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Commission on
Judicial Performance

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE PATRICK COUWENBERG,
NO. 158.

FIRST AMENDED NOTICE OF
FORMAL PROCEEDINGS

To Patrick Couwenberg, a judge of the Los Angeles County Superior Court from April 24, 1997, to the present.

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action within the meaning of Article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

As part of your application for appointment to judicial office in either Los Angeles County or Orange County, you submitted to the office of the Governor of California a Personal Data Questionnaire (PDQ) dated October 18, 1993, in which you provided false information, as follows:

Under "Educational History":

1. The fact that you had attended Chaffey Junior College from 1963 to 1966 was omitted from the PDQ.
2. The PDQ stated that you had attended "Cal. St. Polytechnic University" from "9/64" to "6/68." (You had attended California State Polytechnic University, Pomona from 1966 to 1968.)
3. The PDQ stated that you had attended "Cal. St. University L.A." from "9/70" to "6/72" and received an "M.S." (You had not received any degree from, nor had you ever been enrolled at, California State University, Los Angeles; nor had you ever received a master's degree from any school.)
4. The fact that you had attended Western State University College of Law from 1969 to 1970 was omitted from the PDQ.
5. The PDQ stated that you had attended "Loyola Law School" from "9/72" to "6/73." (You had never attended Loyola Law School.)
6. The PDQ stated that you had attended "University of La Verne Law School" from "9/73" to "6/76" and received a "J.D." degree. (You had attended La Verne College Law Center from 1970 to 1973; you had received a J.D. from La Verne College Law Center in 1973. You were admitted to the State Bar of California in 1976; between 1973 and 1976 you failed the California bar examination five times.)

Under "honors ... or other forms of recognition," the PDQ stated "Who's Who in American Law." Your biography is included in *Who's Who in American Law*, 4th ed., 1985-1986. However, the biography states, "M.S., Calif. State U. -

Los Angeles, 1972.” (You had not received any degree from, nor had you ever been enrolled at, California State University, Los Angeles; nor had you ever received a master's degree from any school.)

Your conduct violated the Code of Judicial Ethics, canon 5B.

COUNT TWO

As part of your application for appointment to the judicial office which you currently hold, you submitted to the office of the Governor of California a Personal Data Questionnaire (PDQ), dated July 10, 1996, in which you provided false information, as follows:

Under “Educational History”:

1. The fact that you had attended Chaffey Junior College from 1963 to 1966 was omitted from the PDQ.
2. The PDQ stated that you had attended “Cal. St. Polytechnic University” from “9/64” to “6/68.” (You had attended California State Polytechnic University, Pomona from 1966 to 1968.)
3. The PDQ stated that you had attended “Cal. St. University L.A.” from “9/70” to “6/72” and received an “M.S.” (You had not received any degree from, nor had you ever been enrolled at, California State University, Los Angeles; nor had you ever received a master’s degree from any school.)
4. The fact that you had attended Western State University College of Law from 1969 to 1970 was omitted from the PDQ.
5. The PDQ stated that you had attended “Loyola Law School” from “9/72” to “6/73.” (You had never attended Loyola Law School.)
6. The PDQ stated that you had attended “University of La Verne Law School” from “9/73” to “6/76” and received a “J.D.” degree in “6/76.” (You had attended La Verne College Law Center from 1970 to 1973; you had received a J.D. from La Verne College Law Center in 1973. You were admitted to the State Bar

of California in 1976; between 1973 and 1976 you failed the California bar examination five times.)

Under "honors ... or other forms of recognition," the PDQ stated "Who's Who in American Law." Your biography is included in *Who's Who in American Law*, 4th ed., 1985-1986. However, the biography states, "M.S., Calif. State U. - Los Angeles, 1972." (You had not received any degree from, nor had you ever been enrolled at, California State University, Los Angeles; nor had you ever received a master's degree from any school.)

Your conduct violated the Code of Judicial Ethics, canon 5B.

COUNT THREE

In or about late 1995 or early 1996, you told Los Angeles County Superior Court Judge Michael Cowell that you were interested in being appointed to a judgeship. Judge Cowell recommended that you meet Los Angeles County Superior Court Judge Joseph DiLoreto, who he indicated could be of assistance in the judicial appointment process. To that purpose, you had lunch with Judges Cowell and DiLoreto at a restaurant in Los Angeles. During lunch, Judge Cowell made a statement to the effect that you had served in Vietnam or were a Vietnam veteran. You indicated that this was true. Judge DiLoreto asked you if you had been in Vietnam. You stated that you had, and had seen combat. Judge DiLoreto stated that this was important because Governor Wilson had been a Marine, and that you should stress this in your application.

Approximately six months to one year prior to your appointment as a superior court judge, and in furtherance of your 1996 application for judicial appointment, you asked Judge Cowell to submit a letter to Governor Wilson recommending you for a judgeship. Judge Cowell subsequently submitted a letter to Governor Wilson on your behalf that included a false statement to the effect that you had served in Vietnam or were a veteran of the Vietnam War. You reviewed

the letter before Judge Cowell sent it to the Governor and did not correct this false statement.

Your conduct violated the Code of Judicial Ethics, canon 5B.

COUNT FOUR

In connection with a public enrobing ceremony on August 25, 1997, for you and other judges recently elected, appointed or elevated to superior court, you submitted a Judges' Data Questionnaire (JDQ), dated by hand "July 31[?], 1997," in which you provided false information, as follows:

Under "Education":

1. The fact that you had attended Chaffey Junior College from 1963 to 1966 was omitted from the JDQ.
2. The JDQ stated that you had attended "CAL STATE POLYTECH. UNIV. Pomona," from "9/64" to "6/66." (You had attended California State Polytechnic University, Pomona from 1966 to 1968.) The line for degree was left blank, omitting the fact that you had received a B.S. degree from California State Polytechnic University.
3. The JDQ stated that you had attended "Cal Inst of Techn. Pasadena" from "9/66" to "6/68" and received a "BS" degree. (You had never received any degree from, nor had you ever attended, California Institute of Technology.)
4. The fact that you had attended Western State University College of Law from 1969 to 1970 was omitted from the JDQ.
5. The JDQ stated that you had attended "Loyola Law L.A." from "9/72" to "6/73." (You had never attended Loyola Law School.)
6. The JDQ stated that you had attended "La Verne Univ. School of Law" from "9/73" to "6/76" and received a "JD" degree. (You had attended La Verne College Law Center from 1970 to 1973. You were admitted to the State Bar of

California in 1976; between 1973 and 1976 you failed the California bar examination five times.)

Under "Private Practice Experience," the JDQ stated "1976 Gibson, Dunn." (You had never been employed by the law firm of Gibson, Dunn & Crutcher.)

Under "Fraternity, Club, or other Affiliations" in the JDQ, the box for "Veterans of Foreign Wars" was marked. (You had never been a member of, nor had you ever been eligible for, membership in the Veterans of Foreign Wars.)

Under "Armed Services Record," the JDQ only stated "US Navy," omitting "Reserves." (You had been in the Navy Reserves.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

COUNT FIVE

In preparation for a speech introducing you at the public enrobing ceremony on August 25, 1997, referenced in Count Two, former Judge Charles Frisco interviewed you. You gave or affirmed to Judge Frisco false information, as follows:

1. You were recruited from the Navy to the Army. (You were in the Navy Reserves; you were never in the Army.)

2. You attained the rank of corporal in the Army. (You had never held the rank of corporal, nor any other rank, in the Army.)

3. You served in the Army for two years and were in Vietnam for sixteen months. (You were never in the Army, in Vietnam or otherwise.)

4. You received a Purple Heart. (You had never received, nor had you ever been eligible to receive, a Purple Heart.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

COUNT SIX

In approximately 1997, in your chambers, or elsewhere within the courthouse, you falsely stated to a group of attorneys appearing before you that included Catherine Pratt, as follows:

1. You went to Vietnam, implying the war in Vietnam, immediately upon turning 18. (You were not in the war in Vietnam at the age of 18, or otherwise.)

2. Upon returning from Vietnam, you went to college on the G.I. Bill. (You had not gone to college, nor had you been eligible to go to college, on the G.I. Bill.)

3. You received an undergraduate degree in physics from "Cal Tech." (You had never received any degree from, nor had you ever attended, California Institute of Technology.)

4. You had a master's degree in psychology. (You did not have a master's degree in psychology, nor did you have a master's degree in any other subject, nor did you have any degree in psychology.)

On a separate occasion in approximately 1997, from the bench, in the presence of Catherine Pratt among others, you announced that you had been late to court because of a medical appointment for shrapnel in your groin, implying that you had been wounded in military combat. (You had never received such an injury.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

COUNT SEVEN

In connection with a *Daily Journal* Judicial Profile published on or about February 19, 1998, you were interviewed by *Daily Journal* reporter, Cheryl Romo. You falsely told Ms. Romo that you were in Vietnam from 1968 to 1969, where

you held the rank of corporal and saw combat. (You had never been in combat, nor held the rank of corporal, in Vietnam.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

COUNT EIGHT

On January 21, 2000, you appeared in the offices of the Commission on Judicial Performance and testified under oath regarding allegations that you had made false claims about your education and military experience.

You testified falsely that you received a master's degree in psychology from California State University, Los Angeles. The transcript of your January 21, 2000, statement, page 16, is attached as Exhibit A and incorporated by reference. (You had never received any degree from, nor had you ever been enrolled at, California State University, Los Angeles; you did not have a master's degree in psychology, nor a master's degree in any other subject, from any school; nor did you have any degree in psychology.)

You further testified falsely that you had participated in a covert CIA operation in Southeast Asia between June 1968 and December 1969, and that you had also made a delivery of funds or documents for the CIA in or about 1984 to a person in Africa. The transcript of your January 21, 2000, statement, page 35, line 5 through page 36, line 23, and from page 63, line 5 through page 110, line 24, is attached as Exhibit B and incorporated by reference. (You had not been affiliated with the CIA as you testified, nor had you been with the CIA in any capacity at any time.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

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COUNT NINE

In letters to the Commission on Judicial Performance dated October 29, 1998, and August 3, 1999, you falsely implied that you had participated in classified, covert CIA operations in Vietnam and/or Laos in 1968 and 1969. In a letter to the Commission on Judicial Performance dated May 26, 2000, you falsely stated that you had “participated in a classified, covert CIA operation in the Far East” in 1968 and 1969. (You had not been affiliated with the CIA as you implied or stated in your letters, nor had you been with the CIA in any capacity at any time.)

In the letter to the commission dated October 29, 1998, you falsely stated that you received a “J.D. from University of La Verne Law School in 1976.” (You received a J.D. from La Verne in 1973.)

Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This notice of formal proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: September 10, 2000



HON. DANIEL M. HANLON
CHAIRPERSON

BEFORE THE
COMMISSION ON JUDICIAL PERFORMANCE

CERTIFIED
COPY

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IN RE
PATRICK COUWENBERG

CJP 15934

RECEIVED
JAN 26 2000

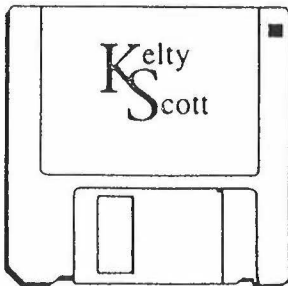
COMMISSION ON
JUDICIAL PERFORMANCE

STATEMENT UNDER OATH OF
JUDGE PATRICK COUWENBERG

Friday, January 21, 2000, 11:02 a.m.

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REPORTED BY:
SHERRY SHERRY, CSR NO. 5619



KELTY & SCOTT

Certified Shorthand Reporters
702 Marshall Street, Suite 414
Redwood City, CA 94063
Fax: (650) 368-7924
(650) 368-1881

1 Q And after Cal State Pomona your
2 education after that?

3 A After that I went part time to Cal
4 State. Then went to law school, graduated from
5 the University of La Verne.

6 Q Okay. When you say you went to Cal
7 State part-time, Cal State Pomona?

8 A L.A.

9 Q And did you get a degree from Cal State
10 L.A.?

11 A Yes.

12 Q What was the degree in?

13 A Psychology.

14 Q Master's degree?

15 A (Witness nods head).

16 MS. DOI: I am sorry, I don't think
17 that was verbal.

18 THE WITNESS: Yes.

19 MR. COYLE: Q Do you know why it is
20 that your master's degree from Cal State L.A.
21 would not be on the Judge's Data Questionnaire.

22 A I have no idea.

23 Q Did you have a discussion with your
24 wife about leaving it off?

25 A No.

BEFORE THE
COMMISSION ON JUDICIAL PERFORMANCE

CERTIFIED
COPY

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IN RE

PATRICK COUWENBERG

CJP 15934

RECEIVED

JAN 26 2000

COMMISSION ON
JUDICIAL PERFORMANCE

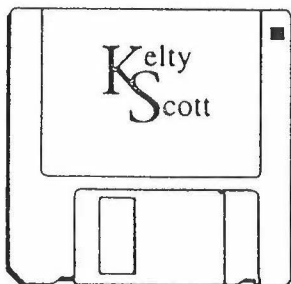
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5 Q And it's not true that you regaled the
6 attorneys with tales of harrowing combat
7 experience in Vietnam?

8 A Well we talked about it informally.
9 About some of my experiences. That's true.

10 Q Did you tell them shrapnel that you
11 still carry in your body?

12 A No.

13 Can I tell you about how that came
14 about?

15 MR. MARGOLIN: Why don't you?

16 THE WITNESS: Okay. At one point we
17 had a number of adjudications. I indicated to the
18 attorneys that I wouldn't be able to be there
19 because I had a medical appointment. And I had
20 gone in because there was some bleeding, and the
21 certain x-rays that were taken at the time the
22 doctor said it looks like you have shrapnel in
23 your body and that's -- that's the explanation
24 that I gave to the attorneys because they said why
25 aren't you going to be here? I said I have a

1 medical appointment, certain x-rays were taken.
2 That's how that came about.

3 MR. COYLE: Q Okay. Shrapnel, or
4 whatever it was, was not the result of combat in
5 Vietnam, was it?

6 A Not in Vietnam, no.

7 Q Well, you sent a response to the
8 Commission on March 13th of 1998. Tell me if you
9 recall making this explanation:

10 As far as having shrapnel in the
11 body, I did sustain injuries but
12 not as a result of being in
13 combat in Vietnam as I thought I
14 had made abundantly clear.

15 Was that your response?

16 A Yes.

17 Q Okay. What injuries were you referring
18 to?

19 A They were injuries that I received in a
20 firefight.

21 Q Where was the firefight?

22 A The firefight occurred not in Vietnam
23 but in Laos.

5 Now looking at your October 29th, 1998
6 response letter to the Commission you state -- and
7 feel free to refer to this letter. It's on the
8 front page toward the bottom in the last paragraph
9 under military service.

10 A Okay.

11 Q You say "Judge Couwenberg served in the
12 U.S. Naval Reserve as seaman apprentice from '65
13 to '68"; that's true?

14 A Yes.

15 Q "After serving in the Reserves for less
16 than two years he was given an honorable
17 discharge"; that's true?

18 A Yes.

19 Q Then you go on to say, "I believe
20 you'll appreciate the significance of such an
21 early honorable discharge." Correct?

22 MR. MARGOLIN: This is Mr. Margolin
23 saying that in his letter.

24 MR. COYLE: Okay.

25 Q Do you recall reading that sentence

1 before it was sent to the Commission?

2 A I don't know if he read the letter to
3 me or if he sent a copy before he sent it to the
4 Commission, I don't remember. But I read it, yes.

5 Q Okay. Well, let me ask you this, what
6 is the significance of that that the Commission
7 should appreciate?

8 A When you join the Navy Reserve you join
9 for six years. Four years reserve, two years
10 active duty. When you complete your service you
11 are given your separation papers. If for whatever
12 reason you ask or you receive an early discharge
13 there are different kinds of discharges that you
14 can get.

15 In this case I had finished boot camp
16 in the Navy Reserve, and I was still in school and
17 I was approached by someone who said you can get a
18 discharge from the Navy and you will not have to
19 fulfill your obligation when you signed up for six
20 years if you will do certain things.

21 My concern was that I did not want a
22 medical discharge. I wanted an honorable
23 discharge. I was told, you'll get an honorable
24 discharge.

25 So, which I did get.

1 Q Where were you when this person
2 approached you?

3 A Physically speaking?

4 Q Yeah.

5 A I think I was at the -- at the Navy
6 depot, I guess for a better word, in Pomona I
7 think it was.

8 Q Had you ever seen this person before?

9 A Never.

10 Q Was he with the military?

11 A No, he was a -- he was in civilian
12 clothes.

13 Q Was anyone else around when the
14 conversation took place?

15 A I don't remember. We are talking about
16 something that happened 33 years ago.

17 Q Did he seem to know who you were?

18 A Yes.

19 Q I mean it appeared that he knew who you
20 were and singled you out and he was going to talk
21 to you about this subject matter as opposed to
22 just someone discussing in general?

23 A It would seem that way, yeah. At the
24 time I didn't think anything of it.

25 Q At the time what did you think it was?

1 A You know I didn't know. I hadn't been
2 here that long. I just didn't know.

3 I thought that to be given the
4 opportunity to finish school, get my degree was
5 fine and then be getting an honorable discharge, I
6 didn't have to serve two years active duty. I
7 didn't have to do four years of reserve duty
8 sounded good to me.

9 Q And this person told you that you could
10 avoid these things if you were to do your -- do
11 such things?

12 A Certain things.

13 Q Certain things your phrase was.

14 A Yeah.

15 Q Did he tell you what those certain
16 things were?

17 A Not at the time, no.

18 He asked me if I was interested.

19 I said yes.

20 Q Interested in what?

21 A In what he had to say.

22 Q Did he tell you who he was with?

23 A No. Not at the time.

24 Q Who did you think he was with?

25 A I thought he was with the military.

1 Except he wasn't in a uniform.

2 Q Did you ask him who he was?

3 A Yeah.

4 Q What did he say?

5 A He gave me his name.

6 Q Did you ask him what his position was?

7 A No.

8 Q Well I assume something relevant
9 happened after that conversation?

10 A Yes.

11 MS. YOUNG: Excuse me. Someone.

12 (Interruption at the door.)

13 MR. COYLE: Q This initial
14 conversation, did he just walk up to you?

15 A From what I remember, yes.

16 Q What were you? Like outside?

17 A No, we were inside. We were inside in
18 the room.

19 Q Why were you in that room before he got
20 there?

21 A Because you had to go, on Reserve I
22 remember you had to go certain dates, certain
23 meetings in the summertime, you went for two weeks
24 to wherever, whether you went to San Diego or some
25 other place. So you had these regular meetings.

1 Q So this was a meeting room.

2 A Yeah. Or a classroom is what it was, a
3 classroom.

4 Q So it was a classroom.

5 A Yeah.

6 Q And he approach -- were there other
7 people there?

8 A I'm pretty sure. The class was not in
9 session.

10 Q Before or after the class?

11 A Might have been during the class. I
12 don't know. I mean not when class was in session
13 but there were breaks.

14 But I remember being in this room and
15 this gentleman came up and started talking to me.
16 And at the time I didn't think anything of it.
17 But what he had to say in terms of being able to
18 finish college, getting a discharge, that appealed
19 to me.

20 Q Did he ask you, "Are you Patrick
21 Couwenberg?"

22 A No. That I don't remember that.

23 Q Did he tell you, "You're Patrick
24 Couwenberg, aren't you?"

25 A Didn't say that. I don't remember

1 that.

2 Q Be he appeared to know who you were?

3 A He just started talking to me.

4 Q What name did he give you?

5 A I think his name was Jack Smith. I

6 remember it was an ordinary name, it was like

7 Jones or.

8 Q All right. What happened next

9 regarding this?

10 A After that I said okay, what do I need

11 to do?

12 And he said well, you can request a

13 discharge. Tell them there's something medically

14 wrong with you.

15 I said I don't want a medical

16 discharge. I wanted an honorable discharge.

17 And he said fine. No problem.

18 And next thing I knew --

19 Q Is this a second conversation you're

20 having with him?

21 A Yeah. We had -- we had like second

22 time -- the second time I met him, trying to

23 remember when this was -- because I got the

24 discharge in '67. I think it was in February

25 of '68. And these conversations took place before

1 then.

2 Second time around he told me meet me
3 and it was an office building. I remember it was
4 in Pomona.

5 Q When did he say meet you?

6 A When? During that first -- that first
7 time. That first conversation.

8 Q So he said --

9 A He said come and see me. And he gave
10 me an address. And it was an office building. I
11 believe it was on Mission Boulevard in Pomona.
12 And I went there.

13 Q What did the office appear to be?

14 A Just a regular like a -- like an
15 office. There were no names on the door. You
16 walked in, it was a table, there were a couple of
17 chairs.

18 Q Just him?

19 A Just him. I think it was during the
20 third meeting that he said you were born in
21 Indonesia. Yes.

22 Q What did he say in the second meeting?

23 A Second meeting? Don't remember. We
24 just talked about general things.

25 He said it may be necessary for you to

1 go overseas. And you know you can't tell anybody
2 about this.

3 I said not even my parents?

4 He says well, you can tell your
5 parents. All you can tell your parents is you are
6 going to have to go overseas.

7 But I remember what I wanted to know
8 was whether I could finish school because I was in
9 school. And he said don't worry about it you can
10 finish school.

11 Q During the second meeting did he tell
12 you who he was, meaning what authority he had to
13 tell you these things?

14 A No. That came later when I asked him,
15 I said how do you -- because you don't have a
16 uniform and I'm in the Navy Reserve, how is this
17 going to happen?

18 And he said don't worry about it,
19 you'll get an honorable discharge.

20 Q And what meeting was this?

21 A When he said this?

22 Q Yeah.

23 A It wasn't the second meeting. Might
24 have been the third meeting.

25 Q Okay. At that time did he tell you how

1 he could do this for you?

2 A No.

3 Q Did he tell you who he was with?

4 A No.

5 Q Did you ask him?

6 A I did.

7 Q What did he say?

8 A And he said it's not -- none of your
9 concern, don't worry about it. He said you want
10 this?

11 I said yes.

12 Well, he says, I can take care of it.
13 I can do that.

14 Q Who did you think he was?

15 A I still thought that somehow he was
16 connected with the armed services. Because how
17 else was he going to do it?

18 And it wasn't until later -- as a
19 matter of fact, it wasn't until the year after
20 that that it became clear to me that he -- because
21 at the time I didn't know what the CIA was or the
22 Central Intelligence Agency or anything else for
23 that matter, you know?

24 I dealt with the Navy Reserve. I had
25 signed up. I had gone to meetings. I had gone to

1 boot camp. And that was it.

2 And they never referred to we are with
3 the Central Intelligence Agency. We are with the
4 CIA, you know? But it became clear because when I
5 went overseas, you know?

6 Q Okay. Now you're saying "they." Did
7 someone else is enter the picture?

8 A Well at some later date, yes.

9 Q So tell me about the third meeting with
10 this man. You're starting to say that he knew you
11 were born in Indonesia. Go ahead, what else was
12 discussed?

13 A Well he basically knew my background.
14 He knew when I had immigrated to this country. He
15 knew where I lived. You know?

16 And I remember him asking, I thought
17 that was kind of strange at the time. He says --
18 and he says now, he says, you eat rice; right?
19 You eat rice? And, you don't have any problem
20 with that?

21 I said no, that's what we eat. I mean
22 in retrospect I thought it was a little strange,
23 you know?

24 Q Did he tell you why you had been
25 chosen?

1 A No.

2 Q Did you ask him?

3 A I didn't ask him.

4 At a later time I asked someone else

5 and I said how does -- how do you -- how does this

6 come about? I mean why did they approach me?

7 And the only thing that this person, I

8 think his name was O'Donnell or something like

9 that, and he said well, there are certain persons

10 that we look for whom we think can do the types of

11 things that we ask them to do.

12 And I said is it because I'm an

13 immigrant? Because I came from Indonesia?

14 Because I was born in a foreign country? What's

15 the deal?

16 He kind of smiled and said we have our

17 ways. And that was it.

18 Q Well, I assume we are going to lead up

19 to some sort of covert operation. Had you had any

20 training, education?

21 A Just boot camp.

22 Q Experience?

23 A Just boot camp. That was it.

24 Q All right. Where do we go from the

25 third meeting?

1 A The third meeting I think we had --
2 there was one more meeting and he said we'll
3 contact you at some later date.

4 I said well when? Am I supposed to
5 call you? Or come by or?

6 He says no. We'll contact you.

7 Q Did they?

8 A Yes.

9 Q How?

10 A They contacted me by telephone, I
11 believe. This is after I had graduated, and they
12 said it may be necessary for you to go overseas.
13 And I think it was around -- because I remember it
14 was around Christmas time. It was in December.

15 Q Go overseas to do what?

16 A Nobody told me.

17 Q At that point what did you think?

18 A Well I asked him specifically. I said
19 what is this going to be? Because I knew the war
20 was going on in Vietnam.

21 I said am I going to go to Vietnam?
22 What is this about? What am I going to do?

23 They said we will tell you when you get
24 there.

25 Of course, in the meantime I had told

1 my parents and my parents were very concerned.

2 They said what is this all about?

3 And I said I don't know.

4 And my dad, I remember at the time
5 saying, well I understand that you want to finish
6 college but what is this? What's going to happen?
7 And my mother of course said are we going to see
8 you again? What is this all about?

9 And I said that's all I can tell you.

10 My dad said let me call somebody. I
11 want to talk to somebody.

12 And I said I was specifically told that
13 that couldn't happen.

14 Q Okay. At the point you're told you may
15 go overseas is there more than one person? Is
16 there more than this first Jack Smith?

17 A No. That's the only person I talked
18 to.

19 Q All right. What happens after you're
20 told you may go overseas?

21 A That was it. I was contacted after I
22 graduated. I graduated in '68. June. I was
23 contacted. I was told that I would meet somebody.

24 Q How were you contacted?

25 A There was a telephone call. At home.

1 Because I was living with my parents.

2 Q And who called you?

3 A The same guy.

4 Q Jack Smith.

5 A Yeah.

6 Q And he told you what?

7 MR. MARGOLIN: Was it the same guy?

8 Was it the don't know or who?

9 THE WITNESS: No it was Smith. Jack

10 Smith.

11 MR. COYLE: Q What did he tell you?

12 A And he said meet us.

13 I said where am I going? What should I

14 take? What should I pack?

15 He says nothing.

16 Q What happened next?

17 A I am pretty sure it was December.

18 December.

19 Q Of what year?

20 A It was '68.

21 Q Okay. Go ahead.

22 A We met.

23 Q You met Jack Smith.

24 A Yes.

25 Q Where?

1 A Um, met him at Pomona.

2 Q Where?

3 A Same. Same place. Same office.

4 Q His office?

5 A Same office.

6 Q Now at this point has anyone else

7 entered the picture?

8 A No.

9 Q Go ahead. Let me ask one more thing.

10 How long -- this is December of '68. When was the

11 first meeting?

12 A First meeting was in '67. I don't

13 remember when.

14 Q At least a year earlier.

15 A Yeah. Yeah.

16 Q Go ahead.

17 A And trying to remember because we went,

18 I remember we went to Minot, I think it was Minot

19 Air Force Base. I think it was an Air Force base.

20 Q Where is this?

21 A I think in South Dakota.

22 Q How did you get there?

23 A Flew. With a commercial flight. It

24 was a commercial flight. But it was very strange

25 because it was an Air Force Base. It was a

1 military base.

2 Q A commercial flight flew into a
3 military base?

4 A I'm trying to remember. Because it
5 wasn't a -- it wasn't a regular plane plane. It
6 wasn't like a, you know, a passenger plane.

7 Q It was --

8 A It was a small plane.

9 Q Was anyone on it other than you and
10 Jack Smith?

11 A Yeah, there were several people on it.
12 It was a pilot. There were about, what I remember
13 there were about six people on there.

14 Q Did they appear to be with Jack Smith
15 or were they civilian passengers?

16 A Civilian clothes. Everybody had
17 civilian clothes.

18 Q Did they appear to be with Jack Smith?

19 A Yeah, I would assume so.

20 Q What did you base that assumption on?

21 A Because they seemed to know -- they
22 talked to each other.

23 MS. YOUNG: Excuse me, I don't want to
24 interrupt. I am going to have to take a short
25 break.

1 (Ms. young leaves the room.)

2 MR. COYLE: Q When you say it appeared
3 to be a commercial airliner, are you talking just
4 physically?

5 A Well it wasn't a military plane.

6 Q You are just talking physically, the
7 plane appeared, the appearance of passengers.

8 A Right.

9 Q What airport did you depart from?

10 A That was trying to remember because
11 we -- let me -- in Pomona. We drove. Was LAX.

12 Q Did you have to go through let's say,
13 the normal security?

14 A No.

15 Q Ticket counter?

16 A No.

17 Q How did you get on the plane? From
18 when you walked into the airport how did you get
19 on the plane?

20 A He basically went through whatever, you
21 know, building, walked onto the air field there
22 was this plane. We got on board. There were
23 already people in the plane. That was it.

24 Q Okay. And you land where?

25 A I think it was Minot. That was the

1 name of it.

2 Q And what state?

3 A It was South Dakota if I'm not
4 mistaken.

5 Q Minot?

6 A Minot? Mannat?

7 Q Minot. North Dakota?

8 A North Dakota? South Dakota? I don't
9 remember.

10 Q What happened when you got there?

11 A From there we went on a huge plane what
12 I think it was a B52. Air Force. Guam. Went
13 from Guam we went to Utaphao in Thailand.

14 Q And you land in Thailand, what do you
15 know at this point?

16 A Nothing.

17 Q Why are you there?

18 A Nothing. I knew nothing.

19 Q Okay. Why did you choose to go to
20 Thailand knowing nothing.

21 A Did -- I was told hold your questions.
22 When we get there we'll explain everything.

23 Q That was good enough for you.

24 A That -- well you got to remember this.
25 At the time because I had been in the country then

1 about what, six years? I didn't know what was
2 happening. You know I came -- I came from a
3 culture where you don't ask a lot of questions.
4 If you're told to do something, do it. And that
5 was it.

6 Q Were you told to do it or asked to do
7 it?

8 A I was asked to do it. Nobody told me
9 to do it.

10 Q Okay. So why did you go?

11 A Because initially there was the promise
12 of an early discharge, an honorable discharge and
13 I liked that. The fact that I could finish
14 school, that I could get a degree and, you know,
15 and the questions that I had, of course, because I
16 knew that there was a war in Vietnam, I said now
17 what exactly is this going -- is this going to be
18 dangerous or what's going to happen?

19 And Jack said it's -- that's not --
20 some danger involved but, you know, it's not like
21 being up in the front lines. And that was
22 basically all he said.

23 Q What happened when you got to Thailand?

24 A When we got to Thailand there were a
25 bunch -- there were a bunch of people. And what I

1 remember was -- there was a whole bunch of
2 Scandinavians. And I have had no idea what they
3 were like mercenaries. But why Scandinavians,
4 that's what I remember. There was a whole bunch
5 of Scandinavians.

6 Q Scandinavian mercenaries in Thailand?

7 A They were Scandinavians.

8 Q What did they have to do with you?

9 A Nothing. I was just thinking back
10 because I remember them. And from -- from Utaphao
11 there was a -- there was a bunch of us. There
12 were other people.

13 Q Okay. When you say "other people"?

14 A Other people my age. There were young
15 people.

16 Q Who were they? I mean why were they
17 there?

18 A Probably for the same reason.

19 Q You took them to be in the same
20 situation you were?

21 A I guess so.

22 Q Did you talk to any of these people?

23 A Jack Smith said don't ask a lot of
24 questions; okay? We'll tell you what to do.
25 We'll take care of you. Don't start asking

1 questions okay? Because here the more questions
2 you ask the more -- the more danger it is for you.
3 So don't ask a lot of questions.

4 Q All right. What happened next?

5 A We'll take care of everything.

6 Q Okay. What happened next?

7 A We stayed in Utaphao for a couple of
8 days I remember. Then we went to a place which
9 was another Air Force Base. I think the name was
10 Udorn which was in northern Thailand. Close to
11 the Laos border. And there was another guy, I
12 forget his name. And he said -- he basically told
13 us this is what we're going to do.

14 Q What did he tell you?

15 A He told us that we would be working
16 together with a local guy. I think his name
17 was -- called himself a general. He was -- I
18 think he was a Laotian. His name was Vinh Phao or
19 something like that. He called himself General
20 Vinh Phao.

21 Q You were in Laos at this point?

22 A No, we are still in Thailand.

23 Q Yes?

24 A But the general operated from a base in
25 Thailand and we were to go with him and we were to

1 I guess assist him, you know?

2 And also what I remember at the time
3 because there were -- I think it was the -- I am
4 not sure -- there were Special Forces there. Of
5 course they were in uniform.

6 Q Now when you say Special Forces are you
7 talking about Army Green Beret?

8 A Yeah. I don't know if it was the
9 Seventh Special Forces group? I don't remember.

10 Q At this point do you know who these
11 people are? Jack Smith and his associates?

12 A Not really. Not really.

13 Later on, because what I couldn't
14 understand was these were -- these were military
15 bases. I mean these were Air Force bases. There
16 were people in uniform and yet there were these
17 people in civilian clothes who came and went as
18 they pleased.

19 Q Okay. At this point had Jack Smith or
20 his cohorts, whatever agency he was with at that
21 point, given you any training?

22 A No training. Not at that point.

23 Q All right. What happened next?

24 A I'm trying to remember. From Udorn we
25 went to -- we went to another little place. And

1 then we went to where this general had his
2 headquarters which was in the middle of nowhere.
3 It was like on a hill top, I remember that.

4 Q Do you know what country you were in?

5 A It was Laos.

6 Q It was a Laotian general?

7 A No. He wasn't.

8 Q U.S. general?

9 A No, no. He called himself General.

10 General Vinh Phao but we -- because I remember at
11 some point I remember I asked, who are all these
12 people? Because you had the Royal Laotian Air
13 Force which was an Air Force. And they were
14 getting all sorts of help from the U.S. Air Force.

15 Then they are talking about the Patet
16 Lao which I guess was -- when it was first
17 mentioned when I heard that name I didn't know who
18 they were but they were I guess the Communist
19 counterpart of the Khmer Rouge in Cambodia.

20 So you had all these little different
21 groups; you had the U.S. Air Force, the Royal
22 Laotian Air Force, this guy who called himself
23 general who I later found out was in the opium
24 trade.

25 Q Of course at this point how many other

1 people in your situation were there?

2 A There must have been about 15 or 20 of
3 us.

4 Q Were they Americans? Appear to be
5 Americans?

6 A Yeah, they spoke English.

7 MR. MARGOLIN: That's what you know.

8 THE WITNESS: Yeah.

9 MR. COYLE: Q All right. Go ahead.

10 A That was basically it. And part of our
11 job was to at times certain shipments would come
12 in, armed shipments, small arms, some mortars,
13 some grenade launchers and those had to be
14 funneled to these Scandinavians. So at times
15 there were convoys, not really convoy, maybe
16 three, four trucks, and we would meet at certain
17 places and deliver this stuff. That's what we
18 did.

19 And at some point, because apparently
20 from what I was able to gather, and again, the
21 fact that they were Scandinavians stuck out in my
22 mind because I couldn't understand what they were
23 doing there. But apparently -- I found this out
24 later on -- they were used as mercenaries to
25 disrupt some of the convoys that came down on the

1 Ho Chi Minh Trail. So. And they were being
2 supplied by what I assume to be, what I knew later
3 on was the CIA because they had their own -- they
4 had converted DC3s like gun ships that would
5 provide air support.

6 (Ms. Young returns.)

7 THE WITNESS: Sometimes they would call
8 in air strikes. Sometimes there would be the U.S.
9 Air Force because they had -- they had various
10 bases, they had a base. They had a base at Takli
11 I believe the name was. Korut was another one.
12 They had F -- I think they were F-1s or F-105s.
13 Fighter planes. But those were the U.S. Air
14 Force.

15 The CIA had their own planes. They
16 were converted gun ships. I remember there were
17 some.

18 MR. COYLE: Q So at that point you
19 knew you were the CIA.

20 A Yeah. Well I assumed. Nobody ever
21 said CIA. Nobody ever said that.

22 Q Well --

23 A They would say, "You with the company?"
24 "Yes."

25 Q At the point that you're in this convoy

1 doing this work was there -- who was in charge?
2 Were there any Americans like Jack Smith in charge
3 there?

4 A Yes. Yes. Yes. But they were always
5 in civilian clothes. I never saw one of these
6 people in uniform.

7 Q How long did you do this?

8 A I did that for about a month.

9 Q Were you getting paid for this?

10 A Yes.

11 Q How --

12 A Paid in the sense of -- yeah, they --
13 not a paycheck but they would give you money.

14 Q How much money would they give you?

15 A Geez. I don't remember. Geez.

16 Q I mean were they giving you like a set
17 amount at a set period or would you just say I
18 need money?

19 A Well you never really needed money
20 because everything was taken care of. Your meals.
21 They gave us clothes. They gave us boots. You
22 know.

23 Q Why were they giving you money?

24 A Well I remember that we -- that we
25 would get money but you really didn't need the

1 money. You know?

2 At some point I remember going to
3 Bangkok, Thailand, and that was for like a couple
4 of days or whatever, you know? With this other
5 guy, and what was his name? Jesus. It was a
6 red-headed guy. I can't think of his name. But
7 he kind of -- he took about five of us under his
8 wing, if you want to call it that, and said we are
9 going to Bangkok.

10 Q Well, did you ever reach some agreement
11 or understanding? Were you told? Did you ask am
12 I going to get paid for this? How long am I going
13 to be here?

14 A I never asked. I did ask how long am I
15 going to be here?

16 Q And what did they tell you?

17 A They said we can't tell you.

18 My main concern was because at some
19 point we got -- when I say we -- this -- these
20 trucks, that was a firefight and I mean -- and I
21 remember that because that's the very first time
22 that that happened to me. And at that point I
23 thought you know I can -- I can die here. Okay?
24 The reality of it I think, because at first it was
25 like an adventure; okay?

1 And when that happened and some people
2 did get shot, that's when it dawned on me that
3 this is, this is not really an -- I mean it's an
4 adventure but it could be a deadly adventure and
5 that's when I started asking more questions.

6 Q Okay. We will get into the firefight
7 in a minute. Let me go back.

8 Before you left Pomona did it appear to
9 you that they were conducting a background
10 investigation of you?

11 A No. Never -- never thought about it.

12 Q They weren't asking you questions which
13 were -- which you think --

14 A You know they never asked questions.
15 They basically told me we know you were born in
16 Mala. You were born in Indonesia. You came to
17 this country, you landed in New York.

18 They basically -- the first time I met
19 Jack Smith he basically told me those things. You
20 know you ended up, first you ended up in
21 Riverside. Then you went to Ontario. You went
22 here, you worked, you took a year off, you worked
23 as a custodian. All true. I don't know how he
24 knew that.

25 Q They never asked you any philosophical

1 questions?

2 A Never asked me.

3 Q Any questions of allegiance to country?

4 A No. The only thing that I thought was
5 strange at the time is he says, "You eat rice,
6 don't you?"

7 And I said yeah.

8 And he says, "You can survive on a bowl
9 of rice, can't you?"

10 I said well, yeah. But I didn't
11 understand at the time. But later on it became
12 evident because sometimes that's all you had.

13 Q Okay. Did -- did any of your relatives
14 or friends tell you there are people asking
15 questions about you?

16 A No.

17 MR. MARGOLIN: There is your first case
18 dealing with that kind of operations, isn't it?

19 MR. COYLE: Well I'll answer that after
20 this. I'll all your questions after this.

21 MR. MARGOLIN: Okay.

22 MR. COYLE: It's my first case of this,
23 that's true.

24 Q You're in a firefight.

25 A (Witness nods head).

1 Q Is this why you were wounded?
2 A No. No, not that first time.
3 Q Tell me about getting wounded.
4 A That happened in -- that was in
5 northern Laos. And that was a case where as I
6 indicated to you, this person who called himself
7 General, I think his name was Vinh Phao, had this
8 compound and at some point it came under attack.
9 Because I think what -- you know, if I can -- can
10 we go off the record for a minute? Because I want
11 to ask him a question.

12 Q We can go off the record.

13 (Discussion off the record.)

14 MR. COYLE: Q What were you going to
15 say?

16 A What I was going to say was later on,
17 and we're talking now about the early '80s, I was
18 contacted again. I was going to go hunting in
19 Africa. And I got a call, not from Jack Smith,
20 from somebody else who said we know you're going
21 to go to Africa. How they even know I have no
22 idea. Can you go to Bangui, which is the capital
23 of the Republic of Central -- in those days it was
24 French Colony. At some point it was called the
25 Republic of Central Africa, the center of Africa.

1 If we give you a contact can you meet
2 this person and see that certain funds go to this
3 person? Also, can you take somebody along?
4 Because I wanted to go hunting on the border of
5 Zaire and Central Africa. Central African
6 Republic.

7 Well to the north the boundary, it's
8 the last boundary with Chad, and at the time Chad
9 was waging war with Libya. Can you camp by the
10 border and you will be contacted by somebody. And
11 all you need to do is give this person certain
12 documents. And I said I can do that.

13 Q This is in the '80s?

14 A '84 I believe it was.

15 Q Do you know who this person was?

16 A No. Never met him before.

17 Q But you did ultimately meet him?

18 A Never met him.

19 Q You met someone?

20 A Met someone in Bangui.

21 Q CIA?

22 A I would assume, it was a French man,
23 though. He had a French accent. Not an American.

24 But anyway, the reason that I am
25 telling you that is because when this -- when I

1 think, that the CIA was very much concerned about
2 China becoming involved in this conflict and
3 sending troops because China had, if you look at a
4 map, I think northern Laos and Vietnam, to the
5 north is China and they were concerned about not
6 just the convoys coming down from north Vietnam
7 but they were concerned about China, and so they
8 had this -- they were always trying to protect
9 this area.

10 I remember them referring to two areas,
11 one they called the barrel roll which was like the
12 northern part of Laos, and then the steel cage
13 which was the middle and southern part of Laos,
14 and whenever they were calling -- they were
15 calling an air strike always to protect this
16 General; okay? And it only became clear later on
17 why they were doing that.

18 Now, to answer your question, at this
19 particular time we were at that location and his
20 location was being attacked. And so they called
21 in air strikes and they had air strikes from both
22 the U.S. Air Force, because I remember these
23 F-105s came streaking over and that's when I
24 got -- that's when I got injured.

25 Q What was your injury?

1 A I got -- I got -- it was either
2 shrapnel or -- but I got hit in the leg. Right --
3 right here underneath my knee on my left leg.
4 Q After some explosion.
5 A Correct.
6 Q And what kind of medical treatment did
7 you receive there?
8 A They treated me right then and there.
9 Q Who treated you?
10 A A medic.
11 Q And there is a medic with what, U.S.
12 Army? Laotian Army? Civilian? What is it?
13 A You know I don't remember. I don't
14 remember.
15 Q Did the CIA have their own medics?
16 A They had some medical personnel but
17 they were mostly -- it was either U.S. Air Force
18 or it was Laotian Army.
19 Q What -- how did they treat you?
20 A They cleaned the wound. They kind of
21 opened it up, and from what I remember they put
22 sulfur powder on the wound. And then bandage all
23 up and that was it. Gave me a shot. I guess it
24 was a tetanus shot. I don't know.
25 Q Okay. And years later the apparent

1 shrapnel the doctor discovered was not in your
2 knee?

3 A No, but I tell you how that came about
4 because I started bleeding and I couldn't -- I
5 went to a urologist and that's why I said the only
6 name I can remember is Benderev.

7 He did -- I don't know, there's a name
8 for it where they stick a tube in through the
9 urethra and they look into your bladder because it
10 could be cancer of the bladder or whatever it is,
11 that wasn't it.

12 Then I went to another doctor. I went
13 to that Persian doctor. They did other tests. I
14 remember going to one doctor, he was an older
15 doctor. I think he performed a colonoscopy, that
16 wasn't it.

17 Q Where was the shrapnel?

18 A Well --

19 MR. MARGOLIN: Which part of the body
20 you mean?

21 MR. COYLE: Yes.

22 THE WITNESS: Well originally when I
23 was injured it was in my leg. It was right below
24 my knee but when they took the x-rays they took an
25 x-ray I believe of the lower body. The lower body

1 part.

2 MR. COYLE: Q Right.

3 A So.

4 Q Where did -- in the '90s, I think you
5 said in '90 --

6 A All I can tell you is he looked at the
7 x-ray and he said it looks like you have some
8 shrapnel in your body.

9 And I looked at him but it's not sure,
10 he said very tiny but I don't know it could be
11 something else.

12 Q Did he tell you it was in your knee.

13 A No, I don't -- I don't know. I don't
14 know if he told me the location of it.

15 Q Did he say that might be causing your
16 urological problem?

17 A Yes. Yes. But after all these tests
18 it went away. So.

19 Q Has your knee ever bothered you since?

20 A Sometimes it does.

21 And other than that I can tell you one
22 other injury which wasn't really serious, maybe
23 you could still see it. I was sitting in a
24 spotter plane and we flew kind of low and there
25 were -- there was another attack and the -- the

1 plexiglass got hit, and I don't know if you can
2 see it. There's still a scar right here. And
3 something hit me and I started bleeding profusely
4 and that was it.

5 MS. DOI: The record should reflect it,
6 he's indicating his left forehead.

7 THE WITNESS: Right.

8 MR. COYLE: Q At some point when you
9 were in Laos it became apparent to you you were
10 working with the CIA; right?

11 A Yes.

12 Q How long were you in Laos?

13 A I was there in December into '69.

14 Q Were you in any other countries in the
15 area?

16 A Thailand. I was -- one time we went to
17 Saigon and I remember being in a hangar. I don't
18 know where it was. And the hangar was stocked
19 with bales of heroin.

20 Q Did it ever become apparent to you why
21 they had chosen you? What skills did you have
22 that they were using over there?

23 A I don't know. Don't -- other than
24 perhaps that I had been born in a tropical climate
25 that I had certain immunities because I never got

1 sick. I never got diarrhea. A lot of the other
2 personnel, American personnel suffered from
3 diarrhea. Couldn't eat the food. Had to eat
4 C-rations. I never did. I ate rice, dried fish.
5 I ate what they ate.

6 Q Did you speak any relevant languages?

7 A No. Only languages I spoke at the time
8 was -- spoke Dutch, spoke Indonesian. Spoke
9 German. I had a fairly workable knowledge of
10 French.

11 Q What if any training did the CIA do for
12 you, with you in Laos?

13 A The only -- the only training -- and it
14 really wasn't training. Because in boot camp we
15 had been trained. The only training as such was
16 the operation of -- of the M 14 at that time. The
17 M 14 later became the M 16. Automatic, small
18 arms. Use mortars. That was it.

19 Q Were you doing any --

20 A And I should add to that, and low
21 altitude jumping.

22 Q Were you doing anything in Laos that
23 they couldn't have gotten locals to do?

24 A They did have locals who worked with
25 him.

1 Q Did you ever figure out why you were
2 there?

3 A No. It's the same thing, like why were
4 the Scandinavians there? That to this day I have
5 no idea. Why Scandinavians? Why not French or,
6 you know?

7 MR. MARGOLIN: Why was he in the boot
8 camp in the first place?

9 MR. COYLE: Q Were you in boot camp in
10 the first place?

11 MR. MARGOLIN: Yeah. Why?

12 MR. COYLE: Q Why were you?

13 A Because it was part of it.

14 Q I am not sure I understood the
15 question.

16 MR. MARGOLIN: Okay. I'll talk with
17 you about it later.

18 MR. COYLE: Okay.

19 Q At any point did the CIA tell you you
20 can't talk about this? This is secret?

21 A They said that from the very beginning.

22 Q When?

23 A When we first -- when we first talked
24 they said are you interested?

25 I said yes I am.

1 They said you realize that there's
2 nothing -- there's nothing in writing. There are
3 no documents. Such as you're going to get an
4 honorable discharge that's a document, understand
5 that?

6 I said yes.

7 He says there is -- in other words,
8 there will be no record of this, do you
9 understand?

10 I said yes.

11 Now what I didn't -- what I neglected
12 to ask him at the time, which I didn't even think
13 about it at the time, all I was concerned was
14 getting -- I wanted an honorable discharge. But
15 what I didn't realize was that officially if you
16 didn't have any active duty you were not entitled
17 to any benefits under the GI Bill. Because that
18 only applied to veterans who had served in active
19 duty. And of course later on I discovered that
20 and, you know? That's the way it is.

21 Q Okay. My question was did the CIA at
22 any point tell you not that they wouldn't have any
23 records of it, did they tell you you couldn't talk
24 about it?

25 A Yes.

1 Q When did they tell you that?

2 A From the very beginning.

3 Q That's the first meeting with Jack
4 Smith?

5 A They said -- basically he didn't tell
6 me anything in the first meeting. He didn't tell
7 me where I was going or what was going to happen.

8 But I remember asking him, he said
9 either after the second or third meeting, can I
10 tell my parents about this?

11 And he says well, you can tell your
12 parents but all you can tell your parents is that
13 you will be going overseas. And that's it.

14 But after that it was always -- it was
15 like an unwritten thing you didn't talk about it.
16 You didn't tell people about it.

17 Q Did they tell you that?

18 A Yeah. At times.

19 Q What would they say?

20 A They said that these operations -- you
21 understand these operations do not exist. That's
22 what they said.

23 Q Were you a CIA agent?

24 A Well, whatever you want to call it. I
25 mean --

1 MR. MARGOLIN: I will object on the
2 ground of legal conclusion.

3 THE WITNESS: -- whether it's agent.
4 Operative.

5 MR. COYLE: Q So you were there how
6 long?

7 A I was there for a month. I went back
8 during -- I remember I went back during the
9 monsoon season which starts I believe in June.
10 It's June through October. It's real wet.

11 Q When you say you went back, where did
12 you go?

13 A Went back home.

14 Q Went back to the U.S.?

15 A Went back home.

16 Q What were you told? What parting
17 instructions were you given?

18 A Simply not -- not to discuss anything.
19 And basically what then was you realize this does
20 not exist. These operations never happened.
21 Doesn't exist. And if you're asked don't say
22 anything.

23 Q Did they tell you what would happen to
24 you if you did talk about it?

25 A No.

1 Q Why are you able to talk about it now?

2 A Well, I'm not really able to talk about
3 it. You're asking me these questions and I am
4 trying to answer them to the best of my ability.

5 Q But you are not saying I am not allowed
6 to answer this.

7 A That's true. And I expressed the same
8 concern to Mr. Margolin. I said if they are going
9 to go into this what am I supposed to do?

10 Q Now, did you tell Deputy Verducco that
11 you were with the CIA?

12 A No. I do remember telling him that I
13 was involved in some covert operations and that
14 was it.

15 Q Why did you tell him that?

16 A Because he kept asking me. He said
17 what did you do over there? You know?

18 And I said you know I can't really talk
19 about it. All I can tell you is that it was
20 covert.

21 Q Okay.

22 A That's it.

23 Q If you were instructed by the CIA never
24 to talk about this why did you bring it up at all?

25 A You know I just don't know. I can't

1 answer that. Stupidity on my part.

2 The problem was in children's court
3 there was such a -- you know I tried to explain
4 this to Mr. Margolin. It was an informal setting.
5 There were a lot of discussions going on.
6 Sometimes I would tell them little bits and pieces
7 to illustrate a point or to make a point. Never
8 anything specific.

9 My mistake probably, if you want to
10 call it this, is a sin of omission. Instead of
11 making it abundantly clear this is not what I did,
12 I was not a Vietnam veteran, I was not attached to
13 the military I never did that. And if certain --
14 if there were certain conceptions I never
15 corrected those.

16 But I never said these things simply to
17 tell a story. They happened in informal
18 conversations, off the bench, when I was trying to
19 make a point or illustrate a point I was trying to
20 make, that's how this came about.

21 And Verdusco always wanted to talk
22 about his Vietnam experiences. And he kept, he
23 would always ask me, well have you been here?
24 Have you been?

25 And I said you know I can't really talk

1 about it. And the only thing I told him, I said
2 at some point I said I was -- I was in covert
3 operations, that's it.

4 What I do remember telling him was I'm
5 familiar with some of the Special Forces
6 operations but I don't remember telling him ever
7 that I was actually part of Special Forces.

8 But why did I tell him that? I have no
9 idea.

10 Q Okay. You never recall telling him you
11 were part of Special Forces. Are you
12 affirmatively stating that you did not tell him?

13 A I did not tell him that.

14 Q Okay. And you did not tell him you
15 were with the CIA?

16 A I don't think I did.

17 Q Are --

18 A You know I never -- I think probably
19 Mr. Margolin is the first person I've told that to
20 and there's maybe one other person who knows and
21 that's it.

22 Q So you'd remember whether or not you
23 told Verdusco you were with the CIA?

24 A I'm pretty sure, yeah.

25 Q Were you ever in Vietnam?

1 A Yes. I was at Saigon. Very short.

2 Q That was part of whatever you did with
3 the CIA?

4 A (Witness nods head).

5 MR. MARGOLIN: The answer was "yes."

6 THE WITNESS: Yes.

7 MR. COYLE: Q So I take it any
8 previous answer -- let me ask you this question.
9 You referred in your final letter here of August
10 3rd of '99, you referred us to two books "Shooting
11 the Moon" by Roger Warner, and "Backfire, the CIA
12 Secret War in Laos and Its Link To the War in
13 Vietnam"?

14 A Right. I did not refer you to those.

15 MS. YOUNG: Want me to?

16 MR. MARGOLIN: We have referred to a --

17 MS. YOUNG: I have an explanation for
18 that answer since --

19 MR. COYLE: I just want to ask the
20 question.

21 THE WITNESS: The answer to your
22 question you referred. I did not refer those
23 books.

24 MR. COYLE: Q Have you read those
25 books?

1 A No.

2 Q Do you know why those books appeared in
3 this letter on your behalf?

4 A I think -- I'm not sure. I think when
5 this topic came up and I talked to Mr. Margolin
6 and Ms. Young I think that they themselves
7 conducted research, and perhaps in an effort to
8 see if I was telling the truth or whatever, and
9 they came upon -- or -- and Ms. Young can correct
10 me -- but I think that's what they did and they
11 came up with those books that apparently dealt
12 with those subjects. I wasn't familiar with those
13 books. I have never read those books.

14 Q Have you read any other books on that
15 subject, the CIA's covert operations, in or around
16 Vietnam?

17 A No. Never have.

18 Q I take it by a previous answer you
19 gave -- well let me ask it this way. If we
20 contacted the CIA and asked them if they had ever
21 heard of you what would you expect their answer to
22 be?

23 MR. MARGOLIN: You are speculating at
24 this point if you can answer that.

25 THE WITNESS: I -- well, I would be

1 speculating but I'm pretty sure they will say we
2 don't know what you're talking about.

3 MR. COYLE: Q Well were you ever told
4 what they would say?

5 A No, other than what I indicated to you
6 earlier which was that basically they told us
7 this, what you see here never took place.

8 Q Well, before you came to give this
9 statement did you contact the CIA and ask them
10 what you could or could not reveal?

11 A No.

12 Q Well you have revealed some information
13 regarding your association with the CIA in Laos,
14 what is your basis for believing that you were
15 allowed to reveal that information?

16 A I don't have any. I'm assuming that I
17 wasn't allowed to reveal that information.

18 Q Then why did you?

19 A Because you asked me the question and I
20 asked Mr. Margolin and he said when they -- when
21 they ask you those questions, you know, I'll make
22 a statement before we start the deposition but
23 answer the questions truthfully. That's why I've
24 given you the answers I have.