

upgrading into main and local force units. On that basis, MACV would not accept the CIA proposal. (JX 715, pp. 12, 20-21)

*Political Infrastructure.* The CIA report stated that "all parties agreed with a MACV estimate of 84,000 professional political cadre as of January 1, 1968. All parties also agreed with a MACV estimate of 75,000 to 85,000 as of March 31, 1968." Additionally, all parties agreed there were additional personnel serving as cadre in a full-time support role at district level and above. MACV, CINCPAC and DIA "did not regard this group as members of the infrastructure as defined, on the grounds that the definition of political infrastructure considered people in significant leadership positions or in professional positions that would influence either the enemy's political decision making process, or as overall effectiveness in directing the insurgency in itself." (JX 715, p. 2)<sup>22</sup>

*Other Irregulars.* CIA once again argued that the self defense groups "are a proper component of the insurgency base and should be quantified. . . ." All parties at the conference agreed that self defense groups were qualitatively inferior to combat forces and that their quality was probably declining. The CIA representative concurred in a conference request that any published assessment of self defense groups would note the qualitative inferiority of these groups. MACV and CINCPAC argued that the SD, SSD and assault youth "could not be estimated with any measure of confidence" in that such categories should not be carried in the military order of battle. "If any estimate of the number of people that provided any aid to the enemy (i.e., an 'insurgency support base') were feasible, it would be a far higher figure than CIA used, and even less meaningful in terms of enemy threat." Therefore, MACV contended that CIA's presentation of an aggregate which included these elements inflated the enemy threat. (JX 715, p. 221)

The conference was unable to reach a consensus on numerical estimates of enemy elements in South Vietnam. Thereafter, CIA proceeded to publish its estimates and MACV published a separate set of estimates. According to a cable by Carver, General Davidson seemed very relaxed about the whole matter, but requested only that MACV not be asked to defend the estimates produced by the Washington intelligence agencies, mainly the CIA. (JX 715, p. 6; JX 725, Carver 11/9/68 cable to Helms)

<sup>22</sup> This estimate by CIA was consistent with the MACV estimate presented at the August 1967 SNIE session. (See JX 248)

## CONCLUSION:

*There was no conspiracy, dishonesty, suppression or manipulation of estimates of enemy strength by General Westmoreland or MACV.*

There was nothing illegal or dishonest about MACV's intelligence operations in 1967 and 1968. Defendants took what was essentially a debate in 1967 over how the enemy should be portrayed in an Order of Battle Summary—in classical military terms versus an insurgency base—and converted the debate into a conspiracy. Under both General McChristian and General Davidson, MACV gave all their evidence and best intelligence to CINCPAC, the American Embassy, and CIA, among others.

No infiltration reports were suppressed. The alleged infiltration never happened.

It is no wonder that a broad spectrum of the people with whom General Westmoreland worked most closely, the superiors whom he supposedly deceived with allegedly catastrophic results, and the subordinates whose work he supposedly corrupted by pressuring them and suppressing their reports, have sworn to his honesty, the integrity of his intelligence process, and the absence of any so-called conspiracy. The list is not insignificant:

Walt Rostow, Special Assistant to President Johnson for National Security Affairs  
 John Roche, Special Consultant to President Johnson  
 Robert McNamara, Secretary of Defense  
 Paul Nitze, Deputy Secretary of Defense  
 Dean Rusk, Secretary of State  
 Richard Helms, Director of Central Intelligence Agency  
 William Colby, Director of Central Intelligence Agency, chief of the CIA's Far East Division  
 Robert Komer, Special Assistant to President Johnson and Deputy to General Westmoreland  
 Philip C. Habib, Undersecretary of State for Political Affairs and Senior Advisor to the Secretary of State  
 William W. Bundy, Assistant Secretary of State for East Asian and Pacific Affairs  
 McGeorge Bundy, Special Assistant to the President for National Security Affairs and a "Wise Man"

Maxwell D. Taylor, military advisor to the President and Chairman of the President's Foreign Intelligence Advisory Board  
Ellsworth Bunker, U.S. Ambassador to Vietnam  
Winant Sidle, MACV's Information Officer  
Barry Zorthian, Chief of the U.S. Public Affairs Office, Saigon  
Grover C. Brown, J2 CINCPAC and then Assistant Director for Intelligence Production, DIA  
Chesley Peterson, J2 CINCPAC  
U.S.G. Sharp, Commander In Chief, Pacific Command  
Philip Davidson, MACV Chief of Intelligence  
Charles Morris, MACV Director of Intelligence Production  
Daniel Graham, Chief of Current Intelligence Indications and Estimates Division, MACV J2  
Robert Heon, Chief, Current Intelligence Branch, MACV J2  
James Meacham, Chief, Order of Battle Studies Branch, CICV  
Everette Parkins, Chief, Order of Battle Studies Branch, CICV  
Robert Storey, Chief of Current Intelligence, Indications and Estimates Division, MACV J2  
Edward Caton, Head of the Joint Intelligence Branch, MACV J2  
Jean Joyce, Head of Current Intelligence, MACV J2  
John L. Hart, Chief, CIA Saigon Station

#### IV. PREPARATION OF THE BROADCAST

##### A. Pre-Broadcast Events

###### 1. Crile Picks a Documentary

As of mid-1980, George Crile had been with CBS for 4 years. (Crile Dep. Tr. 777) He had never produced a documentary by himself—only with another producer. (Chandler Dep. Tr. 109; Stringer Dep. Tr. 115) One of his most recent efforts, "Gay Power, Gay Politics," earned him a reprimand from the National News Council for editing in applause where it did not belong.<sup>30</sup>

One of Crile's superiors, CBS Reports Executive Producer Howard Stringer, had become skeptical as to whether Crile could make it as a producer. As he later confided to Burton Benjamin during the spring 1982 CBS internal investigation:

I think I made an error in thinking he had made the transition . . . about half of the people at CBS Reports can do it all. The rest [including Crile] need help . . . I thought I could catch him if he did anything wrong. (PTX 70, Benjamin's notes of Stringer interview p. 38549)

Two months earlier, Stringer had been even more candid with Don Kowet, co-author of the *TV Guide* story, "Anatomy of a Smear: How CBS Broke the Rules and Got General Westmoreland."

I should have known I wouldn't get fair journalism off him. . . . Been my nemesis for years. (PTX 11, Kowet transcript of Stringer interview p. 28)

Clearly, Crile needed a successful project that he could produce by himself.

Crile remembered Adams. (Crile Dep. Tr. 713) Crile had been the editor of an article Adams had written for *Harper's* magazine in May 1975 entitled, "Vietnam Cover-Up: Playing War With Numbers—A CIA Conspiracy Against Its Own Intelligence." (JX 340) In mid-1980 Crile contacted Adams. He decided to present Adams' thesis to CBS for a possible CBS Report.

<sup>30</sup> Responding to the complaint on behalf of CBS, Robert Chandler acknowledged that taking the applause out of its actual time sequence misled viewers and constituted a breach of the network's journalistic standards. (Chandler Dep. Tr. 91-3).

Crile had known since 1974 when he first met Adams (Crile Dep. Tr. 711) that Adams had been pressing his thesis that the Special National Intelligence Estimate 14.3-67, published in November 1967, was a fraudulent and dishonest document; a thesis that was controversial to say the least, and indeed, had been controverted by a large number of responsible people.<sup>31</sup>

Moreover, he knew that Adams had included a wide variety of people in his charge of dishonesty, up to and including some of the highest officials in the Johnson administration. And he knew that Adams was pressing his thesis with a rare singlemindedness. Nevertheless, Crile turned to Adams.

## 2. *Sam Adams Begins His Quest*

Sam Adams had been an interested participant in the order of battle dispute of 1967. As a low-level CIA analyst he had objected to the results which the intelligence community had adopted as a compromise and had urged CIA Director Richard Helms to reject the result. (JX 269, 11/9/67 memo for the record, from Adams) He appeared before the Board of National Estimates to argue his case. (JX 340, p. 68; Helms Aff. ¶ 4, Bross Aff. ¶ 14) In November 1967, he accused the military of lying and using fabricated numbers. (JX 340, p. 69)

Adams complained to the Inspector General of the CIA on April 1, 1968, the day after President Johnson announced he would not run for re-election. Adams complained solely about the CIA:

Gentlemen, I've come here to file a complaint, and it involves both the research department and the director. I want to make sure that the next administration finds out what's gone on down here. (JX 340, p. 69)

On May 27, 1968, Adams filed formal charges with the CIA's Inspector General. Once again he leveled the charges solely against the CIA:

- First, a misuse of research manpower,
- Second, a misdirection of research effort,

<sup>31</sup> See, e.g., Testimony of CIA Director William Colby and DIA Director Daniel O. Graham before the House Select Committee on Intelligence (Pike Committee) in December 1975. (JX 311 C); Article by Robert W. Komer in *The Washington Star* on November 16, 1975 entitled "The Tet Intelligence Flap: One Out of Step, or Many". (JX 739).

Third, a want of courage in advancing well documented findings concerning Viet Cong manpower,

and

Fourth, a lethargy in correcting past failures. (JX 461, p. 2)

Adams requested a "thorough investigation" and that copies of his memorandum be forwarded "to appropriate members of the White House staff, and to the President's Foreign Intelligence Advisory Board, and that I be informed, in writing, when this is done." (JX 461, p. 8)

Adams continued his efforts within the CIA, presenting his grievances to a variety of his seniors, including the executive director of the CIA, the deputy director and the Director of Central Intelligence Richard Helms. Director Helms gave Adams ample opportunity to discuss his charges with his fellow analysts and supervisors. (Helms Aff. ¶ 14) Director Helms also established a Special Review Board to investigate Adams' complaints. (Helms Aff. ¶ 14; Bross Aff. ¶¶ 2, 3; Houston Aff. ¶ 2) The Special Review Board found no merit to Adams' claims. (Bross Aff. ¶ 4) At the time the deputy chief of research, Edward Procter, told Adams, "Mr. Adams, the real problem is you. You ought to look into yourself." (JX 340, p. 68)

Adams next wrote to General Maxwell Taylor, The Chairman of the President's Foreign Intelligence Advisory Board ("PFIAB"), and Security Advisor. He did not hear from General Taylor but did manage to speak to the executive secretary of the PFIAB in December 1968 and presented a 35-page complaint memo to the incoming National Security Council staff. (JX 340, p. 70)

Over the next few years, Adams, while still an employee of the CIA, purloined hundreds of, in many cases classified, documents from the CIA's files. (Adams Dep. Tr. 134) The purloined documents included many that were stamped "secret" and "top secret". Because he was afraid that the CIA would come to his home and retrieve the documents, he put them in a leaf bag and buried them near his home in northern Virginia. (Adams Dep. Tr. 136) Unfortunately for Adams, the leaf bag sprung a leak with the result that a large number of these documents that Adams had purloined to preserve from CIA destruction were destroyed or damaged. (Adams Dep. Tr. 136) At some point, Adams removed them, as well as others he continued to collect from CIA from the ground and hid them in the rear of his attic. (Adams Dep. Tr. 152)

Adams gave some of the stolen classified documents to Congressman McCloskey. (Adams Dep. Tr. 150) Congressman McCloskey mentioned this event on the floor of the House of Representatives on June 17, 1982:

About 1969 the man involved in the CIA, Sam Adams, who was concerned with the reports because the CIA estimates had been overruled by DIA and the Defense Department, that is what he was complaining about, he came to my office in the late 1960's, as I said, and said he was afraid of being executed if his views were known.

He wanted to keep in my safe or leave in my safe, in the event anything happened to him, the true statistics of the Vietcong strength and in particular the irregular strength and the details of the debate. (JX 793, p. 55948)

On December 8, 1972, Adams sent another complaint to the CIA Inspector General. (JX 436) This complaint was about "an alleged fabrication of statistics" by MACV in September 1967. Adams cited Colonel Hawkins as the source of his information concerning the mechanics of the alleged fabrication. He then stated:

I do not know who formulated the number on the piece of paper or originated the instructions to Colonel Hawkins to manipulate the components of the Order of Battle. I understand that General Davidson knew of both the number and the orders, but I have no information on whether he thought them up. Likewise, I have heard speculation and what I consider strong circumstantial evidence that the originator was General William Westmoreland, then head of MACV. But on this I have no first-hand information. (JX 436, p. 3)

Adams first registered a complaint with the Army on January 11, 1973. He sent the Army a copy of his December 8, 1972, memorandum to the CIA Inspector General. Paragraph 3 of the January 11 letter pointed to possible violations of the Uniform Code of Military Justice:

I would respectfully point out that the allegations in the 8 December memorandum, if true, raise the possibility that infringements have occurred of the Uniform Code of Military Justice. These might include a failure to obey orders or regulations (Section 892, Article 92), false official statements, (Section 907, Article 107), and conspiracy (Section 881, Article 81). Since the allegations are serious, specific, and supported by what appears to be good evidence, I think you will agree they are important enough to warrant a full investigation. (JX 907, p. 1)

Adams supplemented his letter to the Army Inspector General on January 16, 1973, by bringing to his attention "two pieces of hearsay evidence which suggest the alleged misrepresentations may have extended over a longer period of time." (JX 908, p. 1) The first was that a CIA official told Adams that Colonel Hawkins had told him that in August 1967 the MACV estimates for service troops were too low and that Colonel Hawkins "may have been under orders as early as August to keep the OB artificially low." (JX 908, p. 2) The second piece of hearsay was that Lieutenant Richard McArthur was ordered to lower MACV estimates of guerrillas for "probably October, perhaps November and December [1967] as well." (JX 908, p. 2.)

At no place in these memoranda is there any suggestion that Colonel Hawkins told Adams anything about any alleged statements by General Westmoreland in May 1967. This is the case even though Adams now maintains that Colonel Hawkins gave him this information in 1968 and that Adams had no reason not to disclose it once Hawkins left the Army—which he did in 1972. (Adams Dep. Tr. 44, 48, 49)

Later in 1973, Adams complained to committees of both the House of Representatives and the Senate. (JX 340, p. 73) Nothing happened.

When asked about his activities by Wallace during his interview, Adams stated:

ADAMS: I submitted some complaints to the CIA inspector general, outlining what had gone on, and verbally I suggested—said—that Mr. Helms ought to get fired.

WALLACE: What happened to that?

ADAMS: Nothing.

WALLACE: Did you do the same concerning General William Westmoreland? Did you do the same about General Westmoreland?

ADAMS: Yes sir, I did. I submitted to the army inspector general a list of complaints, saying what I thought had gone on, and suggesting that if what I said was true, General Westmoreland had violated the uniform code of military justice, and that therefore he had committed a court martial offense.

WALLACE: What happened to that?

ADAMS: Nothing. . .

(JX 12, Adams CBS interview Tr. 16695-6)



### 3. *The Ellsberg Trial*

Adams volunteered to testify in the trial of Daniel Ellsberg in 1973. At the trial, Adams testified for three and a half days, ending by describing the General on the staff of the JCS who briefed the Wise Men and President Johnson in March 1968 as "possibly part of the conspiracy to falsify documents." (JX 408, p. 4122)

### 4. *Adams' Harper's Article*

After testifying at the *Ellsberg* trial in 1973, Adams' next effort to present his story was a May 1975 *Harper's* magazine article entitled, "Vietnam Cover-up: Playing War With Numbers—A CIA Conspiracy Against Its Own Intelligence." Adams' editor at *Harper's* was George Crile. Of the three people singled-out as having "acknowledged or abetted the counterfeiting of military intelligence," one was Lt. General Daniel O. Graham, the other two were former mid-level CIA officials. The article portrayed a broad-based effort to distort intelligence and suggested that the participants might include Walt W. Rostow, the President's Special Assistant for National Security Affairs, Ambassador Ellsworth Bunker, General Westmoreland and others.

The sole mention of General Westmoreland read:

Between October 1972 and January 1973 I approached the U.S. Army Inspector General, the CIA Inspector General, and the Congress—all to no avail. To the Army Inspector General I delivered a memorandum setting forth the details of what had happened to the VC estimate before Tet. I mentioned the possibility of General Westmoreland's complicity, which might have implicated him in three violations of the Uniform Code of Military Justice. (JX 340, p. 73)

The article indicated that Adams left the CIA in 1973 and ended:

One last word. Some day, when everybody has returned to his senses, I hope to go back to the CIA as an analyst. I like the work. (JX 340, p. 73)

Two letters appeared in the July 1975 issue of *Harper's* in response to Adams. One from Admiral Rufus Taylor, who was Deputy Director of Central Intelligence in 1967 and 1968, said flatly that there was no consensus on the reliability of "Sam's extrapolations." And there was "no cover-up." Admiral Taylor detailed Adams' efforts to reach the President:

At that point Helms and the rest of us had had enough of what I considered intellectual arrogance on Sam's part, so I told him in

writing to get back to work with the rest of the team or resign and pursue his campaign on his own time. At no time do I recall Sam Adams being suppressed, ignored, or restrained or, his ideas pigeon holed, nor was any question of security restraint raised.

I think *Harper's* owes an apology to Messrs. Graham, Procter, and Hyland for the gratuitous and insulting comments it printed about them. (JX 311A, p. 2003)

The other writer was James C. Graham, a former member of the Board of National Estimates, which adopted SNIE 14.3-67. Graham described Adams' article as "distorted" and "misleading," and tending to oversimplify an "arcane and complex" subject. Graham said that, "I stand by" the SNIE 14.3-67 and he concluded:

In my twenty-five years in the CIA I never saw an analyst given more individual attention, more opportunities to present his evidence and state his case. Yet the impression created by the *Harper's* article is that of a man whose work was suppressed and whose views were ignored. Many of us were sympathetic to Sam because of his diligence and persistence, but these traits were not uncommon among the many outstanding analysts at the CIA. Adams was only uncommon in his inability to see that he, like the rest of us was occasionally fallible, and in his belief that all who disagreed with his findings had base and ulterior motives. (JX 311A, p. 2004)

##### 5. *The Pike Committee*

In 1975, the House of Representatives created a Select Committee on Intelligence, known as the Pike Committee, which heard from Sam Adams as well as a number of intelligence officials from the CIA and the military.

At the start of his testimony before the Pike Committee, Adams quoted from an October 28, 1967 cable from Ambassador Bunker to Walt Rostow. (JX 267) Congressman McClory asked Adams:

May I make an inquiry, Mr. Chairman? Is the witness testifying with respect to unclassified materials—materials that were classified or secret and then were declassified—or has some of this material not yet been declassified or made public? (JX 311B, p. 686)

Adams responded:

A lot of this has not yet been made public. This is taken from notes that I took. (JX 311B, p. 686)

Adams' response was misleading if not downright false since he had purloined from the CIA the very document he was quoting.<sup>32</sup>

Adams was asked about the figure of 10,000 Americans killed during the Tet offensive which he had used in the *Harper's* article.<sup>33</sup> Adams responded:

MR. ADAMS. That number was too high. I flipped out that one by mistake. However, in the first 3 weeks of the Tet Offensive something over 2,000 Americans were killed, and by some definitions the Tet Offensive lasted through August. There are a bunch of waves that kept coming on. There were 7,000 or 8,000 Americans killed. An awful lot of people. (JX 311B, p. 696)

Adams was asked about the statement in his prepared remarks that "the aim was to fool the American press, the public and the Congress." (JX 311B, p. 690) When asked who was involved in the attempt to fool the press, the public and Congress, Adams responded:

MR. ADAMS. OK. As to who elaborated this policy, I would have to read through my statement. I mention certainly General Abrams, who wrote that cable. General Wheeler was aware of it, apparently, since he got a copy. General Westmoreland signed off on it. Mr. Helms got a copy.

MR. TREEN. Do you know if Secretary McNamara was privy to any of these communications?

MR. ADAMS. I would find it difficult to believe that he wasn't. I don't know. I am just telling you what I do know. Ambassador Bunker of course, wrote that thing on October 28. It was to Rostow, so all I can say is Abrams, Wheeler, Westmoreland, Helms, Bunker, and Rostow knew there was some kind of attempt going on to fool the press. (JX 311B, p. 700)

Later, Adams added: "the top might have known, too". (JX 311B, p. 705)

<sup>32</sup> JX 267, also identified by Bates numbers 24081, was received from defendants pursuant to plaintiff's discovery request.

<sup>33</sup> Adams stated in the *Harper's* article that "[a]s many as 10,000 American soldiers had been killed in the Tet Offensive because the generals had played politics with the numbers. . . ." (JX 340, p. 66)

Congressman Dellums asked Adams:

As I read your testimony, you are saying the Defense Intelligence Agency and the Central Intelligence Agency knowingly and purposely developed intelligence to fight preconceived policies, is that correct?

MR. ADAMS: Yes, sir, that is right. (JX 311B, p. 709)

Lieutenant Richard McArthur testified before the Pike Committee on December 3, 1967. He was asked whether the cutting of his estimates in February 1968 was "based on actual experience." He replied:

I don't know upon what it was based. I never received an answer to that question. (JX 311D, p. 1667)

There were a number of present and former officials whose testimony contradicted Adams'. General Daniel O. Graham, who was Chief of the Current Intelligence, Indications and Estimates Branch of MACV from July 1967 until July 1968, and who was, at the time of his testimony, Director of the Defense Intelligence Agency, testified that the size of the enemy's attacking force at Tet showed that MACV's estimates were probably too high. He added:

Had the Allied forces been attacked by a half million or more troops, one would have to give some credence to Mr. Adams. Since that was not the case, he should be given no credence. (JX 311, p. 1653)

During his appearance, General Graham testified that "any attempt to place General Abrams at the head of some conspiracy to deceive indicates a lack of rationality on the part of the accuser." (JX 311, p. 1653) Congressman Pike said: "I agree with you completely in your characterization of General Abrams. I think he was a man of impeccable character." (JX 311, p. 1675)

General Graham also said that the dispute over the numbers had no effect on the Tet offensive. (JX 311, p. 1680)

William Colby, then Director of Central Intelligence, testified in response to Adams' charge that the "CIA participated in a cover-up undertaken to produce estimates of Vietnamese Communist strength that would be politically acceptable". Colby testified:

I reject his charge as unfounded and unsupportable. (JX 311, p. 1684)

\* \* \*

Much of Mr. Adams' case seems to hinge on his charges that the CIA "sold out" or "caved in" at the order of battle conference held in Saigon in September 1967. A few observations about this conference are in order.

The final agreed figures resulting from the conference, particularly those for the VC/NVA combat forces, represented a significant move on the part of MACV, most notably regarding the category of administrative services or support groups. (JX 311, p. 1685-6)

\* \* \*

I don't suppose the results of the Saigon order of battle conference were completely acceptable to any of the parties. The military had a point in its argument that their concern was with the combat threat represented by the order of battle in the classic sense. CIA had a point, namely, that a responsible national intelligence assessment of enemy capabilities would have to include consideration of the much broader insurgency threat represented by all organized political, military and quasi-military groups.

Mr. Adams was never able to make or to appreciate this distinction. (JX 311, p. 1686)

\* \* \*

I would submit that rather than being the cause of the loss of thousands of lives and hundreds of planes, the intelligence community provided the warnings that enabled the military commands in Vietnam to meet and to defeat the enemy forces during the Tet offensive and to minimize losses of lives and resources.

I would submit, moreover, that it was in large part due to these intelligence warnings that the Vietnamese Communists failed to attain their goal of a decisive victory for the Communist cause. The fact of the matter as we look back in history is that the Tet offensive was a calamitous setback for the Communist forces in 1968. (JX 311, p. 1687)

\* \* \*

In short, the problem of estimating the numerical strength of many disparate groups of organized manpower, particularly in the context of the Vietnam war, was of necessity a highly imprecise art. Even to this day I doubt that there are experienced observers—in Washington or in Hanoi—who lay claim to having precise knowledge of the numerical strengths of most of the organized groups in South Vietnam on either side. (JX 311, p. 1689)

Congressman Pike questioned Colby:

**CHAIRMAN PIKE.** Thank you, Mr. Colby. On the first page of your statement you say the record shows clearly that from 1965 onward, the CIA consistently advised the senior policy-making officials of this Government that there was a strong likelihood that the official military estimates of the size of organized enemy groups in South Vietnam were understated. How many of those senior policy-making officials, if any, were in the Congress?

**MR. COLBY.** I think we only had one specific account. This was a briefing given by the Director, Mr. Helms, to the House Armed Services Special Committee on National Defense Posture on the 9th of October 1967. This particular briefing points out the Communists have a largely untrained irregular force called a militia which may have numbered about 150,000 in 1966. (JX 311, pp. 1695-6)

Another witness was George Allen, the deputy to the Director's Special Assistant for Vietnamese Affairs during 1967, who testified:

I was able to accept the final agreed upon figures as reflected in the estimate. (JX 311, p. 1702)

\* \* \*

Well, there was no effort to deceive people. (JX 311, p. 1703)

George Carver, the Director's Special Assistant for Vietnamese Affairs in 1967-68, testified in response to the question:

**MR. MURPHY.** Mr. Carver, maybe you can answer that. Were there any instructions to stay within certain limits of troop estimates and take certain categories and leave them out of the estimates?

**MR. CARVER.** Absolutely not, Mr. Murphy. I was Mr. Helms' representative and the chairman of the Washington delegation. Mr. Helms sent me out to see if we could come to some agreement which would end there, being essentially two sets of figures—a field set and a Washington set—which had fairly large disparities. He told me that if we could reach substantive agreement to do it we would, and if we couldn't then we couldn't. There were no other instructions other than that and we didn't do anything except to try to review and go over the evidence.

At least that is what the Washington delegation tried to do, and we came up with what we considered to be an honest and fair compromise agreement—the body of which, I have feared, is open to wide interpretation—but there were no prior instructions, and any allegation that there were is false. (JX 311, p. 1703)

James C. Graham, who as a member of the Board of National Estimates was responsible for the preparation of SNIE 14.3-67, testified that the Communists attacked "not because they were strong, but because they did in fact face a steady decline in their fortune if they could not by some dramatic blow undermine U.S. support for the war." (JX 311, p. 1720) He said that in the fall of 1966, when he visited South Vietnam:

I had serious questions about the effectiveness of this new intelligence organization. In the summer of 1967, as you know, a new director of J-2, MACV, arrived on the scene and brought with him a bright young lieutenant colonel named Daniel Graham who set to work to revise the MACV estimates shop and from that point on, I think you can chart improvement in the quality of MACV's effort.

I always had problems with some of MACV's estimates, but I must recognize there was improvement as time went on. (JX 311, p. 1721)

\* \* \*

MR. TREEN. Did you participate in the national intelligence estimate of November 1967?

MR. GRAHAM. Yes, sir. I was the board member responsible for the production of that estimate.

MR. TREEN. Does it represent your honest and sincere estimate at that time based upon available intelligence?

MR. GRAHAM. It certainly does. (JX 311, p. 1725)

General Westmoreland responded to a letter from the Pike Committee:

I categorically deny, as others before me, that there was an effort by military intelligence to deliberately downgrade estimates of Vietcong (VC) strengths in order to portray the VC as weaker than they actually were. As a matter of fact, in November 1967, the Intelligence Community produced a revised estimate of the VC that reflected the views of the military intelligence staffs in Saigon and Hawaii, CIA, and the Pentagon. This new estimate, the result of a sweeping review of information gleaned during the 1965-67 period, reflected no great difference of opinion between the military and CIA. What it did do was exclude from the Order of Battle Vietcong elements (Self Defense Forces and Secret Self Defense Forces) that could not be considered a part of the Communist Military Threat (Infantry, Armor, Artillery, and Logistic Support Units), while recognizing that they were part of

the VC organizations and had to be treated as such. These excluded elements were not a part of the enemy army per se. They possessed no offensive capability and did not pose an offensive threat to the Allied Forces. The problem was that Mr. Adams wanted to introduce these elements into the VC Military Threat to US and South Vietnamese forces and they simply did not belong there. Additionally, he inflated the size of these militarily impotent elements.

As for my endorsement of General Abrams' views in rejecting Mr. Adams' contentions, I can only say that both General Abrams and I were motivated by a desire to prevent false figures from being introduced into the VC order of battle.

\* \* \*

As others before have done, I also want to lay the canard to rest that the Tet Offensive represented an intelligence failure. The largescale attacks that occurred were not only anticipated, but I personally directed each commander to place his forces in a maximum alert posture, in anticipation of the attack I knew was coming, 36 hours in advance. I prevailed upon President Thieu to minimize the number of troops permitted to take leave during the TET holiday leave period in order to strengthen their readiness to meet an attack. The only surprise was in its rashness. The enemy assumed risks, inviting great casualties, due to attacks on heavily defended areas where superior firepower could be brought against them. The dispersal of his forces across the broad front incurred further risk against superior concentration of Allied Forces. For a more detailed account of the circumstances surrounding TET, I invite your attention to a publication entitled "Report on the War in Vietnam" written by Commander-in-Chief, Pacific, and Commander US Military Assistance Command, Vietnam. The report was published in late 1969 and was issued by the Government Printing Office.

The letter was published as part of the Pike Committee proceedings. (JX 311, pp. 2008-10)

Thus, as of the close of 1975, the following people had spoken out against Adams' thesis concerning events in 1967 and 1968:

Admiral Rufus Taylor, Deputy Director of Central Intelligence;

William Colby, Chief, CIA Far Eastern Division (later, Director of Central Intelligence);

George Carver, Special Assistant for Vietnamese Affairs to the Director of Central Intelligence;



George Allen, Deputy to the Director's Special Assistant for Vietnamese Affairs;

James C. Graham, Member, CIA Board of National Estimates;

Paul V. Walsh, Deputy Director, CIA Office of Economic Research;

General William Westmoreland, COMUS MACV; and

General Daniel Graham, Chief, Current Intelligence, Indications and Estimates Division, MACV (later, Director of Defense Intelligence Agency).<sup>34</sup>

The Pike Committee Report did not purport to resolve the conflict between Adams, who claimed willful falsification of enemy strength estimates, and the others, who denied it. Instead, the Report said that at the September 1967 Saigon conference, the "resulting compromise represented the best resolution of MACV's preoccupation with viewing the order of battle in the classic military sense and CIA's assessment of enemy capabilities as a much broader people's war." (JX 381, p. 18) In fact, the Report stated that "[w]hether this was by conspiracy or not is somewhat irrelevant." (JX 381, p. 19) The Report concluded, however, that the "resulting compromise" led to a "degraded image of the enemy" which contributed to a "warning of the Tet offensive [that] had not fully anticipated the intensity, coordination and timing of the enemy attack."<sup>35</sup> (JX 381, p. 18) "Ultimately, the Vietnam intelligence experience is a sobering reminder of the limitations and pitfalls the United States can expect to encounter if it chooses to align itself in unconventional battle with unconventional allies." (JX 381, p. 19)

#### 6. *Adams' Book*

After the Pike Committee hearings, Adams decided to write a book on the order of battle and turned his attention to gathering information from third parties to support his thesis that MACV had falsified the Order of

<sup>34</sup> Except where otherwise noted, the positions listed are those held during the 1967-68 period which is the subject of the controversy.

<sup>35</sup> The Report seems to take issue with General Westmoreland's "contentions in the fall of 1967, that the enemy's 'guerrilla force is declining at a steady rate.'" Adams now concedes that General Westmoreland's statement is correct. (Adams Dep. Tr. 290) The Report also acknowledged that a widely circulated Defense Department study, apparently the pre-Tet December 1967 Southeast Asia Analysis Report, examined the results of the [September 1967] conference and reinterpreted them in terms consistent with prior quantification, it remarked that the new estimate should have been 395,000-480,000 if computed on the same basis as before. "The computations do not show that enemy strength has increased, but that previous estimates of enemy strength were too low." (JX 381, p. 18)

Battle Summaries. Adams concedes that as of 1976, six years after the Tet offensive and after countless investigations and inquiries into the accuracy of the enemy order of battle before Tet 1968 and concerning the 1968 Tet offensive itself, including ones by the President's Foreign Intelligence Advisory Board, by the parties in the *Ellsberg* case and by the Pike Committee, there was no inkling of any suppression of intelligence relating to enemy infiltration in the months before the Tet offensive, much less the concealment from Washington of 100,000 to 150,000 NVA infiltrators. (Adams Dep. Tr. 35) Lt. Bernard Gattozzi, who was an analyst in CICV in 1967-68 and responsible for adding up enemy gains and losses each month, told Adams that in 1979. (Adams' Dep. Tr. 35)

As discussed in greater detail elsewhere in this Memorandum, Adams interviewed scores of low-level military and civilian personnel before he became involved with CBS in the preparation of what became the "The Uncounted Enemy." As of the Fall of 1980, he apparently had not interviewed any of the following persons, who were the people most directly and intimately involved in the key events later described in the Broadcast:

Walt Rostow—President Johnson's Special Assistant for National Security Affairs

John Roche—Special Consultant to President Johnson

Richard Helms—Director of Central Intelligence

William Colby—Chief, CIA, Far Eastern Division

George Carver—CIA Director's Special Assistant for Vietnamese Affairs

Dean Rusk—Secretary of State

Nicholas Katzenbach—Under Secretary of State

William Bundy—Assistant Secretary of State for East Asian and Pacific Affairs

Philip Habib—Deputy Assistant Secretary of State for East Asian and Pacific Affairs

Barry Zorthian—Minister-Counselor for Public Affairs, US Embassy, Saigon

Winant Sidle—Chief of Information, MACV

Ellsworth Bunker—Ambassador to S. Vietnam

Robert McNamara—Secretary of Defense

Paul Nitze—Deputy Secretary of Defense

Paul Warnke—Assistant Secretary of Defense for International Security Affairs

Robert Komer—Civilian Deputy to General Westmoreland

U.S.G. Sharp—Commander-in-Chief, Pacific

Grover Brown—J-2, CINCPAC, then Assistant Director of Intelligence Production, DIA

Chesley Peterson—J-2, CINCPAC

William Westmoreland—Commander US Military Assistance Command, Vietnam

Phillip Davidson—J-2, MACV

Walter Kerwin—General Westmoreland's Chief of Staff

Charles Morris—Director of Intelligence Production, MACV

Daniel Graham—Chief of Current Intelligence, Indications and Estimates Division, MACV

Lewington Ponder—Deputy Director, CICV

Earle Wheeler—Chairman, Joint Chiefs of Staff (deceased)

Creighton Abrams—Deputy, COMUS MACV (deceased)

It appears that, as of 1980, except for General Taylor, Adams had interviewed none of the so-called "Wise Men," and none of the members of the Mission Council of the Embassy in Saigon for the period 1966-68.

Instead, Adams spent a large portion of his time interviewing low-level officers and enlisted men from the Combined Intelligence Center (CICV):

Lt. Bernard Gattozzi—a CICV analyst (11 times)

Lt. David Hope—a CICV analyst (6 times)

Lt. Richard McArthur—a CICV analyst (11 times)

Sgt. John O'Donnell—an enlisted man at CICV (6 times)

Lt. Colonel Everette Parkins—a CICV supervisor (5 times)

Capt. Joseph Price—a CICV analyst (5 times)

Of all the people interviewed by Adams, it appears that only General Maxwell Taylor was in a position to have had reliable knowledge concerning what information was communicated to the President, Secretary of Defense McNamara and the Joint Chiefs of Staff. General Taylor had been Chairman of the Joint Chiefs of Staff, former Ambassador to South Vietnam, advisor to President Johnson in 1967 and 1968, one of the Wise Men, and Chairman of the President's Foreign Intelligence Advisory Board in 1968.

Adams interviewed General Taylor for approximately two and one-half hours on December 26, 1978. Adams' notes contain lengthy excerpts from General Taylor's autobiography, *Swords and Plowshares*. The book points out many facts that cast serious doubt on Adams' thesis, including that the Tet offensive was anticipated to a great extent and was a military defeat for the communists. General Taylor's book makes the following points about the Tet offensive:

Both sides slugged it out in 1966 and 1967 with the enemy getting very much the worst of it.

\* \* \*

... the real surprise of Tet to me was not the fact that the enemy mounted a big offensive—it had been no secret that they were planning one against the principal cities and towns—but the approximate simultaneity achieved by so many different attacks.

\* \* \*

[At Tet, the enemy] secured no lodgement except in Hue, they created scenes of death, fire and destruction which, as recorded on American TV screens and reported in gory headlines in the American press, scared much of the American public and some of our officials into a funk from which recovery was slow and, in some cases, never complete.

\* \* \*

While the enemy was losing the war on the battlefield, he was gaining a valuable psychological victory in the United States and in large parts of the world.

\* \* \*

In the midst of this hubbub, President Johnson directed the President's Foreign Intelligence Advisory Board of which I was chairman to investigate the charges that American forces had been surprised by the Tet offensive. After going over the available

documentary evidence and talking to many officials, we concluded that there was nothing to indicate that a lack of information had caused any American unit to fail to carry out its assigned mission at the time of the enemy attack. (Taylor Aff. ¶ 9—quoting from “Swords and Plowshares”)

In his interview, General Taylor told Adams that he had serious doubts concerning Adams’ thesis that General Westmoreland reduced estimates because of White House pressure. Adams’ notes read:

When SA reels out interviewees on faking ests, MT expresses doubt, says they should “prove it.”

MT notes inclination of all military cdrs is hike ests up (JX 185, p. 30381)

\* \* \*

Strength estimates discussed back and forth in Washington. (JX 185, p. 30383)

\* \* \*

OB dispute may have bn corner of problem.

“Not accurate” says MT re Loory

Dsnt recall OB discussion

Carver espec.

I preferred to go to him.

Walt never put pressure on people. (JX 185, p. 30385)

\* \* \*

Dnt blv this happen [i.e. faking OB].

Idea that people wd falsify enemy estimate is ‘treasonable.’ But don’t blv it happened in this case, because it goes agin Westy self-interest. (JX 185, p. 30386)

Meanwhile, Adams was proceeding to write his book. His “Precis” of Chapter 10 stated that it would be a detailed account of how General Westmoreland’s intelligence staff—with White House encouragement—falsified the Viet Cong strength estimate before the Communist Tet offensive of January 1968. Adams’ book does not single out General Westmoreland as the deceiver of the White House. Quite the contrary. Two of the four people whom Adams alleges were chiefly responsible for the falsification were Westmoreland’s superiors, Secretary McNamara and National Security Advisor Rostow:

I have yet to interview the four persons still living whom I believe chiefly responsible for the falsification: General Westmoreland himself, General Philip Davidson (Westmoreland's J-2 after McChristian), Mr. Robert S. McNamara, and Mr. Walt Rostow. I plan to approach them before the book goes to press, in the hope that they will shed further light on what happened, including the extent of President Johnson's involvement. (JX 589, p. 34771)

Although he had been working on the book full-time for years, as late as September 1982, Adams had not committed to paper a chapter, not even a precis, relating to the alleged infiltration of at least 100,000 unreported NVA in the five months before Tet.<sup>36</sup> The researcher for the Broadcast later called the infiltration story the most important segment of the Broadcast. (PTX 102, Kowet transcript of Alben interview, p. 20) Adams explained his failure to include the infiltration charges in the draft of his book as of mid-1982 on the ground he still wanted to do more research. "Because primarily the information I have gotten on infiltration has been developing." (Adams Dep. Tr. 35)

## B. Making the Broadcast

### 1. Crile Tells the Story to CBS—The "Blue Sheet"

Crile ostensibly approached Adams to talk to him about a possible CBS documentary on Adams' thesis. (Crile Dep. Tr. 713) Crile contacted Adams and suggested that they proceed despite Crile's knowledge that Adams' position had been refuted by the senior people most knowledgeable about the relevant events.

Crile met with Adams, who filled him in on his research over the preceding four years. (Adams Dep. Tr. 167; PTX 12A, Tape 1, p. 6) Crile had spoken to Colonel Gains Hawkins five years earlier, when Crile was editing Adams' *Harper's* article. (Crile Dep. Tr. 772) Aside from that conversation, Crile had spoken to none of the participants other than Adams. (Defendants' Response to Plaintiff's First Set of Interrogatories)

Based on this "research", *i.e.*, conversations with Adams, Crile prepared a proposal, known as a Blue Sheet, for his superiors. Crile explained that because there were 550,000 Viet Cong rather than the 300,000 estimated by the Army, "you suddenly have to find at least another  $\frac{3}{4}$  of a million conventional soldiers to combat them." (JX 375, p. 24084) Crile explained that Adams "had come across the most significant intelligence

<sup>36</sup> Defendants have produced chapters 4-6, 10-11 and the epilogue of Adams' book draft, none of which discusses 100,000 allegedly unreported pre-Tet infiltrators.

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discovery since World War II." (JX 375, p. 24084) "Adams' figures were correct," Crile assured his superiors "[b]ut they were not sent to the President or made available to Congress." (JX 375, p. 24084) The Blue Sheet states the major premise of the Broadcast:

What would constitute the primary focus of this proposed documentary, is the story of how the U.S. Military command in Vietnam entered into an elaborate conspiracy to deceive Washington and the American public as to the nature and size of the enemy we were fighting.

This is, of course, the most serious of accusations, suggesting that a number of very high officials—General Westmoreland included, participated in a conspiracy that robbed this country of the ability to make critical judgements about its most vital security interests during a time of war. (JX 375, pp. 24084-5)

The Blue Sheet narrative proceeded through sixteen single spaced pages. Virtually every incident, in fact, virtually every statement, in the Broadcast had its genesis in the Blue Sheet. The section headings resounded with names like, "The Conspiracy," "The Key Conspirator Takes Charge," "The Conspiracy is Forced to Expand," "MACV Blinds Itself," "The Conspiracy Continues," and "The Game is Up." (JX 375)

The Blue Sheet used the term "conspiracy" or "conspirator" a total of 29 times in its 16 pages. (PTX 2, p. 34460—the Benjamin Report) Crile explained of those whom Adams had contacted: "[m]any wept when they told [Adams] their stories . . . They all spoke on the record and acknowledged their part in the conspiracy. And most of them spoke of it in just those terms—as having participated in a conspiracy." (JX 375, p. 24098) Crile explained the task ahead for CBS:

Adams has chronicled that conspiracy with unbelievable detail all the way to General Westmoreland's doorstep. It is for us to go beyond—find out whether Westmoreland was acting on his own authority or whether, as it seems more likely to me, he was receiving direct authorization or at least encouragement from above. The task will be to follow the trail of the conspiracy, to see how far up the chain of command it goes—first to the Pentagon, to the Joint Chiefs of Staff. Then to the Secretary of Defense, Robert McNamara, and finally to see what the White House knew about it. (JX 375, p. 24098)

Adam's reaction to Crile's exuberant use of the word "conspiracy" in the Blue Sheet was direct and to the point: "Oh for Christ's sake, George, come off it." (JX PTX 15, Benjamin's notes of Adams interview p. 38184)<sup>37</sup>

Crile relied on Adams despite unquestionable bias, financial interest in the success of the project,<sup>38</sup> and instances of sloppy reporting. For example, in his *Harper's* article he said that "as many as 10,000 American soldiers had been killed in the Tet offensive because the generals had played politics with the numbers." (JX 340, p. 66) When confronted during his Pike Committee testimony with his erroneous statement that American casualties numbered 10,000, he replied, "I flipped out that one by mistake." (JX 311, p. 696)

Thus, Crile submitted to CBS a proposal that was based virtually entirely on the statements of a prejudiced, if not obsessed, man who, moreover, had displayed a cavalier attitude toward key facts. But Crile did even more than that—he turned Adams' story on its head, from a deception by the Johnson Administration of the Congress, the press and the public, to a deception by General Westmoreland and his aides of the Johnson Administration.

## 2. CBS Buys In

Crile's superiors were admittedly skeptical. Howard Stringer, who was the Executive Producer of the Broadcast, later told Burton Benjamin that Adams was "obviously obsessed with this issue." (PTX 70, Benjamin's notes

<sup>37</sup> Burton Benjamin testified in deposition that he was satisfied that his interview notes were accurate:

A: . . . My whole experience has been, beginning with a print reporter, has been in taking notes and I prided myself on the quality of those notes . . .

Q: Weren't you concerned that the notes you took might not be accurate?

A: No, sir, that's my training.

\* \* \*

Q: Were you satisfied after you corrected them that they were accurate?

A: Yes, sir.

(Benjamin Dep. Tr. 17, 19)

Although it is in some cases unclear whether Benjamin's notes reflect the interviews verbatim or not, Benjamin freely quotes from them verbatim in his Report. (PTX 2) The same practice will be followed here.

<sup>38</sup> As of December 31, 1981 Adams had a written agreement with CBS for the payment of \$17,000 (JX 597, p. 35212) which was increased to \$25,000 in June 1981. He also had a book contract with W. W. Norton. (PTX 2, p. 34455—Benjamin Report)



of Stringer interview p. 38544) According to Benjamin's notes, Stringer said that he "knew this would be intensely controversial". (PTX 70, p. 38544) On the subject of Crile's use of the word conspiracy 24 times, Benjamin's notes of his interview with Stringer read:

"That was George trying to sell an extremely reluctant executive producer." Says the length of the Blue Sheet was a reflection of massive skepticism on my part. (PTX 70, p. 38546)

Robert Chandler was also skeptical. (Chandler Dep. Tr. 53) Roger Colloff, the CBS Vice President with responsibility for the CBS Reports unit, has testified that:

... management at CBS News had some doubts as to whether Mr. Crile would be successful in obtaining on-camera interviews with a number of individuals regarding their activities during the time frame of 1967-1968 and in connection with the events which were subsequently described in the broadcast. (Colloff Dep. Tr. 256)

Despite their "massive skepticism," (PTX 2, p. 34462—Benjamin Report) defendants went ahead and approved a preliminary budget to see if Crile could get interviews on film that would support Adams' thesis. (Colloff Dep. Tr. 256-7)

Crile was successful not only in selling the Broadcast to his superiors on a conditional basis, but he was also successful in persuading them to provide a fee for Adams, an amount that started at \$10,000 and eventually totalled \$25,000. (PTX 70, p. 38544)

Crile had explained to CBS management that he wanted Adams paid, if possible, because:

Adams' book has been a long time in the coming and if I'm not mistaken, it has a ways to go before it's finished. That's at least one of the reasons Adams is willing to cooperate with us on the documentary now. I have told him I would see if we could pay him for his research (in the same way I was paid for my research when I signed on to do the CIA's Secret Army). I made it clear to him, however, that this might not be possible—among other reasons because he is sure to be a key interview in the show. (JX 375, p. 24098)

Crile and Adams began production of the Broadcast in December 1980, and in a few months Crile would present evidence of their progress to his superiors.

### 3. Adams' Prospects List

At about this time, Adams gave Crile a list of "Prospects," individuals Adams felt Crile should consider as potential interviewees. It included General Westmoreland, with the comment, "Big question with Westy is who is fooling who, and when." (JX 881, p. 4736)

Other than General Maxwell Taylor, there was no superior of General Westmoreland's on the Prospects list and, as Adams' accompanying diagrams made clear, there were comments on only three people who reported directly to General Westmoreland; Generals McChristian, Davidson and Sidle. Adams' statements about General McChristian pointed out that he "loathes" General Davidson, and that General McChristian was inclined to think General Westmoreland "screwed" him, apparently in reference to General McChristian's unhappiness about not getting his third star. Adams' notes regarding General McChristian also say:

Could maybe describe May 67 meeting with himself, Hawkins and Westy.

\* \* \*

Would he talk? Maybe, if properly approached—with caution and respect, which he deserves. He *loathes* Komer, and Davidson, and is contemptuous of Danny G. Of 2 minds on Westy, but inclined to think he (McC) was screwed. (JX 881, p. 4724)

Adams' entire comment on General Davidson, who was the head of MACV Intelligence during the period of the alleged "conspiracy," was:

Westy's J2 from 1 June 67 on

— He is said to have cancer.

— Death-bed confession? Doubt it, but maybe worth a call.

— (I plan to check with him prior final draft.) (JX 881, p. 4713)

Adams' entire comment on General Sidle, who was General Westmoreland's public information officer, reads:

Army Bgen. at MACV. Westy's Public Info Officer from 15 Aug 67 'til after Tet. He's mentioned in 20 Aug 67 cable—the one by Abrams—as trying to head off questions on OB.

— Might be interesting, if surprised.

— He had a full colonel [Gordon Hull] assigned to PR on OB matters. (JX 881, p. 4733)

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Otherwise, the list includes military officers who reported to Generals McChristian or Davidson and, in most cases, were several echelons down, officers from DIA and CINCPAC, CIA analysts and reporters.

Adams attached to the Prospects list a document entitled "High Level Interviews to Think About." Listed were the following: Ambassador Ellsworth Bunker, American Ambassador to S. Vietnam in 1967-1968; Ambassador Robert Komer, civilian deputy to General Westmoreland in charge of pacification; Secretary of Defense Robert McNamara; President Johnson's Special Assistant for National Security Affairs Walt Rostow; Arthur Goldberg, one of the Wise Men; Clark Clifford, McNamara's successor as Secretary of Defense; and South Vietnamese Premier Nguyen Cao Ky (with Adams' comment "Dunno"). Adams' remarks on Ambassador Bunker told Crile that he believed that Bunker was actively involved in the events to be portrayed in the documentary:

Bunker was in on all this, although its problematical how much he knew of the fakery... Gattozzi briefed Bunker before Tet on infiltration. (JX 881, p. 4739)

Adams' remarks on Ambassador Komer included the statement that he suspected that Komer was "a moving force" behind many of the key events to be portrayed in the documentary:

An advisor on Vietnam to LBJ until May 1967, when he moved to Vietnam to become Westy's deputy in charge of pacification. My own suspicions about Komer include:

\* \* \*

— A moving force behind such phenomena as the imposition of the 300,000 ceiling, the removal of the Self-Defense from the OB, and ups and downs in Political Cadre figure.

\* \* \*

— Read Komer *Times* piece of 19 Mar 68: 'US Undervalued, Enemy Strength Before Tet,' emphasizing CIA position. Ask him to comment.

— He'll say: "CIA full of crap," or "Honest disagreement."

\* \* \*

— He'd probably talk, but expect fireworks. He might say, for example, "Of course we had to fudge the statistics. The goddam press was out to get us." Watch out! Half the audience would believe him. (JX 881, pp. 4739-40)

Adams also wrote about Secretary McNamara, that he knew about the OB discrepancies *in late 1966*:

Puzzle wrapped in an enigma, etc. His precise role eludes me. Clear facts: (1) He knew abt OB discrepancies early-on—which is to say, late '66 (2) He knowingly lied to Congress (6 Mar 67) but so what? Big questions:

— What was his role in keeping lid on OB in 1st half of 1967. There are many indications (such as Anderson col of 30 Nov 67) that the Pentagon was pressuring MACV to keep the OB low. In this regard, a key question is what he talked to Westy about in Saigon and D.C. between 9 and 14 July 67. My guess is that this is when the 300,000 ceiling was imposed. (First *solid* indication I have of the imposition of a ceiling was the meeting in early August between Gen'l Godding, Gen'l Westy, and Col Hawkins). Problem: Did Westy, or McNamara put on the ceiling. What was the role of the White House? (JX 881, pp. 4740-1)<sup>39</sup>

Adams told Crile that President Johnson's Special Assistant for National Security Affairs, Walt W. Rostow, saw several key cables describing the controversy:

Both the cable by Abrams of 20 Aug 67 and the one by Bunker of 28 Oct 67 were seen by Rostow. Ask him to comment. (JX 881, p. 4742)

Adams asked about Rostow: "Would he finger LBJ?" (*Id.*)

Adams made his voluminous notes available to CBS. These consisted of excerpts from books and other publications, handwritten notes of interviews and a number of "chronologies," which were, as the name implies, a series of chronological entries. Adams prepared chronologies for individuals ranging from high-level Johnson Administration officials such as Secretary McNamara to several of the low-level second lieutenants and enlisted men in CICV, detailing day by day, sometimes hour-by-hour, events relating to the order of battle controversy and related matters. The chronologies included not only events relevant to the individual subject to

<sup>39</sup> In Chapter 10 of his book draft, Adams says: "I have yet to interview the four persons still living whom I believe chiefly responsible for the falsification: General Westmoreland himself, General Philip Davidson (Westmoreland's J-2 after McChristian), Mr. Robert S. McNamara, and Mr. Walt W. Rostow. (JX 589, p. 34771)

the chronology, but to others as well. Thus, the "lie a little, Mac" story described by Richard McArthur appears not only in McArthur's chronology, but in several others also. Adams hand-copied the account in each of the chronologies.

Adams prepared much of each chronology *before* speaking to the subject. (PTX 12A, Tape 5, p. 20) In many cases, such as Secretary McNamara, Adams never spoke to the subject at all. Adams said that he took the interview and transcribed what he thought was the important part of the interview into a chronology. (Adams Dep. Tr. 36-7)

In addition to chronologies for various persons, Adams prepared overall or master chronologies, such as "The Order of Battle" chronology. (JX 47)

Adams spent weeks reading to Crile from his chronologies. (Klein Aff. ¶ 12; PTX 1, p. 8) In a telephone interview with Don Kowet of *TV Guide*, Adams acknowledged that Crile, after checking a couple of times to see that Adams had faithfully transcribed his interview notes into his chronologies, would not bother to go back to the interview notes but rely on Adams' overall chronology. (PTX 12A, Tape 2, Kowet's interview of Adams, p. 16) What this means is that Crile, in effect, surrendered his editorial judgment to Adams, relying on Adams to distill the events—taking what Adams thought was the most important part of the interview. But there was every reason to believe that Adams considered as most important only those events that confirmed his passionately-held belief that he had been wronged in 1967.

Furthermore, Adams had a financial interest in the success of the project. Crile told Wallace: "His pay was increased from an original sum of \$10,000 to \$25,000 when I decided to keep him on longer." (PTX 3, p. 37223) He also had a book contract. (PTX 2, p. 34455) Colonel George Hamscher of the DIA, who has described himself as a defense "partisan," characterized Adams' effort in an affidavit executed after he was deposed:

My saddest sense of realization is that Sam Adams' quest, taken as a crusade by so many of us who helped him, appears to have been a reckless vendetta that became a money-making scheme. In any event, I will no longer take any side. More importantly, I want to rid myself of bias. (Hamscher Aff., 11/1/83, ¶ 2)

#### 4. *Production Begins*

The first person Crile approached to work with him on the proposed Broadcast was Ira Klein, a free-lance film editor who had worked continuously at CBS since 1978, editing a substantial number of shows at CBS both before and after "The Uncounted Enemy." (Klein Aff. ¶¶ 2, 5) Within the next few weeks CBS News Vice President, Robert Chandler, CBS News President, William Leonard and CBS Reports Executive Producer, Howard Stringer, discussed the project and they and Mike Wallace agreed that Wallace would be the correspondent. (Chandler Dep. Tr. 65)<sup>40</sup> As Crile had requested in the Blue Sheet, Adams was retained as a paid consultant. (Chandler Dep. Tr. 75-6)

But the Adams role far exceeded that of a consultant. Despite his strong bias and Wallace's belief that a reporter should be impartial (Wallace Dep. Tr. 24), Adams acted as a reporter and "associate producer" (PTX 2, p. 34466—Benjamin Report), interviewing and screening witnesses before they were seen by Crile or Wallace.<sup>41</sup> At times, Adams would see people who were never seen by anyone else. In other instances, Adams had numerous conversations with individuals before Crile met with them. For example, Adams spoke to Joseph Hovey four times, David Morgan three times and Richard McArthur twice before Crile talked to them for the first time. Adams spent some time with Gains Hawkins discussing the events which would later be discussed in his interview. (Hawkins Dep. Tr. 283-4)

CBS News Vice President Robert Chandler told Benjamin that Adams was an adversary and if he had known that Adams was attending interview tapings he would have had problems with it. (PTX 27, p. 38252) Andrew Lack, who succeeded Stringer as Executive Producer of CBS Reports in late 1981, also had a problem with Adams' functioning as consultant, adversary and reporter because it seemed like "too many hats." (PTX 56, Benjamin's notes of Lack interview, p. 38508)

Apparently ignorant of the full role Adams played, Chandler told Benjamin that the idea that Adams would act as a reporter was "absurd" and was never considered. (PTX 29, Benjamin's notes of Chandler interview, p. 38259)

<sup>40</sup> In fact, Crile had wanted Wallace from the outset and had approached him early on. In Benjamin's words, "George [Crile] and Grace Diekhous approached [Wallace] several months before the Blue Sheet." (PTX 75, Benjamin's notes of Crile interview, p. 38563)

<sup>41</sup> Wallace confirmed that Adams was acting as a reporter on the Broadcast. (Wallace Dep. Tr. 11)

Alex Alben was enlisted as the researcher for the Broadcast. Twenty-three years old, only one year out of college, he had worked the preceding year as a researcher on the 1980 Presidential election. (Alben Aff. ¶ 1) Alben's total prior familiarity with the complex issues involved in the Vietnam War consisted of his having taught a college study group on the presidency, a few hours of which were devoted to the Vietnam War. (Alben Dep. Tr. 7-9)

Executive Producer Howard Stringer assigned Joseph Zigman as associate producer for the Broadcast. He told Bud Benjamin that he did it because Crile "needed direction." (PTX 70, Benjamin's notes of Stringer interview, p. 38547)

However, Lack has this to say about both of them:<sup>42</sup>

The caliber of questioning a researcher can come up with is woeful. The decision to not have a researcher on location is not always budgetary. Many are no more than kids. I think the caliber of associate producer is also woefully inadequate. The system is more responsive to whether you've been here two years so its time to move up. The system doesn't make room for good people. (PTX 56, Benjamin's notes of Lack interview, p. 38509)

##### *5. Crile and Adams Begin Interviewing*

Crile explained his role as a producer for CBS News in a memo to Wallace which he wrote during the Benjamin investigation:

My commission was to go out *with* Adams and prove on film that these people would testify to what Adams told us they had told him. So I did it. And CBS News with its eyes wide open looked at the interviews, decided to commission the documentary, hire Adams and send us on our way to complete the work as spelled out in the blue sheet. The documentary they got is the documentary they commissioned. (PTX 3, p. 37223) (emphasis in original.)

Crile and Adams set out "to complete the work spelled out in the blue sheet." They started by contacting former officers from the Combined Intelligence Center Vietnam (CICV), basically MACV's historical arm, to put the charges made in the blue sheet on film.

<sup>42</sup> At his deposition, Burton Benjamin testified that of the over 30 people he interviewed for the Broadcast, only two were either not candid or not forthcoming—Zigman and an unnamed cameraman. (Benjamin Dep. Tr. 68)

HAMSCHER: . . . I . . . I felt that the CIA estimate had extrapolated too far, because they were doing in the other direction what we were doing saying Okay, this is about where we can achieve a compromise and live with it, so we will start back here. They were doing the same thing from the other end.

CRILE: Colonel, isn't it true?

HAMSCHER: This is not a moral issue, but I think it is just bad strength estimation. (JX 5, Hamscher CBS interview Tr. 8)

\* \* \*

CRILE: It . . . you'll have to pardon me, Colonel, but it sounds like a full-fledged conspiracy to fake intelligence reporting.

HAMSCHER: Well . . . this . . . well, faking intelligence reporting is a different thing entirely. When . . . when you don't. . . .

CRILE: Sir, it sounds like a full-fledged conspiracy.

HAMSCHER: If it were a conspiracy—which I . . . which I . . . I don't think it was—it . . . it probably had a good purpose. But . . . (JX 5, Hamscher CBS interview Tr. 27-8)

Hamscher also told Crile that the CIA's estimate went to the President:

CRILE: That is not what I was talking about here. Forget the Tet Offensive. Talking about the midst of a war, United States has hundreds of thousands of troops over there. If a President is trying to decide how strong the enemy is. Can we win or are we in trouble? And your [sic] sitting there as part of the military delegation that [sic] deciding they are not going to provide the President with the full story.

HAMSCHER: He, that is not quite the face of it. The compromise estimate that would go on up to the secretary and President is certainly not the only set of figures that he would get. CIA would have gone in, probably did go in the back door with their big figures and say, "Well, this is the best that we could get at the meeting, and I am sure that DIA did the same thing to the JCS. (JX 5, p. 11)

Crile had to persuade Hamscher that "MACV's figures prevailed"; but Hamscher nevertheless insisted that all estimates went to the President:

CRILE: You know, sir, that those strength estimations went to Washington, went to Secretary of Defense McNamara and ultimately to the President.



HAMSCHER: Yes.

CRILE: The CIA's figures did not prevail. MACV's figures prevailed.

HAMSCHER: That's not unexpected. But you . . . you've used the term CIA's figures did not prevail, which tells me something I wasn't sure of . . . well, I was virtually sure of. That the CIA figures also went in the back door. So he had . . . he had in effect all the views and for all I know, he had the Vietnamese view. So. (JX 5, pp. 35-6)

Crile and Adams next interviewed Richard McArthur, a former lieutenant at CICV. (Defendants' Response to Plaintiff's First Set of Interrogatories, p. 24) Crile questioned McArthur about his experience in the field during July 1967 after he took over the job of estimating guerrillas from Captain Joseph Price. Crile also questioned McArthur about the "lie a little Mac" story used in the Broadcast.

Crile and Adams did not ask McArthur about two areas that were either a matter of public record or were actually used in the Broadcast:

First, they did not question him about his testimony before the Pike Committee, quoted above, where he stated that he did not know whether the estimates of guerrillas was reduced to reflect probable enemy losses and lag times in attributing losses to specific main and local force units, as defendants knew was the case from documents in their possession.

Second, they also didn't ask McArthur whether the events after Tet adversely affected his career. The Broadcast stated:

Richard McArthur, MACV's guerrilla analyst, had hoped to make a career in the Army. His stand after Tet dashed those hopes. (JX I, p. 26)

At his deposition, McArthur acknowledged that he was promoted in due course.<sup>46</sup>

Crile, with Adams playing the role of "associate producer,"<sup>47</sup> went to London to try to get Commander James Meacham on film admitting "his

<sup>46</sup> Some people, including Bernard Gattozzi, someone relied on by McArthur, told Adams that McArthur started drinking heavily and that may have caused his transfer. (Gattozzi Dep. Tr. 282). Adams' book seems to accept this account. Others have verified this account. (Meacham Aff. ¶ 33)

<sup>47</sup> In his interview with Benjamin, Crile described Adams as having functioned as an associate producer on the London trip. (PTX 37, p. 38373)

part in the conspiracy," as the Blue Sheet said he would. Crile had told his superiors that in the alleged post-Tet cover-up, "Graham was asking Meacham to erase the computer's memory, an illegal action akin to burning official records. Meacham, who had gone along with the faking from the start, suddenly got religion." (JX 375, p. 24097).

In 1981, Meacham was, as he is now, a respected journalist; the military correspondent for the *Economist*. Despite Crile's pressuring Meacham to admit "faking intelligence," Meacham said that was not what happened. Meacham explained that the "figures [they] had . . . were the best we could produce . . . [but] were fairly soft in some areas . . ." (JX 8, Meacham CBS interview Tr. 14)

CRILE: I understand, but you had some concerns about the—the reliability of the overall estimate, didn't you?

MEACHAM: Oh, we always have concerns about—sure.

CRILE: Did you think they should've been considerably higher?

MEACHAM: No, I don't recall having thought they should be considerably high; I thought they should've been more accurate, but I think we just couldn't make them any more accurate. (JX 8, Meacham CBS interview Tr. 21)

\* \* \*

MEACHAM: I mean, you're trying to—(INDISTINCT) get me to say that we all falsified intelligence, I'm not gonna say it cos we—I don't have any sense of having done that.

CRILE: What do you have a sense of having done?

MEACHAM: I don't know how to answer . . .

CRILE: Are you proud of your performance, of MACV's performance i— . . . ?

MEACHAM: Well, of course not. But I mean, I don't see the connection. (JX 8, Meacham CBS interview Tr. 38)

Meacham then repeated that there was no faking of intelligence:

CRILE: . . . It sounds to me like you were talking about being put into a position where you were asked to participate in the faking of intelligence. How else can—can we look at it?

MEACHAM: Well, I mean, you can look at it that way if you want to. *We certainly weren't faking any intelligence; we were—trying to come up with conclusions based on intelligence and . . .* (JX 8, pp. 25-6) (emphasis added.)

Meacham explained that there was no problem as to reporting intelligence to superiors, despite Crile's suggestions that there was:

CRILE: What—what is—Isn't it puzzling, though, to you when you're looking at a—a genuinely menacing phenomenon, and you can't get it through.

MEACHAM: Well, I don't know what you mean, "can't get it through." I think I'm having a little trouble with this. (JX 8, p. 15)

It was the *interpretation* of data that bothered Meacham; the numbers were as accurate as MACV could make them. Crile quoted to Meacham one of the numerous letters he wrote home to his wife in 1967 and 1968, then said:

CRILE: They're your words. "Lying." "In other words, we will lie." "We're mesmerized by our own lies." "Some day it will come out." "Hope the roof doesn't fall in."

MEACHAM: Well, I think these lies have to do with—I'm just guessing because my memory does not serve me this far after the event, but I—I think these lies had to do with our judgement of the way the intelligence ought to have been interpreted. The interpretation of this, you know, is a—a number of steps, of which we were one, and I—I think the end result didn't—our recommendations were not taken, and we didn't like it. (JX 8, p. 26)

Crile turned to the alleged erasure of the memory of MACV's computer, which Crile had told his superiors was "an illegal action akin to burning records." (JX 375, p. 24097) Meacham explained that there was nothing improper; they were just making adjustments because of the casualties at Tet:

MEACHAM: Look (?), the—the problems that we had are as follow: we had a set of numbers that we tried to keep in balance. When we had large numbers of losses, these had to come from some where. Now, I started to—to outline this system before, and I didn't quite get finished with it, but the fact of the matter is whenever we would have a large loss, it's almost invariable in that system—It may have been a bad system; it was just the best we could think of—that we wouldn't know where to take these losses from. (JX 8, p. 36)

\* \* \*

MEACHAM: Well, there isn't such a thing as an honest intelligence report; there's my view and somebody else's. We quite clearly didn't agree with the figures that we were having to use, but it's not a question of honesty or dishonesty, and I think it's wrong of you to try to use those words. (JX 8, p. 37)

Crile pleaded with Meacham:

CRILE: Well, please—please help me, because it's not a mystery what—(INDISTINCT CROSSTALK) . . . (JX 8, p. 38)

Finally, Crile asked Meacham if he understood what Adams and he were trying to say:

CRILE: Do you understand that the—I mean, what Sam and I are both trying to say right now?

MEACHAM: I understand perfectly well what you're trying to say.

CRILE: And . . . ?

MEACHAM: I don't agree with it. (JX 8, pp. 39-40)

Russell Cooley, who had worked at CICV in 1967-68 explained to CBS that Commander Meacham's letters could not be taken literally:

I spent a lot of time with him. We worked directly together. I sat right next to him. This type of wording was typical of Jim's daily discussion where he took on a Shakespearean role and it almost became our . . . one little bit of salvation. You'd be walking down the hall, you know, and you know, in this den of iniquity . . . We shall rise out of the ashes and . . . I can fully understand the . . . type of wording that he's using here. And I'm sure his wife was picking up on it. There's subtle humor in what he's saying, in his choice of words. (JX 11, p. 59)

Crile and Adams traveled to Los Angeles to interview Joseph Hovey, who was one of the CIA analysts who, along with James Ogle, prepared a special report in December 1967 at the request of Dr. Rostow:

We received a request from the special assistant to the President, Mr. Rostow, asking us what . . . what these reports of an impending attack meant. What was behind them? (JX 3, Hovey CBS Interview Tr. 8)

Hovey explained that there were good reasons why the indication of a Tet offensive were not believed:

One of the major arguments against anything like this happening was that the American Army was so strong and so powerful, that . . . they had suffered such hor . . . they had inflicted such

horrendous casualties upon the Vietcong at this time, that . . . there was no . . . it was insane for the enemy to try and attack like this. Therefore, they . . . you know, they wouldn't do it and it must . . . it must mean something else. (JX 3, Hovey CBS interview Tr. 13)

Hovey pointed out that the military looked forward to the offensive:

They didn't appear to be worried at all. As a matter of fact, they even seemed to be looking forward to it. We hope they do. You know. Finally, they'll come out of the jungles in mass attacks and we'll mow them down. You know? That type of reaction. (JX 3, p. 19)

Hovey said that was precisely what happened:

[W]e were waiting for the other shoe to drop. Then we were waiting for what's going to happen and exactly when is it going to happen? Will it be around Tet? Will it be before? Will it be after? We don't know. (JX 3, p. 22)

From everything we knew in those early hours, they had . . . they had failed everywhere with the exception of Hue. (JX 3, p. 23)

Finally, after a change of tape Crile told Hovey:

"If you can just start from where you were."

Hovey replies: "I can't claim any kind of conspiracy to suppress this report." (JX 3, p. 33)<sup>48</sup>

#### 6. *The Hawkins and McChristian Interviews*

Before the filming of the Hawkins interview, Adams and Crile spoke to Hawkins numerous times, including weekend visits by Adams and lengthy interviews conducted jointly by Crile and Adams in New York. (Defendants' Response to Plaintiff's First Set of Interrogatories, pp. 13-15) Crile admitted to Lt. Bernard Gattozzi that before Adams and he talked to Hawkins, Hawkins had a "mental block" about events in 1967, but that they were able to reconstruct what had occurred 14 years earlier as a result of working extensively with Hawkins. (JX 743, pp. 23517-8) In other words, Hawkins' recollection was irretrievably comingled with Adams' and Crile's version of the events.

<sup>48</sup> Crile's Blue Sheet said that while "Hovey's predictions are actually accepted in many quarters. . . the military takes the position that there is no cause for alarm." (JX 375, p. 24090) Ironically, it was quite the reverse. General Westmoreland put his troops on highest alert, while the CIA, who supposedly had "the facts" said that nothing would happen. (JX 420—Carver memo to Rostow, Dec. 15, 1967)

Crile began the taped interview with Hawkins with the statement, "[a]ll right Colonel Hawkins, I . . . we've been . . . obviously we've been through a lot already." (JX 9, Hawkins CBS interview Tr. 1) At his deposition, Hawkins said he had no idea what Crile was referring to. However, he, too, later acknowledged that he had had a mental block as to his first two months under General Davidson—until he spoke to Adams. (Hawkins Dep. Tr. 282-4) But even with his recollection reconstructed, Hawkins testified he could only recall clearly one statement made by General Westmoreland during the year he served in Vietnam—after he briefed General Westmoreland in May 1967, General Westmoreland told him to "take another look at the numbers." (Hawkins Dep. Tr. 138)

Crile asked Hawkins to describe his May 28, 1967 briefing to General Westmoreland and the General's reaction. Hawkins said that "the best way I can describe it is an attitude of concern as to the impact that these figures would have when they became published in the order of battle, if they were accepted and published . . ." (JX 9, Hawkins CBS interview Tr. 11)

Crile said: "Could I ask you to do a little better?" (JX 9, p. 12)

A few minutes later:

CRILE: You mean, General Westmoreland actually told you, the briefer, that he was . . .

HAWKINS: No. No, this was . . . He didn't tell me anything. This was a comment that was made around the table. He did not speak directly to me. And I'm trying to remember this the best that I can. And some of this has to be interpretation because I can't remember exact words. But this is the tone and tenor of the comments that were made. (JX 9, Hawkins CBS interview Tr. 12-13)

Despite some other attempts to get Hawkins to remember, Hawkins said "I don't remember the exact words except . . . that he expressed a concern with the impact of these . . . new figures being so much higher . . . than the figures that we had carried in the order of battle." (JX 9, Hawkins CBS interview Tr. 19)

Hawkins also told Crile: "I continued to report what was there." (JX 9, Hawkins CBS interview Tr. 20)

\* \* \*

CRILE: Sir, did you look at them to see if there was some way you could lower them?

HAWKINS: This was . . . certainly. This was . . .

CRILE: That was the message that you perceived to be delivered.

HAWKINS: This was . . . this was the message that I perceived. And this information, George, was what we termed soft information. It . . . it could be challenged. Because it was not a question of we've got two plus two equals four. (JX 9, Hawkins CBS interview Tr. 16)

\* \* \*

CRILE: Do you remember that there were two of you sent off from Saigon to defend MACV's position?

HAWKINS: Yeah.

CRILE: You and General George Godding.

HAWKINS: Yes, he was chief of the production team.

CRILE: Now, General Godding has told us that Westmoreland actually instructed him to keep below a certain number. This was his quote: Westmoreland apparently said this. "I don't care how you do it, use any number you want, just don't let the total go over three hundred thousand Vietcong."

HAWKINS: I'm not familiar with that instruction. (JX 9, p. 26)

Gains Hawkins, who accompanied General Godding to the Langley SNIE meeting, and was described in the Broadcast as "the man sent to represent General Westmoreland's position . . .", (JX 1, p. 9) told George Crile, on-camera, that he wasn't "familiar with [the] instruction" not to let the total go over 300,000 Vietcong. (JX 9, 26)

Neither was General Godding. He had told Crile that the delegation went to Langley with their best estimate.

Crile tape recorded a telephone conversation with General Godding sometime after the Broadcast. Crile raised the question of the alleged "ceiling":

CRILE: . . . you said there was an uncomplicated command figure on those numbers which you really weren't at liberty to exceed without authorization.

GODDING: Well that's, that's true, but, but the thing that . . .

CRILE: And that that, and that was something which was

GODDING: Well, I, I think we're taking something here, you know, trying to put something into it. The figures that we had were based on our best estimates. There was nothing arbitrary about them. . . . The figures were presented to him based on the estimates that we were carrying out there that had come out of the composite of all our work. (PTX 101, pp. 8-9)

Hawkins also told Crile that all the intelligence was going to the President through Ambassador Robert Komer, a former White House aide, whom the President had appointed to be General Westmoreland's civilian deputy for pacification:

CRILE: Now, those figures were eventually going to be going to the President of the United States.

HAWKINS: That did not bother me in the least, George. The President of the United States had his own special ambassador in Saigon. Mr. Robert Comber. [sic] Mr. Comber was intimately familiar with all the details of all the strength figures which had been briefed.

CRILE: And he was one of the people that participated in the decision to block your increased estimates at that meeting when you briefed him?

HAWKINS: He was at the briefing. And the briefing was not . . . the strength figures were not accepted. Block . . . .

CRILE: So you felt that you knew what the command position was, and you also felt the president had access to the controversy?

HAWKINS: Certainly. You can make that assumption. He had the most sophisticated communications facilities at his disposal . . . Mr. Comber . . . you . . . .

CRILE: So at least Mr. Comber knew. Ambassador Comber.

HAWKINS: Right. That's correct. (JX 9, Hawkins CBS interview Tr. 30)

Hawkins later reiterated to Crile that the President knew:

CRILE: Yes, but why should we think that President Johnson knew about this controversy?

HAWKINS: Because President Johnson had his special representative in Saigon, Mr. Robert Comber, who was at . . . .

CRILE: Ambassador Robert Comber.

HAWKINS: Ambassador Robert Comber, who was acutely aware of every figure that was being presented, every figure that was being accepted, every figure that was being rejected or not



approved. Thoroughly, completely aware. And you must assume that he was comman . . . reporting . . . .

CRILE: Back to the White House.

HAWKINS: To the White House. Else why was he there? (JX 9, pp. 52-3)

Finally, Hawkins told Crile that he did not agree with Adams' estimates and, in fact, disagreed with both Adams' estimates as being too high and with his methodology:

CRILE: What did you think of Mr. Adams' argument, of his figures?

HAWKINS: I disagreed with Sam on the magnitude of the strength. And . . . we just . . . I just disagreed with him on the methodology. My figures were . . . I believe, at all times generally lower than Sam's figures. On the methodology, Sam relied, as he had to because he had no analytical effort other than his own, on the . . . documents that were captured and translated, documents that were produced in the Vietcong headquarters, central office, South Vietnam, the Vietcong province headquarters and the military regions. And there were discrepancies in these figures.

CRILE: Let me . . . let me go . . . Maybe I ought to go . . . do something differently. You disagreed with Adams on methodology. You disagreed with Adams on overall strength estimates. But did you generally agree with Sam Adams that the official estimates needed to be increased?

HAWKINS: Absolutely, and I told him so. (JX 9, p. 32)

According to the Blue Sheet, the conspiracy began when General McChristian stood by his estimates after receiving the clear impression from General Westmoreland that he and Hawkins were being asked "to lower their figures." (JX 375, p. 24086) The order supposedly was given after Hawkins and McChristian presented the higher estimates at a briefing on May 28, 1967, at which General Westmoreland was supposed to have said, "What am I going to tell the President?":

McChristian and Hawkins leave with the clear impression that Westmoreland has asked them to lower their figures. But McChristian stands by his new estimates and two weeks later he is abruptly relieved of his command. It is at this point that the conspiracy to conceal the size and nature of the enemy in Vietnam begins. (JX 375, p. 24086)

One would have thought that Crile would have asked General McChristian all about that briefing. But there isn't a word about it in the transcript of General McChristian's interview. As will be discussed below, the reason is that McChristian maintains he was not at the purported briefing and presumably told Crile that before they went on-camera.

Crile, Adams and Grace Diekhaus (a CBS producer not officially involved with the production of the Broadcast)<sup>49</sup> travelled to Florida in late March 1981 to interview General McChristian. He was interviewed off-camera for several hours the day before his interview was filmed.<sup>50</sup>

In the interview, Crile asked General McChristian a series of hypothetical questions, beginning with:

If I could ask you to be what amounts to an expert witness here as to procedures, and this did not happen under your regime, under your command, but if you had been the chief of MACV intelligence . . . . (JX 10, McChristian CBS interview Tr. 8)

In answer to such a hypothetical question General McChristian described certain conduct as "a falsification of the facts." (JX 10, Meacham CBS interview Tr. 11) Defendants misleadingly preceded the answer to a hypothetical question with a statement by Wallace:

But we went to General McChristian, his old intelligence chief, to ask what we should think of General Westmoreland's instructions. (JX 1, p. 11)

General McChristian has called this editing "improper." (McChristian Aff., 12/21/83, ¶ 17) In a second affidavit, executed in April 1984, General McChristian said that he "had reservations about [the] use of an answer which I had given to a hypothetical question" because he "did not intend [his] answers to refer to General Westmoreland . . . ." (McChristian Aff., 4/20/84, ¶ 55)

<sup>49</sup> Crile admitted in deposition that he, Diekhaus and Adams met with McChristian in Florida the day before his on-camera interview. (Crile Dep. Tr. p. 1436) The CBS management evidently were not aware that Diekhaus was involved in the Broadcast production process. In fact, when Benjamin asked Chandler about her "collaboration" and whether he would have objected to her presence at, in Benjamin's words, "all principal interviews," Chandler replied, "I would have been more than disturbed. I would have been irate." (PTX 23, Benjamin's notes of Chandler interview p. 38236). Stringer was upset to hear they were working together. (PTX 70, Benjamin's notes of Stringer interview, p. 38547)

<sup>50</sup> Defendants' Response to Plaintiff's First Set of Interrogatories, p. 25.

In order to get General McChristian to criticize his successor, General Davidson (whom Adams had told Crile in his Prospects list McChristian "loathed"), Crile told General McChristian that (1) he had a letter from Hawkins which described General McChristian as "your white knight serene; impeccable and untouchable," and (2) that Hawkins said that after General McChristian left he found himself having to execute orders, that, to quote Crile, "he considered to be dishonest." (JX 10, McChristian CBS interview Tr. 13-14) <sup>51</sup>

General McChristian told Crile that, shortly before he left Vietnam, he prepared and presented to General Westmoreland a message showing a large increase in political cadre and irregulars "and he asked me to leave that cable with him 'cos he wanted to review it. Shortly thereafter, I left the country, and I don't know for a fact actually what happened to that message." (JX 10, p. 15)

General McChristian also told Crile that if there is a large change in magnitude of estimates of enemy strength, and he were General Westmoreland, "I would say, prove it to me." (JX 10, p. 20) Maybe CINCPAC or Washington may ask:

What criteria is being used? And they may and . . . say, Well, I'm going to change the criteria. If these people over here don't carry weapons, I'm not going to include them. Well, I had included some people in my estimates that carry rifles, but they sharpened pungee sticks and they made hand grenades out of beer cans and so forth. And they were trained units. They were carried. INDISTINCT. Now someone may have changed the criteria. Here again, *people should have the right and the duty . . . not just the right but the duty to examine, to critique, to investigate. Now, if they didn't like my criteria and if I couldn't be convinced of some other criteria that I could willingly accept, and that's probably what they did.* (JX 10, pp. 20-21) (emphasis added.)

General McChristian explained to Crile that General Westmoreland "asked me to volunteer to stay on as his chief of intelligence for another year" (JX 10, pp. 26-7) but that could not be arranged. Rather than being "abruptly relieved of his command" as the Blue Sheet said, (JX 375, p. 24086) General Westmoreland wanted him to stay on. McChristian's new assignment was settled two months before he left Vietnam; as defend-

<sup>51</sup> As noted in section II., above, Crile falsely told General McChristian that General Westmoreland and Ambassador Bunker publicly criticized him when Crile knew the source was Robert Komer, who had had a feud with General McChristian. (JX 10, pp. 25-6).

ants knew before the interview. (JX 10, p. 34; JX 213C, Hawkins letter of March 21, 1967) Nevertheless, Crile repeatedly tried to get McChristian to say that he had been transferred out of Vietnam as a result of his reports in May 1967 so as to be able to deliver on his Blue Sheet. (JX 10, pp. 27-9, 35)

The Benjamin Report noted that Crile "repeatedly pressed" McChristian to say during his interview that he had been transferred for reporting higher numbers, but General McChristian did not agree. (PTX 2, Benjamin Report, p. 34498)

Crile asked General McChristian during his taped interview:

CRILE: [C]an I ask you to confront the rather ugly fact that in November of 1967 your old commanding officer publicly accused you of either incompetence, unreliability, untrustworthiness—in any event, he made it seem, and he did it publicly, that your operation was not to be respected.

McCHRISTIAN: The only knowledge I have of that is what I have read in the papers. Never did he or Ambassador Bunker or anybody else ever question my intelligence or ever return it to me or ever tell me to redo it; under no circumstances. (JX 10 pp. 25-6)

The Broadcast was later to charge General Westmoreland with transferring General McChristian to get him out of the way. "Consider Westmoreland's dilemma. If he accepted his intelligence chief's findings, he would have to take the bad news to the President. If he didn't, well, there was only General McChristian to deal with. . . . Shortly after Westmoreland suppressed his intelligence chief's report, General Joseph McChristian was transferred out of Vietnam." (JX 1, p. 6)

#### *7. Spring 1981*

Crile and Phyllis Hurwitz, who had been hired as the assistant film editor of the Broadcast, prepared a presentation reel to screen for Stringer and Colloff to get final approval for the Broadcast. (Hurwitz Aff. ¶ 3) In late March 1981, Hurwitz prepared a reel of about 20 minutes of interview footage selected by Crile to demonstrate his success in getting on film the charges made by Adams and set forth in the Blue Sheet. The carefully selected segments were interspersed with black leader film. (Klein Aff. ¶ 7) Ira Klein, the film editor, ran the film for Colloff and Stringer, while Crile

provided commentary between the portions of the interviews which he had picked.<sup>52</sup> Crile convinced his skeptical superiors that he was getting the people on film and CBS News authorized continued production of the show. (Colloff Dep. Tr. 277, 279)

Klein began working full-time on "The Uncounted Enemy" in April 1981, after he completed another CBS assignment. (Klein Aff. ¶ 11) Crile insisted to Klein that no one else be in the editing room while they were working on the show. This surprised Klein, who told Crile that to do her job Hurwitz would have to work in the editing room. Crile relented and exempted Hurwitz from the editing room ban but would not lift it for anyone else—neither Alben, the researcher for the show, nor Adams would be permitted in the editing room. (Klein Aff. ¶ 13, 14)

Alben told Benjamin that he was upset because he was not allowed in the editing room even though he was the researcher. (PTX 21, Benjamin's notes of Alben interview, p. 38227) Colloff was not aware that Alben was excluded from the editing room. (PTX 33, Benjamin's notes of Colloff interview, p. 38288)

Klein was sometimes present at sessions, also attended by Alben and associate producer Zigman, at which Adams would read to Crile from his chronologies. Following one of these sessions in April, Klein approached Crile and asked him if he realized that Adams was obsessed. Crile said that he did. (Klein Aff. ¶ 12) Indeed, in talking to Benjamin, Crile called Adams "admittedly obsessed". (PTX 37, Benjamin's notes of Crile interview, p. 38374)<sup>53</sup>

Many other people at CBS also believed Adams was obsessed with proving that he was right. Stringer said that Adams was "obviously obsessed with this issue." (PTX 70, Benjamin's notes of Stringer interview, p. 38544) Wallace suggested to Adams that he was obsessed and Adams agreed. (JX 12, Adams CBS interview Tr. 10181)

<sup>52</sup> Union rules do not permit producers to run editing and projection machinery; thus, a film editor, such as Klein or Hurwitz, had to be present at every screening. (Klein Aff. 4).

<sup>53</sup> The notes of Benjamin's interview with Stringer state: "TV Guide asked me if George [Crile] was an ideologue. I said he was not. That he was neutral, neither left nor right. He is obsessive. BB points out—that makes two obsessives, Adams and Crile." (PTX 70, p. 38552)

Colloff, who met Adams only once despite his supervisory role in the Broadcast (PTX 17, Benjamin's notes of Adams interview, p. 38193), told Benjamin that he had read Adams' *Harper's* article and that the part of the article about Cambodia:

makes Adams look like a man clearly obsessed but that doesn't mean he's not a valid witness. But you have to take what is said with a grain of salt. (PTX 33, p. 38286)

Colloff did not comment on the validity of using someone "clearly obsessed" as a reporter.

On April 8, 1981, Crile and Adams interviewed Russell Cooley (Major Cooley in 1967) in Palo Alto, California, and he agreed to a filmed interview the next day. (Defendants' Response to Plaintiff's First Set of Interrogatories, pp. 4-5) Cooley had been in the American-Vietnamese section of intelligence at CICV. He told Crile that while he was convinced that the enemy infiltration was far higher than he reported, other parts of MACV intelligence had access to data not available to him:

Our higher headquarters had a section within it known as estimates. They had access to information as—as we knew it, and would—the bottom line is we had to put our trust into it that they had access to information that we did not. (JX 11, Cooley CBS interview Tr. 11)

\* \* \*

CRILE: You mean, no one ever challenged your documentation?

COOLEY: No, not to my knowledge.

CRILE: They just challenged the overall estimate.

COOLEY: Yes. Yes.

CRILE: They just didn't like it.

COOLEY: Well, that... that oversimplifies it a little, because they were in a position, our higher headquarters was in a position to obtain more intelligence information. More in the sense of... from the unilateral intelligence sources, from technical collection and the like. (JX 11, p. 29)

Cooley also explained what happened regarding the alleged erasure of MACV's data base, as discussed above.

In the spring of 1981, Crile assigned Klein, Hurwitz and Joseph Zigman, the Broadcast's associate producer, to search for usable Vietnam War stock footage, particularly from CBS's own archives. Crile "placed an emphasis on footage centering on General Westmoreland." (Klein Aff. ¶ 11)

There was a second screening in May for Colloff and Stringer, using slightly more interview footage than the earlier screening. Colloff asked Crile whether General Westmoreland would appear on the show and Crile replied that he had not contacted him yet. Colloff also inquired about taking the investigation into the White House. This inquiry seemed to anger Crile. (Klein Aff. ¶ 9)

Following the screening, Crile and Wallace, who knew General Westmoreland, telephoned him and General Westmoreland agreed to be interviewed for the show. (Wallace Dep. Tr. 171-2) The interview took place on May 16, 1981, about 10 days later. (Defendants' Response to Plaintiff's First Set of Interrogatories, p. 38)

#### 8. *Interviewing Adams*

Meanwhile, on May 7, 1981, two days before Adams' scheduled on-camera interview with Wallace, Adams met with Crile, Alben, Klein, Zigman and, for a time, Hurwitz. As later described by Alben to Benjamin:

There were two sessions of one or two hours each. Associate producer Joseph Zigman, film editor Ira Klein and Crile were there most of the time. When the interview was set . . . we decided to have this session to *direct* his interview. It was an effort to get Adams away from his chronologies and get him to talk to the camera. . . . Alben said it was giving Adams feedback but never shaping his answers editorially. (PTX 2, pp. 34468-9—Benjamin Report) (emphasis added.)

Crile explained the session in a memo to Wallace. "One of the reasons I went through the so-called coaching session (which I think is a stupid charge) was simply to try to keep Adams from straying off into the role of the accuser. I frankly knew that you would sense the energy and move into that area and I was trying to get Adams to control himself." (PTX 3, p. 37723)

Klein similarly described the sessions:

[Crile] went through the questions chronologically simulating an interview. After Adams had given an answer Crile would stop and discuss the answer and give Adams feedback before moving on to the next question. (Klein Aff. ¶ 15)

Benjamin's notes of his interview with Klein state:

He was definitely rehearsed. MAN was there periodically. Crile took Adams into Alex Alben's room, went through the questions with him. Rehearsed all day long. Wallace was not there, nor

possibly even aware this was going on. When interview came, Wallace was handed the questions that had been rehearsed. (PTX 49, Benjamin's notes of Klein interview, p. 38476)

Hurwitz said, more simply, that, "[i]n my opinion, Sam Adams was rehearsed before his interview was taped." (Hurwitz Aff. ¶ 11)

Adams' version of these events is very different. He admitted in his interview with *TV Guide* reporter Don Kowet that he traveled from his home in Virginia and was at CBS in New York on May 7 and 8, 1981, the two days preceding the interview. Adams assured Kowet, however, that while he could not recall what he was doing at CBS during those two days, it had "nothing to do" with his interview and that "for my own interview I was cold turkey." (PTX 12A, Tape 5, pp. 26-28)

Wallace interviewed Adams on May 9, 1981, at Adams' home in Virginia.<sup>54</sup>

In his interview Adams agreed with Wallace that "it doesn't make sense" for a commander to underestimate the size of the enemy, "except maybe he was wanting to project an image of success." (JX 12, Adams CBS Interview Tr. 16688)

Adams rejected many of the charges he had been making for years about corruption, dishonesty and lying in the intelligence operation in Vietnam and Washington. He told Wallace:

When my book is done—which should be out—shortly, I intend to reapply to the CIA for employment. (JX 12, Adams CBS interview Tr. 16698)

Wallace and Crile then turned their attention to General Westmoreland. Crile wrote to Wallace:

Mike,

The Adams interview was not only a terrific interview. It looks beautiful. Now all you have to do is break General Westmoreland and we have the whole thing aced. (JX 911, p. 24106)

<sup>54</sup> Defendant's Response to Plaintiff's First Set of Interrogatories states at p. 2 that Adams was interviewed on May 12, 1981. However, May 12 was a Tuesday, and it is clearly established that the interview occurred on a weekend; therefore defendants' interrogatory answers are presumably in error.



9. *Double Interview of Allen and "Coddling of Sympathetic Witnesses"*

On May 26, 1981, Crile interviewed George Allen,<sup>55</sup> who was George Carver's deputy on the Vietnamese Affairs Staff at CIA, but, unlike Carver, had attended none of the key meetings relating to the Vietnam War in 1967 and 1968, such as the Saigon session of the SNIE or the briefings of the Wise Men. Allen considered Adams to be his protege. (Allen Aff. ¶ 15; JX 6, p. 15)

Allen confirmed that MACV was doing virtually the only analysis of paramilitary elements:

CRILE: Well, you mean there was no one else at the CIA studying the Vietcong, our enemy, at that time?

ALLEN: There was no . . . INDISTINCT . . . There was no one devoting full time to the question of this structure . . . the paramilitary structure of the enemy forces . . . INDISTINCT

CRILE: But we were at war with the Vietcong.

ALLEN: That's right.

CRILE: And Central Intelligence Agency didn't have anyone but Sam Adams studying this?

ALLEN: That is correct. Nor did the Defense Intelligence Agency have anyone working on it . . . full time.

CRILE: Why is that?

ALLEN: The . . . tendency was to . . . in that area, to rely on the field.

CRILE: On MAC-V

ALLEN: MAC-V. (JX 6, First Allen CBS interview Tr. 19)

Allen also acknowledged to Crile that the White House was following the SNIE controversy in the summer of 1967:

My impression was that Rostow was fully aware of what was going on. I don't mean that they undertook anything to . . . influence the outcome. But . . . other than to insist that it be resolved. (JX 6, p. 46)

Allen's lack of knowledge of crucial events, however, was evident from his asking Adams for some answers. Crile asked Allen about "George Carver's decision to concede everything to MAC-V":

CRILE: . . . When you talked to George Carver, the CIA man in charge of Vietnam, when you asked him why he did that what did he say?

<sup>55</sup> PTX 2, p. 34469—Benjamin Report.

ALLEN: I don't recall. Did he . . . he got instructions to accept the MAC-V figures, didn't he, Sam? He was in Saigon. Didn't he get the word to accept MAC-V's figures?

CRILE: INDISTINCT . . . Tell me. What . . . Do you think that George Carver made this decision on his own authority . . . to drop the battle with MAC-V, to give in?

ALLEN: My recollection is that he . . . he was told to resolve the problem . . . that in essence the idea was to get on with the publication of the estimate. In the way it was presented, in the final version, these forces, although deleted from the table, were included as a footnote. Which was . . . at a higher number . . . than had been reflected for them previously. Which . . . which was a partial . . . compromise. (JX 6, pp. 50-51)

\* \* \*

I don't know what was the actual basis for Mr. Helms' decision at that time . . . I didn't talk to Mr. Helms about this. (JX 6, pp. 68-9)

Allen also told Crile that the CIA had told Secretary McNamara that it estimated enemy strength as 500,000.

CRILE: And the CIA had just told Robert McNamara, the Secretary of Defense, you thought it was five hundred thousand.

ALLEN: Yeah, but . . . but (JX 6, p. 70)

Crile decided that the Allen interview did not suit his purposes so at some point in June, Crile decided to reinterview George Allen. However, he first decided to screen for Allen the same reel that he used to sell the Broadcast to Colloff and Stringer a few weeks earlier.<sup>56</sup> When Crile told Klein of his plan, Klein was aghast, "you are compromising me and jeopardizing the project by bringing him into the editing room." Crile's

<sup>56</sup> Crile's treatment of Allen should be contrasted with what he told Russell Cooley during a telephone discussion in April 1981, which Crile tape recorded:

Cooley: Is—is there a chance of seeing any of this after it's put together, before it goes on, or—I don't know how you work that?

Crile: Unfortunately, we're not even—we're not allowed by our bureaucratic guidelines to—or rules—to—to let anybody see anything before.

Cooley: That right.

Crile: Yeah. It's—it's—they're tough as nails about that. I could get basically boo—booted.

(JX 742, p. 23489)