

18 Q Did you ever look at it?
 19 A Huh? No. I've never seen it before.
 20 Q So when you were sitting down trying to
 21 figure out what the facts were, you never saw
 22 Exhibit N, is that fair?

0258

1 A I don't recall ever having seen it.
 2 Q Okay. Let's go back to 1970 for a
 3 moment. Based on what you now know from whatever
 4 source, isn't it correct that the Tailwind project
 5 was a CIA project much like the Bay of Pigs?
 6 A Yes. The CIA had the disposal of
 7 aircraft from the Air Force, and the CIA was
 8 involved in the planning of many of the things.
 9 Again, I come back to the purpose of the operation
 10 in Laos was primarily to gain intelligence. And
 11 consequently the CIA would pinpoint the areas that
 12 needed investigation, and then when necessary the
 13 armed forces or WSAG would go in and take a look.
 14 MR. SIMMONS: Could you mark this please
 15 as Exhibit O.
 16 (Exhibit Number O was marked for
 17 identification and was retained by counsel.)
 18 BY MR. SIMMONS:
 19 Q Could you now please look at Exhibit
 20 Number O.
 21 A This one?
 22 Q Yes, sir.

0259

1 A Yes.
 2 Q I'm not going to presume to suggest you
 3 remember this exact document. But would this
 4 intelligence information cable be the type of
 5 document you might see in your endeavors as joint
 6 chief or a member of WSAG?
 7 MR. NYKODYM: Could you repeat the
 8 question that was pending?
 9 MR. SIMMONS: When he's finished reading
 10 it.
 11 (Requested portion of record read.)
 12 MR. NYKODYM: Assumes facts not in
 13 evidence.
 14 A Okay.
 15 BY MR. SIMMONS:
 16 Q Can you answer the question? Do you
 17 need it reread?
 18 A No. What's the question?
 19 Q The question is, is this the type of
 20 document you would have seen?
 21 A No, I haven't seen it.
 22 Q Would you ever see intelligence reports

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1 of this type?
 2 A Intelligence reports?
 3 Q Yes, sir.
 4 MR. NYKODYM: Vague and ambiguous.
 5 A Yes, I saw quite a few intelligence
 6 reports.
 7 BY MR. SIMMONS:
 8 Q Would you receive intelligence from the
 9 CIA?
 10 A Yes.
 11 Q If the CIA report is, in the area that
 12 Tailwind went into in southern Laos, that there
 13 was a training camp of over 300 U.S. and over 200
 14 Laos prisoners, would that be something of
 15 interest to you?
 16 MR. NYKODYM: Objection. Incomplete
 17 hypothetical. Assumes facts not in evidence.
 18 A Of course that would be of interest to
 19 me. I don't recall this particular message,
 20 though.
 21 BY MR. SIMMONS:
 22 Q You see that I've read correctly from

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1 A "As many as 60 did." And I say, "this
2 is Montagnard's community here in the country
3 because you can visit. You really have to look at
4 the overall picture in Laos, Laos as part of the
5 whole spectrum of support. From Abrams's point of
6 view, there was infiltration into South Vietnam.
7 The U.S. was not initially allowed to exercise hot
8 pursuit in Laos. And many Laotians were active in
9 aiding and abetting the enemy. You have to see
10 this operation in the context of the whole war.
11 And when" --
12 Q "Then."
13 A Huh?
14 Q "Then." "Then there were."
15 A "Then there were the political
16 controllers in Washington who were always looking
17 beyond at China and Russia and that always further
18 complicated the whole operation." "You did not
19 object to anything I have said so far." "No, I
20 did not. Now I'm not absolutely confirming it for
21 you either. I was aware of that operation but not
22 controlling it. Laos has been a problem and we

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1 wanted to fix it."
2 "Okay. But isn't that a bit of
3 plausible deniability in action? How could a
4 joint operation of this size go on and you not
5 control it? After all, SOG gets turned over to
6 the JCS in 1965." "Well" --
7 Q "And CIA gives it up."
8 A "CIA gives it up." "Well, it's not that
9 huge an operation." "But in a technically neutral
10 country, the largest deepest raid, in a joint
11 operation -- you had to be aware of it." "Well,
12 let's just say I had a lot of things cross my
13 desk, and some things I chose not to look at as
14 carefully. You know, like Mr. Clinton says when
15 he says he is not really aware of something being
16 done. I had lots and lots of responsibilities."
17 "But the White House knew?" "Nixon
18 knew" --
19 Q "Undoubtedly knew?"
20 A Huh? "Undoubtedly knew" -- I'm trying
21 to speed this thing up, and what you're doing is
22 slowing it down.

0296

1 Q Sorry.
2 A "Did the JCS brief him on that?" "Let's
3 just say I would be very surprised if he didn't
4 know. I assume that he knew. You would have to
5 understand the command structure in 1970. I know
6 how it worked. I would go over there almost daily
7 on some days and Kissinger would be in to see him
8 about five times a day. I would be most surprised
9 if Nixon didn't know.
10 "Remember, operations are scheduled in
11 advance. When an operation is scheduled, it
12 generates a lot of questions. The subject comes
13 up over and over. People attend conferences. I
14 used to go over to the White House all the time
15 when there was a crisis."
16 "Did you for Tailwind?" "I don't
17 recall. But I was always at National Security
18 Council meetings." "But wouldn't this have been
19 more tightly held than an NSA meeting?" And then
20 I get into the WSAG. "Yes. We had a special
21 ground called the Washington Special Action Group,
22 WSAG. It included Kissinger and me, a small

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1 group. I don't exactly remember it coming up in
2 WSAG."
3 "Wouldn't a joint operation have to go
4 all the way to the top of the joint chiefs? This
5 is a good exercise in jointness, after all."

6 "That's a correct assumption. That makes some
7 sense. But sometimes these things were run with
8 more political considerations than military, such
9 as when do the papers come out and we don't want
10 this in Sunday morning's news. The military did
11 not participate in the planning. It was the CIA's
12 doing. We were obviously aware of it. The
13 information on an operation of this top secret
14 scope is decimated" --

15 Q "Disseminated"?

16 A "Is disseminated only to those that
17 would need to know. And that would include the
18 President and Kissinger." And Mrs. Oliver says,
19 "So Nixon knew?" "If he knew, so what? Why do
20 you want this information anyway?" That's a good
21 question.

22 She says, "I think there is some

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1 historic issues at play here. If the U.S. used
2 nerve gas in combat in Vietnam, it is worthy to
3 report. And it has some important policy
4 implications for today, with the debate over the
5 chemical weapons convention."

6 And I think Mrs. Oliver is mixed up
7 there. She probably meant to say "combat in
8 Laos." Anyway, "Treaties will never stop people
9 from using this weapon. But you have said the
10 important word -- history. And that I can
11 respect. You have to use every resource in your
12 command to win. The U.S. is the garden spot of
13 the world and people here don't understand how
14 others live or what it takes to win. I would have
15 used any weapon, any tactic and any move to defend
16 the security of the United States." And that's a
17 true statement.

18 "So that would include GB, weaponized in
19 the U.S. arsenal. We know there was 4 million
20 pounds of it manufactured, and that it was stocked
21 at NKP." I repeat what I said, because -- and I
22 repeat that Mr. Truman took the same position when

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1 he dropped the nuclear bombs on Japan. In other
2 words, to defend the security of the United
3 States. That's everybody's job. And I don't care
4 what the reporters read into it.

5 Okay. "So that would include GB,
6 weaponized in the U.S. arsenal. We know we had 4
7 million pounds of it manufactured, and it was
8 stocked in NKP." "Yes." "But you are not going
9 to report that we were using some illegal weapon,
10 are you? Because remember, it wasn't technically
11 illegal yet."

12 "Oh, I know we hadn't ratified the
13 Geneva protocol yet. I remember you guys fighting
14 the war didn't want Congress to sign that, did
15 you?" "Well, if a country gets pressed in war, I
16 would be deterred by the existence" -- "I won't be
17 deterred by the existence of a treaty. In fact
18 they would be expected to do otherwise."

19 "My question to you then is, how much
20 was it used?" "You can't have a blanket rule on
21 that. You can't say, okay, we used it once in an
22 extreme situation, we know it works, now we can

0300

1 never use it again. You have to look at each
2 situation. The keyword is survivability." I'll
3 come back to that. "You have to survive at all
4 costs. Treaty or no treaty. I guarantee no damn
5 treaty would have stopped me."

6 "So you're aware sarin was used?" "I am
7 not confirming for you that it was used. You have
8 told me that. But let me put it this way, it does
9 not surprise me. In an operation of this kind,
10 you must make certain that your men are so well
11 equipped for defensive purposes as possible. I
12 don't care if the treaty is ratified or not."

10 reflection of what was said?
11 A Well, I don't know. It's much ado about
12 nothing, because there were only two defectors.
13 Q Is there anything in this question and
14 answer that is inaccurate that you've just read on
15 the first page of Exhibit Number R?
16 A Well, I said I did not get involved with
17 exactly how they did it.
18 Q That's in there, isn't it?
19 A But I was involved in the war in Israel.
20 Q That's in there, isn't it?
21 A And --
22 Q My question isn't what you said. You

1 just read it. My question is, does this appear to
2 be an accurate recitation.
3 MR. MITNIK: Admiral Moorer, read the
4 question and the answer and see if there's
5 anything in there that implies anything other than
6 what you believe is accurate.
7 MR. SIMMONS: No, no, no, no, no.
8 BY MR. SIMMONS:
9 Q No. What I am asking is, you read the
10 question and the answer. Is there anything in
11 there to your recollection that is contrary to
12 what was said on May 2, 1998 between you and
13 Ms. Oliver?
14 A Well, let us say no.
15 Q Okay. Now, the next question begins
16 with "Yes."
17 A "Yes, but back to the Tailwind mission.
18 I understand about compartmentalization. That was
19 common in SOG. Now you have told us before" --
20 "Now you had told us before the CIA was involved
21 in this operation. Was it the CIA's job to track
22 defectors?"

1 Q And your answer is?
2 A "Yeah, trying to track defectors was one
3 of the jobs but it had several jobs. Again, I
4 knew the general overall task on this mission.
5 But I did not know about the tactics."
6 Q Is that an accurate recitation of the
7 question and answer?
8 A Yes.
9 Q Next question.
10 A "But was the mission at hand here to try
11 and kill these defectors, that they were creating
12 a real military problem that had to be
13 eliminated?" "I told you before that I would not
14 hesitate to use any tactic or weapon to save
15 American lives."
16 Q Is that an accurate question and answer?
17 A What's that?
18 Q Does that accurately --
19 A Are you going to ask me that question
20 every question?
21 Q Yes, sir. If you can pause after every
22 answer and tell me whether it was accurate or not,

1 I could stop interrupting you.
2 A "But defectors were a grave problem, one
3 that was costing American lives?" "Yes. They had
4 generally gotten mixed up in Laos doing various
5 things."
6 Q Is that a correct --
7 A Yes. "One of the breaks we have had in
8 the last" -- "best few weeks is locating several
9 SOG recon teams who were sitting on the ridge line
10 surrounding the village base camp where the
11 defectors were. They report back to headquarters
12 that there are roundeyes or longshadows in that
13 village. At least one person we have talked to
14 observing the camp says they were walking about
15 unfettered, freely mixing with locals. Is that
16 intelligence accurate?"

17 Q That's the question. And your answer
 18 is, please?
 19 A What's that?
 20 Q I just want to reflect that that was a
 21 question. It's not clear when you're reading into
 22 the camera where the question is. Go ahead.

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1 A "One of the prime factors in such a
 2 decision on a mission would be the confidence you
 3 have in the accuracy of the information obtained
 4 in the field. If it is an unconventional
 5 operation, and you did not have absolutely
 6 accurate intelligence, then you would hesitate
 7 about doing it. For such a mission to occur, you
 8 would have to have a complete confidence in its
 9 accuracy. And then you would have to go ahead and
 10 do whatever it takes to protect American lives."

11 Q Is that accurate?

12 A Okay.

13 Q The next question.

14 A "So killing these defectors was the
 15 mission? And it was done to protect American
 16 lives?" "Yes, I have no doubt about that. Now I
 17 was not looking through the field glasses. But I
 18 assumed the information was corroborated somewhere
 19 and that the recon teams saw what they saw."

20 Q Is that correct?

21 A I assume that. "And then the correct
 22 decision in your view was to eliminate them? Why

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1 not capture them?" I say --

2 Q No. That's a follow-up question.

3 A -- "Well, you would have to examine that
 4 possibility. You would have to see if it was
 5 possible to capture them" --

6 Q Excuse me. You left off the answer.
 7 It's at the bottom of the prior page. "And then
 8 the correct decision in your view was to eliminate
 9 them?" The answer appears to be yes, at the prior
 10 page, sir. Do you see a "yeah" at the bottom?

11 A Yes.

12 Q Was that your answer to the question
 13 about the correct decision was to eliminate them?

14 A Assuming my -- I said "assume the
 15 information was corroborated."

16 Q At this time she said, "And then the
 17 correct decision in your view was to eliminate
 18 them?" Your response was, "Yeah."

19 MR. DUNCAN: He told you --

20 BY MR. SIMMONS:

21 Q Is that accurate?

22 MR. DUNCAN: He told you --

0316

1 MR. SELLINGER: Don't interrupt. This
 2 is a speaking objection.

3 MR. DUNCAN: Just a second. You're
 4 being unfair with him.

5 MR. SIMMONS: No.

6 MR. SELLINGER: He's just asking --

7 MR. DUNCAN: He's referring back to the
 8 corroboration he just said before. And he's
 9 pointing you to it. You don't like that, so
 10 you're going to keep him from pointing you to it.

11 MR. SELLINGER: Okay. Now --

12 MR. DUNCAN: You did the same thing to
 13 him that Ms. Oliver did in the broadcast.

14 MR. SELLINGER: Reading it in light of
 15 the prior answer.

16 THE WITNESS: What's that?

17 MR. SELLINGER: Reading it in light of
 18 the prior answer, was this the question and the
 19 answer? Is it right?

20 THE WITNESS: No. That was -- it
 21 depends on that my assumption is correct.

22 BY MR. SIMMONS: