quote truth end quote lies? It was not their business to decide; it was not General Westmoreland's business to to call them liars; nor was it their business to accuse the commander who made his own judgements on these matters of lying.

I think the logic of General Abram's cable is sound; it represents a reasoned commander's viewpoint, and should be taken as it was -- the honest opinion of an honorable man. And, to get back to my opening words, I take exception to Mr. Crile calling that cable an "intelligence atrocity." I think that is a totally uniformed, and vicious, malicious charge of a type which, if made about any theater commander in any situation, in a television broadcast, deserves an apology or in its absence an action at law.