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POW/MIA'S

R E P O R T

OF THE

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE



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To those who remembered

We salute, as well, the veterans and responsible activist groups who have never stopped pushing for answers. These are the people who fought against the forgetting; who persisted in their questioning; and whose concerns led directly to the creation of the Select Committee. The Committee's investigation has validated their efforts, for they had good reason to argue that the full story was not being told, to suggest that there was more to learn and to insist that a renewed focus on the issue would produce greater pressure and yield new results.

It is to these Americans, therefore, to the POWs who returned and to all those who did not, to the families and veterans who kept the memory alive, that we pay tribute, and to whom we have dedicated the work of this Committee, including this final report.

THE COMMITTEE'S PURPOSE

The most basic principle of personal honor in America's armed forces is never willingly to leave a fellow serviceman behind. The black granite wall on the Mall in Washington is filled with the names of those who died in the effort to save their comrades in arms. That bond of loyalty and obligation which spurred so many soldiers to sacrifice themselves is mirrored by the obligation owed to every soldier by our nation, in whose name those sacrifices were made.

Amidst the uncertainties of war, every soldier is entitled to one certainty—that he will not be forgotten. As former POW Eugene "Red" McDaniel put it, as an American asked to serve:

I was prepared to fight, to be wounded, to be captured, and even prepared to die, but I was not prepared to be abandoned.

The Senate Select Committee on POW/MIA Affairs was created to ensure that our nation meets its obligation to the missing and to the families of those still listed as unaccounted for from the war in Southeast Asia or prior conflicts. As past years have shown, that obligation cannot fully be paid with sympathy, monuments, medals, benefits or flags. It is an obligation—a solemn duty—that can be met only with the best and most complete answers that are within our power to provide.

Tragically, and for reasons found both at home and abroad, those answers have been slow in coming. Our nation has been haunted by the possibility that some of the missing may have survived and that, somewhere in Southeast Asia, brave men remain in captivity.

Although we know that the circumstances of war make it impossible for us to learn what happened to all the missing, we have been haunted, as well, by our knowledge that there are some answers from Southeast Asia we could have had long ago, but have been denied.

Because our wartime adversaries in Vietnam and Laos have been so slow to provide the answers, the American people turned to the U.S. Government for help, but events over the past 20 years have undermined the public's trust. The Indochina war, itself, was partly a secret war and records were falsified at the time to main-

tain that secrecy. The Paris Peace Accords promised answers to POW/MIA families, but the war between North and South Vietnam did not stop, and for the families of many, the answers did not come. Ever-changing Defense Department policies confused families and others about the official status of the missing and obscured even the number of men who might possibly have remained alive. The official penchant for secrecy left many families, activists and even Members of Congress unable to share fully in their own government's knowledge about the fate of fellow citizens and loved ones and this, more than anything, contributed to the atmosphere of suspicion and doubt.

Underpinning all this, the POW/MIA issue is alive today because of a fundamental conflict between the laws of probability and the dictates of human nature. On a subject as personal and emotional as the survival of a family member, there is nothing more difficult than to be asked to accept the probability of death when the possibility of life remains. Since Operation Homecoming, the U.S. Government has sought to avoid raising the hopes of POW/MIA families; it has talked about the need to maintain perspective and about the lack of convincing evidence that Americans remain alive. But U.S. officials cannot produce evidence that all of the missing are dead; and because they have been so careful not to raise false hopes, they have left themselves open to the charge that they have given up hope. This, too, has contributed to public and family mistrust.

Many of the factors that led to controversy surrounding the fates of Vietnam-era POW/MIAs are present, as well, with respect to the missing from World War II, Korea and the Cold War. Here, too, there have been barriers to gaining information from foreign governments; excessive secrecy on the part of our own government; and provocative reports—official and unofficial—about what might have happened to those left behind.

The Select Committee was created because of the need to reestablish trust between our government and our people on this most painful and emotional of issues. It was created to investigate and tell publicly the complete story about what our government knows and has known, and what it is doing and has done on behalf of our POW/MIAs. It was created to examine the possibility that unaccounted for Americans might have survived in captivity after POW repatriations at Odessa in World War II, after Operation Big Switch in Korea in 1953, after Cold War incidents, and particularly after Operation Homecoming in Vietnam in 1973. It was created to ensure that accounting for missing Americans will be a matter of highest national priority, not only in word but in practice. It was created to encourage real cooperation from foreign governments. It was created, in short, to pursue the truth, at home and overseas.

Whether the Committee has succeeded in its assigned tasks will be a matter for the public and for history to judge. Clearly, we cannot claim, nor could we have hoped, to have learned everything. We had neither the authority nor the resources to make case by case determinations with respect to the status of the missing. The job of negotiating, conducting interviews, visiting prisons, excavating crash sites, investigating live-sighting reports and evaluating archival materials can only be completed by the Executive branch.

claims that prisoners were being held, and on the large number of American pilots who were listed as missing in action in Laos compared to the number being proposed for return. Top military and intelligence officials expressed the hope, at the time the peace agreement was signed, that as many as 41 servicemen lost in Laos would be returned. However, only ten men (7 U.S. military, 2 U.S. civilian and a Canadian) were on the list of prisoners captured in Laos that was turned over by the DRV.

During the first 60 days, while the American troop withdrawal was underway, the Nixon Administration contacted North Vietnamese officials repeatedly to express concern about the incomplete nature of the prisoner lists that had been received. In early February, President Nixon sent a message to the DRV Prime Minister saying, with respect to the list of only ten POWs from Laos, that:

U.S. records show there are 317 American military men unaccounted for in Laos and it is inconceivable that only ten of these men would be held prisoner in Laos.¹⁴

Soon thereafter, Dr. Kissinger presented DRV officials with 19 case folders of Americans who should have been accounted for, but who were not. The U.S. protests continued¹⁵ and in mid-March, the U.S. threatened briefly to halt the withdrawal of American troops if information about the nine American prisoners on the DRV/Laos list and about prisoners actually held by the Pathet Lao were not provided.¹⁶ By the end of the month, top Defense Department officials were recommending a series of diplomatic and military options aimed at achieving an accounting for U.S. prisoners thought to be held in Laos.

Ultimately, the Nixon Administration proceeded with the withdrawal of troops in return for the release of prisoners on the lists provided by the North Vietnamese and Viet Cong.

Post-homecoming

The public statements made by President Nixon and by high Defense Department officials following the end of Operation Homecoming did not fully reflect the Administration's prior concern that live U.S. prisoners may have been kept behind. Administration officials did, however, continue to stress publicly the need for Vietnam to meet its obligations under the peace agreement, and U.S. diplomats pressed both the North Vietnamese and the Pathet Lao for information concerning missing Americans. Unfortunately, due to the intransigence of our adversaries, those efforts were largely unavailing.

During the Committee's hearings, it was contended by Dr. Kissinger and some Members of the Committee that Congressional at-

¹⁴ Cable from President Nixon to Pham Van Dong, February 2, 1973.

¹⁵ For example, Dr. Kissinger sent a cable to Le Duc Tho on March 20, 1973 saying, in part: "The U.S. side has become increasingly disturbed about the question of American prisoners held or missing in Laos . . . the U.S. side has made clear on many occasions that the list of only nine American prisoners presented belatedly by the Pathet Lao is clearly incomplete."

¹⁶ Some Members of the Select Committee believe that the U.S. threat to halt troop withdrawals referred only to the prisoners on the DRV/Laos list, and have cited testimony by some former Nixon Administration officials and some contemporary press accounts to support that view.

titudes would have precluded any Administration effort to respond forcefully to the DRV's failure to provide an accounting for missing American servicemen. These Members of the Committee contend that their view is supported by the Senate's rejection on May 31, 1973 of an amendment offered by U.S. Sen. Robert Dole that would have permitted the continued bombing of Laos and Cambodia if the President certified that North Vietnam "is not making an accounting, to the best of its ability, of all missing in action personnel in Southeast Asia."¹⁷

CONCLUSIONS

The Committee believes that its investigation contributed significantly to the public record of the negotiating history of the POW/MIA provisions of the Paris Peace Accords, and of the complications that arose during efforts to implement those provisions both before and after the completion of Operation Homecoming. That record indicates that there existed a higher degree of concern within the Administration about the possibility that prisoners were being left behind in Laos than had been known previously, and that various options for responding to that concern were discussed at the highest levels of government.

The Committee notes that some Administration statements at the time the agreement was signed expressed greater certainty about the completeness of the POW return than they should have and that other statements may have understated the problems that would arise during implementation and that—taken together, these statements may have raised public and family expectations too high. The Committee further notes that statements made after the agreement was signed may have understated U.S. concerns about the possibility that live prisoners remained, thereby contributing in subsequent years to public suspicion and distrust. However, the Committee concludes that the phrasing of these statements was designed to avoid raising what were believed to be false hopes among POW/MIA families, rather than to mislead the American people.

Investigation of the accounting process

The Committee investigation included a comprehensive review of the procedures used by the U.S. Government to account for American prisoners and missing from the beginning of the war in Southeast Asia until the present day. The purposes were:

To determine accurately the number of Americans who served in Southeast Asia during the war who did not return, either alive or dead;

To evaluate the accuracy of the U.S. Government's own past and current process for determining the likely status and fate of missing Americans;

To learn what the casualty data and intelligence information have to tell us about the number of Americans whose fates are truly "unaccounted for" from the war in Vietnam; and

¹⁷ Other Committee Members believe that this second degree amendment to an amendment offered by Sen. Mark Hatfield was aimed far more at authorizing President Nixon to continue prosecuting the war in Southeast Asia than to gain an accounting for missing Americans.

To consider whether efforts to obtain the fullest possible accounting of our POW/MIAs was treated, as claimed, as a matter of "highest national priority" by the Executive branch;

To assess the extent to which Defense Department and DIA accounting policies and practices contributed to the confusion, suspicion and distrust that has characterized the POW/MIA issue for the past 20 years; and

To determine what changes need to be made to policies and procedures in order to instill public confidence in the government's POW/MIA accounting process with respect to past and future conflicts.

Although 2,264 Americans currently are listed as "unaccounted for" from the war in Indochina, the number of Americans whose fate is truly unknown is far smaller. Even during the war, the U.S. Government knew and the families involved knew that, in many of these cases, there was certainty that the soldier or airman was killed at the time of the incident. These are generally cases involving individuals who were killed when their airplanes crashed into the sea and no parachutes were sighted, or where others witnessed the death of a serviceman in combat but were unable to recover the body.

Of the 2,264 Americans now listed as unaccounted for, 1,095 fall into this category. These individuals were listed as "killed in action/body not recovered" (KIA/BNR) and were not included on the lists of POW/MIAs that were released publicly by the Defense and State Departments during the war or for several years thereafter. It was not until the late 1970's that KIA/BNRs were added to the official lists of "missing" Americans.

The next largest group of Americans now on the list of 2,264 originally was listed by the military services or by DIA as "missing in action." These are individuals who became missing either in combat or in non-combat circumstances, but who were not known for certain either to have been killed or to have been taken into captivity. In most, but not all, of these cases, the circumstances of disappearance coupled with the lack of evidence of survival make it highly probable that the individual died at the time the incident occurred.

Approximately 1,172 of the still unaccounted for Americans were originally listed either as MIA or as POW. Of these, 333 were lost in Laos, 348 in North Vietnam, 450 in South Vietnam, 37 in Cambodia and 4 in China. Since before the war ended, the POW/MIA accounting effort has focused, for good reason, on a relatively small number of these 1,172 Americans, that is, those who were either known to have been taken captive, or who were lost in circumstances under which survival was deemed likely or at least reasonably possible. These cases, in addition to others in which intelligence indicates a Southeast Asian Government may have known the fate of the missing men, are currently referred to as "discrepancy cases."

In 1987, Gen. John W. Vessey, Jr. (USA-Ret.) was appointed Presidential Emissary to Vietnam on POW/MIA matters. Gen. Vessey subsequently persuaded Vietnam to allow in-country investigations by the U.S. Government of high-priority discrepancy cases. The DIA and DOD's Joint Task Force-Full Accounting (JTF-FA) have

identified a total of 305 discrepancy cases, of which 196 are in Vietnam, 90 are in Laos, and 19 are in Cambodia.¹⁸

In 61 of the cases in Vietnam, the fate of the individual has been determined through investigation, and the Committee finds that Gen. Vessey correctly states that the evidence JTF-FA has gathered in each of these cases indicates that the individuals had died prior to Operation Homecoming. The first round of investigation of the 135 remaining cases in Vietnam is expected to be completed by January 18, 1993. A second round of investigation, which will proceed geographically on a district by district basis, will commence in February, 1993.

None of the discrepancy cases in Laos and Cambodia has been resolved. Because many of the Americans lost in those countries disappeared in areas that were under the control of North Vietnamese forces at the time, resolution of the majority of Laos/Cambodia cases will depend on a process of tripartite cooperation that has barely begun. The Committee further finds that, in addition to the past reluctance of the Vietnamese and Lao to agree to a series of tripartite talks with the United States, both the Department of State and the Department of Defense have been slow to push such a process forward.

As mentioned above, the Committee will append a case-by-case description of the circumstances of loss of each unresolved discrepancy case to this report. Those descriptions demonstrate that the U.S. Government has knowledge in only a small number of cases that the individuals involved were held captive and strong indications in only a small number more.

However, that is not to say that the Governments of Vietnam and Laos do *not* have knowledge pertaining to these or other MIA cases which may indicate survival. Answers to these troublesome questions will best be obtained through an accounting process that enjoys full cooperation from those governments.

The findings of this phase of the Committee's investigation include:

By far the greatest obstacle to a successful accounting effort over the past twenty years has been the refusal of the foreign governments involved, until recently, to allow the U.S. access to key files or to carry out in-country, on-site investigations.

The U.S. Government's process for accounting for Americans missing in Southeast Asia has been flawed by a lack of resources, organizational clarity, coordination and consistency. These problems had their roots during the war and worsened after the war as frustration about the ability to gain access and answers from Southeast Asian Governments increased. Through the mid-1980's, accounting for our POW/MIAs was viewed officially more as a bureaucratic exercise than as a matter of "highest national priority."

The accounting process has improved dramatically in recent years as a result of the high priority attached to it by Presidents Reagan and Bush; because of the success of Gen. Vessey

¹⁸ Gen. Vessey's responsibilities are limited to Vietnam. The investigation of discrepancy cases in Laos and Cambodia is the responsibility of the Joint Task Force-Full Accounting, established January 23, 1992, as a successor to the Joint Casualty Resolution Center.

and the JTF-FA in gaining permission for the U.S. to conduct investigations on the ground in Southeast Asia; because of an increase in resources; and because of the Committee's own efforts, in association with the Executive branch, to gain greater cooperation from the Governments of Vietnam, Laos and Cambodia.

After an exhaustive review of official and unofficial lists of captive and missing Americans from wartime years to the present, the Committee uncovered numerous errors in data entry and numerous discrepancies between DIA records and those of other military offices. The errors that have been identified, however, have since been corrected. As a result, the Committee finds no grounds to question the accuracy of the current, official list of those unaccounted for from the war in Southeast Asia. This list includes 2,222 missing servicemen except deserters and 42 missing civilians who were lost while performing services for the United States Government. The Committee has found no evidence to support the existence of rumored "secret lists" of additional missing Americans.

The decision by the U.S. Government to falsify "location of loss" data for American casualties in Cambodia and Laos during much of the war contributed significantly both to public distrust and to the difficulties experienced by the DIA and others in trying to establish what happened to the individuals involved.

The failure of the Executive branch to establish and maintain a consistent, sustainable set of categories and criteria governing the status of missing Americans during and after the war in Southeast Asia contributed substantially to public confusion and mistrust. During the war, a number of individuals listed as "prisoner" by DIA were listed as "missing in action" by the military services. After the war, the legal process for settling status determinations was plagued by interference from the Secretary of Defense, undermined by financial and other considerations affecting some POW/MIA families and challenged in court. Later, the question of how many Americans remain truly "unaccounted for" was muddied by the Defense Department's decision to include "KIA/BNR's"—those known to have been killed, but with bodies not recovered—in their listings. This created the anomalous situation of having more Americans considered unaccounted for today than we had immediately after the war.

The Committee's recommendations for this phase of its investigation include:

Accounting for missing Americans from the war in Southeast Asia should continue to be treated as a "matter of highest national priority" by our diplomats, by those participating in the accounting process, by all elements of our intelligence community and by the nation, as a whole.

Continued, best efforts should be made to investigate the remaining, unresolved discrepancy cases in Vietnam, Laos and Cambodia.

The United States should make a continuing effort, at a high level, to arrange regular tripartite meetings with the Govern-

ments of Laos and Vietnam to seek information on the possible control and movement of unaccounted for U.S. personnel by Pathet Lao and North Vietnamese forces in Laos during the Southeast Asia war.

The President and Secretary of Defense should order regular, independent reviews of the efficiency and professionalism of the DOD's POW/MIA accounting process for Americans still listed as missing from the war in Southeast Asia.

A clear hierarchy of responsibility for handling POW/MIA related issues that may regrettably arise as a result of future conflicts must be established. This requires full and rapid coordination between and among the intelligence agencies involved and the military services. It requires the integration of missing civilians and suspected deserters into the overall accounting process. It requires a clear liaison between those responsible for the accounting (and related intelligence) and those responsible for negotiating with our adversaries about the terms for peace. It requires procedures for the full, honest and prompt disclosure of information to next of kin, at the time of incident and as other information becomes available. And it requires, above all, the designation within the Executive branch of an individual who is clearly responsible and fully accountable for making certain that the process works as it should.

In the future, clear categories should be established and consistently maintained in accounting for Americans missing during time of war. At one end of the listings should be Americans known with certainty to have been taken prisoner; at the other should be Americans known dead with bodies not recovered. The categories should be carefully separated in official summaries and discussions of the accounting process and should be applied consistently and uniformly.

Present law needs to be reviewed to minimize distortions in the status determination process that may result from the financial considerations of the families involved.

Wartime search and rescue (SAR) missions have an urgent operational value, but they are also crucial for the purposes of accounting for POW/MIAs. The records concerning many Vietnam era SAR missions have been lost or destroyed. In the future, all information obtained during any unsuccessful or partially successful military search and rescue mission should be shared with the agency responsible for accounting for POW/MIAs from that conflict and should be retained by that agency.

Investigation of POW/MIA-related intelligence activities

The Committee undertook an investigation of U.S. intelligence agency activities in relation to POW/MIA issues. This included a review of the DIA's primary role in investigating and evaluating reports that Americans missing from the Vietnam war were or are being held against their will since the end of the war in Southeast Asia. The investigation also included a review of signals intelligence (SIGINT) obtained by the National Security Agency (NSA), a review of imagery intelligence (IMINT) obtained by aerial photog-

The Committee also believes that a central coordinating mechanism for pooling and acting upon POW/MIA-related intelligence information should be created as one of the Intelligence Community's Interagency Coordination Centers.

The Committee notes that the focus of the POW/MIA accounting process is in Southeast Asia. As a result, DIA analysts are spending more and more of their time traveling back and forth between Washington and the region or to Hawaii. The Committee believes that this would be an opportune time to move the DIA's POW/MIA office to Hawaii where it could be closer to JTF-FA and CINCPAC, which it supports. A number of tasks now sometimes performed by the office involving public and family relations can be handled, and handled more capably and appropriately, by the office of the Deputy Assistant Secretary of Defense for POW/MIA Affairs.

Live-sighting Reports. For the past 20 years, there has been nothing more tantalizing for POW/MIA families than reports that Americans have been seen alive in Southeast Asia and nothing more frustrating than the failure of these reports to become manifest in the form of a returning American—with the single exception of Marine Private Robert Garwood in 1979.

A live-sighting report is just that—a report that an American has been seen alive in Southeast Asia in circumstances which are not readily explained. The report could come from a refugee, boat person, traveler or anyone else in a position to make such an observation. The information could be first-hand or hearsay; it could involve one American or many; it could be detailed or vague; it could be recent or as far back as the end of the war.

The sheer number of first-hand live sighting reports, almost 1600 since the end of the war, has convinced many Americans that U.S. POWs must have been kept behind and may still be alive. Other Americans have concluded sadly that our failure, after repeated efforts, to locate any of these alleged POWs means the reports are probably not true. It is the Committee's view that every livesighting report is important as a potential source of information about the fate of our POW/MIAs.

Accordingly, the review and analysis of live-sighting reports consumed more time and staff resources than any other single issue. The Committee investigation used a method of analysis that was based on the content of a carefully screened set of reports that dealt only with men allegedly seen in captivity after Operation Homecoming. The Committee took into account past criticisms and assessed current procedures while examining and testing DIA's methodology for evaluating live-sighting reports. In so doing, Committee investigators examined more than 2000 hearsay and first-hand live-sighting files while compiling a list of 928 reports for "content" analysis. These reports were plotted on a map and grouped into geographic "clusters". During briefings and public hearings, the Committee reviewed the most significant "clusters" for the purpose of determining whether they would, taken together, constitute evidence of the presence of U.S. POWs in certain locations after Operation Homecoming.

DIA Assessment. It is DIA's position that the live-sighting reports evaluated to date do not constitute evidence that currently unaccounted for U.S. POWs remained behind in Southeast Asia

after the end of the war. Of the 1638 first-hand reports received since 1975, DIA considers 1,553 to be resolved.²⁰

Committee View. The Committee notes that 40 first-hand live-sighting reports remain under active investigation and that the nature of the analytical process precludes certainty that all past DIA evaluations are correct. Accordingly, the Committee recommends a strong emphasis on the rapid and thorough follow-up and evaluation of current unresolved and future live-sighting reports. The DIA is urged to make a continued and conscious effort to maintain an attitude among analysts that presumes the possible survival of U.S. POWs. The Executive branch is also urged to continue working with the governments of Southeast Asia to expand our ability to conduct on the ground, on-site investigation and inspections throughout the region.

The role of the National Security Agency (signals intelligence)

The responsibility for monitoring and collecting signals (including communications) intelligence rests with the National Security Agency (NSA). During the Vietnam War, the NSA monitored all available sources of signals intelligence bearing on the loss, capture or condition of American personnel. Such information would sometimes provide a basis for concluding whether or not a missing American had survived his incident and, if so, possibly been taken prisoner.

During its investigation, the Committee was disturbed to learn that the NSA and its Vietnam branch were never asked to provide an overall assessment of the status of POW/MIA personnel prior to Operation Homecoming. The Committee believes that this information would have been useful both for the U.S. negotiating team and for those preparing for the repatriation of American POWs. The Committee also found that neither DIA nor any other agency within the Intelligence Community placed a formal requirement for collection with NSA concerning POW/MIA related information. In fact, the Committee found that NSA end product reports were not used regularly to evaluate the POW/MIA situation until 1977. It was not until 1984 that the collection of information on POW/MIA was formally established as a matter of highest priority for SIGINT.

After the fall of Saigon, the National Security Agency and the military service components that support it largely dismantled their collection efforts in Southeast Asia. The elaborate collection capabilities that supported the war essentially ceased or were relocated to other trouble spots around the world. The analytical organizations that monitored signals intelligence in the region were also disbanded or sharply reduced as personnel were transferred to other assignments.

U.S. collection capabilities were further diminished during this period as Vietnam and Laos developed secure landline communica-

²⁰ According to DIA, 1111 (68%) first-hand live-sighting reports correlate to Americans who are accounted for (returned POWs, missionaries, civilians jailed for reasons unrelated to the war etc); 45 (3%) of the reports were correlated to wartime sightings of military personnel or pre-1975 sightings of civilians who remain unaccounted for; and 397 (24%) of the reports were found to be fabrications. Of the 85 reports that remain under investigation, 54 pertain to Americans allegedly seen in a captive environment.

citizen representing POW/MIA families would be in a position to try to deny Senate investigators the same right to review sensitive materials that she herself has been granted.

The Committee believes that an interagency coordinating body for POW/MIA policies is needed and that the IAG ably fulfills this role. However, the Committee is disturbed by the lack of formality in IAG record-keeping and believes that, at a minimum, that the minutes of discussions at such meetings should be maintained.

Second, although the IAG should consult regularly with the League and other POW/MIA family organizations, the Committee believes that the role of the IAG and issues of membership on it should be reviewed by the new Administration.

Government-to-government offers

The Committee investigated the possibility that Vietnam or Laos had approached U.S. officials at any time since the end of the war in Southeast Asia with a proposal that live U.S. POWs be returned in exchange for money or some other consideration. The Committee found no convincing evidence of any such offer being made. There were, however, two incidents which require further explanation.

The Committee received information that the Reagan Administration may have received an offer from Vietnam in 1981, transmitted through a third country, to exchange live POWs for \$4.5 billion. The source of the information was a Secret Service agent who reported that he had overheard a discussion in the White House concerning this subject. The Committee deposed one of the individuals, former National Security Adviser Richard Allen, said to have been involved in the discussion, and several individuals who were said to have been in the area of the discussion. The Secret Service agent was not willing to provide testimony to the Committee voluntarily, and the Committee voted 7-4 not to subpoena that testimony. A complete description of the investigation and the subpoena issue is contained in Chapter 6 of this report.

The Committee also received a report concerning a possible approach by Vietnam in 1984, through officials in an ASEAN nation, concerning the exchange of American remains and possibly live POWs. According to the report, the Vietnamese had indicated that they would welcome an offer from the U.S. on the subject. U.S. officials traveled to Vietnam late in 1984, but were reportedly told by Vietnamese officials that there were no live POWs and that the only issue that could be discussed involved remains. Select Committee investigators traveled to the ASEAN nation to interview officials in an effort to determine whether an approach from Vietnam concerning live U.S. POWs had, in fact, been made. The results were inconclusive. Two secondary sources disagreed about whether an exchange involving live POWs had been discussed. The individual who had initially discussed the subject with Vietnamese officials later told the State Department that the issue of live American POWs had not been raised. This investigation is also described in greater detail in chapter 6.

uments, such as depositions. The goal from the outset has been to create a comprehensive and unbiased public record that would be available for families, journalists, historians and citizens to review and make their own best judgments about the facts. This report is an important part of that record.

The investigation

The Committee investigation began by tracing the history of the issue back to its war-time beginnings. Clearly, the chance that American POWs are alive in Southeast Asia today depends on whether some were left behind after Operation Homecoming. The chapters in this report entitled "The Paris Peace Accords" and "Accountability" focus in detail on this possibility.

The largest share of Committee efforts was devoted to examining information concerning the possible survival of Americans during the post-war period and up to the present day. This required the review of vast quantities of first, second and third-hand "livesighting" reports; the analysis of a wide range of intelligence; examination of the methods that DIA uses to evaluate information; and the consideration of indications that POWs may have been transferred to the former Soviet Union or to China during or after the Korean or Vietnamese conflicts. Chapters 4 and 9 describe this aspect of the Committee's investigation.

Cooperation of Southeast Asia governments

It will be extremely difficult for our government to obtain additional solid information concerning the fate of our POW/MIAs without the cooperation of Vietnam, Laos and Cambodia.

Accordingly, the Committee has sought to use its review of POW/MIA issues to encourage recent trends toward greater cooperation between and among these governments and the United States. Members of the Committee traveled to Southeast Asia in April, October, November and December, 1992 for talks with foreign officials and U.S. personnel deployed there. In addition, Committee Members have met from time to time in the United States with representatives of the foreign governments to exchange information and clarify outstanding questions.

Below is a very brief summary of the situation that existed in each of these three countries at the time the Committee's work began. A full description of the issue is contained in the "Vietnam, Laos and Cambodia" chapter of this report.

Vietnam

When the Committee was formed, 1656 Americans were listed as unaccounted for in Vietnam. Since the end of U.S. involvement in hostilities on January 27, 1973, the remains of 266 Americans have been returned and identified.

Most of the Americans lost or captured in North Vietnam during the war were Air Force or Navy airmen who crashed in populated areas accessible to Vietnamese authorities. The North Vietnamese made a systematic effort to investigate crash sites, capture and process American POWs, bury and preserve remains and maintain centralized records.

About two-thirds of the Americans lost in South Vietnam were enlisted Army and Marine Corps personnel. U.S. officials have found that records and information concerning American prisoners held in the south are less complete than for those held in the north.

Since the war, Vietnamese officials have steadfastly denied that any Americans are held captive or that the remains of American servicemen are being knowingly withheld.

Cooperation from Vietnam is essential to the resolution not only of cases involving Americans lost or captured in Vietnam, but in Cambodia and Laos, as well. This is because the vast majority of Americans missing in those countries were believed to have become missing in areas under the control of North Vietnamese military forces at the time. Thus, Vietnam's military archives and other records are an important potential source of information concerning the fates of these men.

Since 1973, the degree of cooperation received from Vietnam has varied widely depending on the international political situation. A good working relationship was impossible during the years immediately after Operation Homecoming because of disputes over violations of the Paris Peace Accords. After the fall of Saigon in 1975, some efforts were made on both sides to pave the way for more normal political and diplomatic relations. That progress came to an abrupt halt in late 1978, however, following Vietnam's invasion of Cambodia, which the United States strongly opposed. Significant bilateral discussions did not resume until the early 1980's, but have since grown steadily in their frequency and depth.

One of the most positive outgrowths of recent talks was the appointment, in 1987 of Gen. John W. Vessey, Jr. (USA Ret.), as the President's special envoy to Vietnam. As a result of Gen. Vessey's discussions with then-Vietnamese Foreign Minister Nguyen Co Thach, the U.S. established a POW/MIA liaison office in Hanoi in July, 1991. The purposes of the office are to investigate live-sighting reports, to conduct joint searches for the remains of American servicemen and to seek access to the relevant Vietnamese records.

The Vessey team has placed a major emphasis on the investigation and resolution of the "discrepancy" cases. Discrepancy cases are those where U.S. officials believe there is the highest probability that additional information concerning a missing American can, with the proper degree of cooperation and investigation, be found. Currently, 135 discrepancy cases involving Americans lost in Vietnam are under investigation and a preliminary investigation in Vietnam of each case is to be completed by January 1993.

Laos

At the time of the Committee's creation, 528 Americans were listed as unaccounted for in Laos, of whom 335 were considered POW/MIA. Only 12 U.S. POWs captured in Laos returned during Operation Homecoming and one, Emmet Kay, who was captured after the ceasefire returned in September 1974. Since the end of the Vietnam conflict, the remains of 42 servicemen have been repatriated.

U.S. efforts to obtain information from Laos authorities have been complicated by the facts that Laos was not a party to the

Paris Peace Accords and the United States was not a party to the 1973 Laos cease-fire agreement that pledged all sides to return captive personnel. In addition, the Defense Department estimates that at least 75 percent of the Americans missing in Laos were lost in areas controlled at the time by North Vietnamese armed forces. These losses were generally in eastern Laos along the border with Vietnam and near the Ho Chi Minh Trail.

Although the POW/MIA records kept by the Lao have been judged to be less extensive than those kept by Vietnam, there is credible evidence that at least a few unaccounted for Americans were actually held by Pathet Lao forces during the war. Therefore, the Lao can be expected to have knowledge concerning the fate of these individuals. Additionally, there is strong reason to believe that North Vietnamese military were instructed to recover and record all they could about downed U.S. aircraft and killed or captured pilots. Thus, efforts to account for many Americans will ultimately require tri-lateral cooperation involving not only the U.S. and Laos, but Vietnam as well.

In recent years, Lao authorities have been more cooperative with the U.S. in planning and carrying out investigations at known U.S. aircraft crash sites, often in remote and virtually inaccessible locations. The government has also cooperated in efforts to evaluate photographs alleged to depict American POWs.

Cambodia

At the time of the Committee's creation, 83 Americans were listed as unaccounted for in Cambodia and no prisoners or identified remains had been repatriated during the post-war period until recently.³⁰ Cambodia was not a party to the Paris Peace Accords and no separate cease-fire agreement on repatriation was reached in the aftermath of the war. The recovery of American POWs or remains in Cambodia was made virtually impossible after 1975 when the Khmer Rouge seized power and embarked on a bloody reign of terror directed at Cambodians and foreigners alike. Throughout much of the past 20 years, the U.S. has had either difficult or non-existent diplomatic contacts with the Cambodian Government. The years of struggle and chaos leave little hope that documents or records have survived that would reveal additional information about U.S. personnel.

As in Laos, however, most of the Americans unaccounted for in Cambodia were lost near the border with Vietnam in areas where North Vietnamese forces were dominant. Thus, the best potential sources of documentary information concerning those lost in Cambodia may be in Hanoi, not in Phnom Penh.

Fortunately, the current government in Cambodia has demonstrated a willingness to cooperate with the U.S. in joint field investigations and other efforts to obtain accurate information concerning American POW/MIAs. Cambodia's Prime Minister Hun Sen has been particularly helpful in this effort.

³⁰ The remains of several people that have been returned from Cambodia were being examined at publication time.

Previous wars

The seeds of the Cold War were sown by the Red Army as it pursued the Wehrmacht across Eastern Europe. The Kremlin imposed Communist regimes on the war-ravaged nations of the region and war-time alliances were replaced by a deadly rivalry: NATO versus the Warsaw Pact. The Soviet Union and its client states, from Europe to the Bering Sea, from the Arctic to the tropics, became the theater of operations for the far-flung activities of U.S. intelligence agencies and units of each service.

To no one's surprise, the Soviet Union reacted. It kidnapped intelligence agents and "attaches." It shot down U.S. intelligence aircraft and the air crews disappeared. These were America's "Cold War losses."

Another tragic outcome of the rapid advance of the Red Army was the "liberation" of American and Allied POWs from German POW camps by the Red Army. Rather than moving these hapless soldiers westward toward their own advancing armies, the Soviets took thousands of them eastward to Odessa. Some boarded ships and eventually reached their homes safely. Others, and we may never know how many, became prisoners—not of war, but of the Soviet gulag.

During the Korean War, thousands of American fighting men were captured by North Korean and Chinese forces. Estimates vary, but clearly hundreds were not returned after the armistice and prisoner exchange. Intelligence information, collected during and after the war, indicated that many POWs were held in China, and some were sent to the Soviet Union. Therefore, accounting for the Korean War missing involves not only North Korea, but China and Russia as well.³¹

The problems the United States faces in recovering soldiers who have fallen into Communist hands predates even World War II. We note that the Bolsheviks captured American soldiers on the Archangel and Siberian fronts during the Intervention of 1918-19. Additionally, the U.S. is not alone in trying to account fully for missing and captured soldiers in the period immediately following past wars. Many of our allies from the Korean conflict still have unaccounted for servicemen.

Because the Committee's focus concerned the possibility that American POWs could still be alive, our resources were devoted primarily to investigating the relatively recent conflict in Vietnam. Nevertheless, the Committee did focus considerable attention on investigating previous wars, and conflicts. A discussion of this phase of the Committee's investigation is contained in Chapter 9 of this report.

PREVIOUS INVESTIGATIONS

The Select Committee began its work in October, 1991 fully aware that the POW/MIA issue had been examined and investigated by Congress and the Department of Defense many times in the past. One of the challenges facing the Committee was whether it

³¹ A chronological summary of policy and intelligence matters pertaining to Korean War POWs is included as an appendix to this report.

singer-Le Duc Tho meeting on August 16, 1971, the DRV proposed that "the two sides will produce the complete lists of military personnel and civilians captured during the war on the day an agreement is signed."⁴¹ This formulation was accepted by the U.S. side and thereafter appeared—in substantially identical form—in proposals by both sides and in the final agreement. Despite the concerns expressed at the time by Secretary Laird and others about whether the DRV could be trusted on this issue, the U.S. side made no effort to re-open the matter in later negotiations or proposals.

During his testimony before the Select Committee, Dr. Kissinger expressed the view that the U.S. lacked the leverage at the time of the negotiations that would have been necessary to gain DRV agreement to an earlier exchange of lists. He also cited the repeated and unsuccessful efforts by the U.S. during the public peace negotiations to obtain a complete list of U.S. prisoners.

Linkage to release of civilian prisoners

One of the most difficult issues facing the negotiators concerned the possible release of civilians detained by the Thieu Government in South Vietnam. To the DRV and Viet Cong, these were the equivalent of prisoners of war. The Government of South Vietnam, however, considered many of these prisoners to be either common criminals or political criminals who had violated the law through subversive activity. In neither case, argued the South Vietnamese, should these prisoners be treated the same as POWs.

Dr. Kissinger and other U.S. negotiators were determined to avoid linking the release of U.S. POWs to the complex questions involved in negotiating the release of the civilians in the south. They feared, quite logically, that such linkage would leave U.S. prisoners hostage to what would certainly be a highly contentious negotiating process between competing factions in South Vietnam. This issue of linkage was a frequent topic of discussion during the secret talks until October 1972, when the U.S. persuaded the North Vietnamese to leave the issue for the GVN and PRG to decide. In mid-December, however, the DRV reversed field by demanding that the release of the civilians in the south occur at the same time as the release of the U.S. POWs. This demand was a contributing factor to the President's decision to break off negotiations and begin the Christmas bombing. The DRV reverted to its October position when negotiations resumed in January, however, and the agreement to leave the issue to be worked out between the GVN and the PRG was incorporated in the accords as article 8(c).

Application to prisoners captured outside Vietnam

The most difficult task for U.S. negotiators was to attempt to gain an accounting for U.S. prisoners who were captured or held in Laos or Cambodia. Although North Vietnamese troops were active in both countries, the DRV would not admit this in negotiations. Time and again, North Vietnamese negotiators insisted that it was beyond their sovereign power to ensure the return of prisoners from Laos or Cambodia.

⁴¹ Memorandum of Conversation, with Xuan Thuy, Vo Van Sung, Phan Hien, and Henry Kissinger, Paris, August 16, 1971.

men in captivity had appeared in Pathet Lao publications. Pathet Lao spokesman Soth Petrasay had acknowledged in May, 1966 that the LPF were holding Mr. DeBruin and that he was in good health.⁶⁴

Pathet Lao Statements. Although the statements were later to be recanted, other LPF statements made prior to Operation Homecoming heightened U.S. expectations concerning the release of prisoners, as well. For example, in September, 1968, Soth Petrasay told a U.S. official that "pilots are generally kept near the area in which their plane is downed and therefore may be found throughout Laos from the south to the north."⁶⁵

In April 1971, Prince Souphanouvong, Chairman of the LPF Central Committee, made the following statement concerning prisoners:

The LPF has made public a concrete policy toward enemy soldiers or agents captured or giving themselves up, including GIs. All the American pilots engaged in bombings or toxic chemical sprays on Lao territory are considered criminals and enemies of the Lao people. But once captured, they have been treated in accordance with the humane policy of the LPF. The question of enemy captives; including U.S. pilots, will be settled immediately after the U.S. stops its intervention and aggression in Laos first, and foremost, end the bombing of Laos territory.⁶⁶

According to a September 30, 1971 report in the *Wall Street Journal*:

The Pathet Lao, a Hanoi ally not represented at the Paris Peace Talks, indicate only that they will "discuss prisoners when the U.S. pulls out of Laos." (Mrs. Stephen Hanson, whose husband a Marine captain, was seen alive on the ground after his helicopter was shot down over Laos, says a high-ranking U.S. diplomat confided to her that there were "70 or 80" U.S. prisoners in Laos. State Department officials, however, say intelligence sources indicate the possibility of "around 30 men, and that's low-level stuff—things like reports of Caucasians spotted on the Ho Chi Minh trail."⁶⁷

In February, 1972, Soth Petrasay told an interviewer that "some tens of prisoners are presently being held" by the Pathet Lao.⁶⁸

In April, 1972, Soth told the press that U.S. airmen were being detained in various caves in northern Laos.⁶⁹

These types of statements continued until as late as February 19, 1973, more than three weeks after the PPA was signed, when Soth said that the Pathet Lao had a detailed accounting of prisoners and where they were being held.⁷⁰

⁶⁴ DIA Memorandum, April 17, 1974.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Wall Street Journal* article cited above, September 30, 1971.

⁶⁸ DIA Memorandum, April 17, 1972.

⁶⁹ *Ibid.*

⁷⁰ UPI report, Soth Petrasay statement, February 19, 1973.

tention camps for former South Vietnamese military personnel (ARVN) in the area.

Committee investigators identified 19 reported sightings of Americans in captivity in and around the Son La area. Of these reports, 9 were first-hand and 10 hearsay. Thirteen of the sightings were in the mid to late 1970's. Most involve brief, apparently accidental, sightings of a group of alleged prisoners held separate from the rest of the prison population. For example, in separate reports in 1976, one U.S. person was reportedly seen cutting bamboo, a group of 60-70 U.S. POWs were allegedly seen on a soccer field, and six POWs were apparently seen working. In 1977, there was a hearsay report that American prisoners were about to be moved, a report that 24 foreigners were seen under guard and a reported sighting of 40-50 Americans in a camp. In 1978 and 1979, there were another four reports of sightings of relatively large (30-50) groups of POWs in the area. Towards the end of 1979, China invaded this part of Vietnam and the reported sightings of large numbers of Americans stopped. Subsequent reports, all hearsay, involve the alleged sighting only of individual or small numbers of Americans.

Mr. Sheets of DIA testified that the U.S. Government had received a total of 30 reports about the possible presence of U.S. POWs from individuals who had been under detention in the Son La area during the late 1970's, aside from the many reports correlated to Robert Garwood. Of the 30 reports, 18 were thought to be fabrications and 12 had been correlated to other types of individuals—such as Swedish development workers or Soviet advisers.

Mr. Gary Sydow, Chief of the Analysis Branch of the DIA's POW/MIA Office, testified that DIA does not believe there is any evidence that American POWs were ever held in the ARVN detention camp system in the Son La area. According to Mr. Sydow, "We've learned a lot about this system. But to hunt for PW's, this is not a place I would look." DIA officials also testified that they had interviewed more than 3700 former inmates of the prison system and been told by only a very small number about the possible presence of Americans other than Robert Garwood. According to Mr. DeStatte:

There was a tremendous flow of information there. None of these camps existed in isolation, and while . . . there was a small number of people who said that there was a number of PW's, of Americans other than Robert Garwood, I would point out that a tremendous number—a tremendously larger number of people were in that same system who were exposed to the same information flow. They say no.

The DIA officials did testify, however, that a 1979 reported sighting of 40-50 Caucasians, while under guard, bathing in a stream alongside a road in Son La province remains under active investigation.

Oudomsai (Laos)

The Oudomsai region is a very remote area of northern Laos in which few, if any, American operations occurred during the war. Committee staff investigators identified 30 reported sightings of

questing orders concerning what to do with them." According to DIA, soon after the enemy report was received, a second, more careful translation was made, and it stated, "Group has four pirates. They are going from 44 to 93. They are having difficulties moving along the road." According to information provided to the Committee, this report with its two translations were the only sources of enemy information that led Mooney to issue an informal message on May 2, 1973. His message states:

1. Have reviewed all available information concerning the four fliers mentioned in the 5 Feb. message and no additional reflections or amplifying information concerning the disposition of the fliers were revealed. For your information and consideration the following is a recap of the intercept and some other observations concerning this subject.

2. Four fliers, whose nationality was not disclosed, were located on 5 Feb. in the general area north of Moung Nong. The fliers were to be transferred from "44," a probable reference to kilometer marker 44 on route 914 (XD 495254 16-30N 106-25E) to "93," a probable reference to kilometer marker 93 on route 1032 (XD 549505, 16-43N 106-27E), and were apparently en route to west of the DMZ in Laos. Two persons were to be contacted concerning movement of the POWs and if problems were encountered, high HQS was to be notified to supply "ways and means" (references to trucks) to move the fliers. Sufficient water was to be given to the fliers.

There had been some difficulties in transporting the fliers and asked to see if these problems had been resolved so movement could continue. The person also asked that he be notified of their time of departure as he was waiting for them.

Although the initial location given, is some 65 km from the crash site it is possible that at least part of the crew were able to bail out prior to the crash and therefore could have been closer to this point than the crash site when they were captured. Further, since vehicle transportation was indicated, rapid movement is reasonable. It is possible that these four fliers were part of the crew of the EC-47.

Since Mooney's May 1973 message refers to a single enemy February 5, 1973 report and the translations of the report available to the Committee appear complete, the Committee finds it difficult to arrive at the same conclusions reached by Mooney in his May 1973 message. For example, it appears that the enemy report contains no information concerning the pilots being located near Moung Nong. It does not mention water being given to the fliers. It does not refer to the supply of "ways and means," making Mooney's conclusion concerning trucks pure conjecture.

Nor does the Committee agree with the DIA belief that it was unlikely that the enemy unit would have used kilometer markers as reference points in this type of report because using them violated basic operational security (OPSEC) practices. Other, similar types of reports have been furnished to the Committee, and enemy

tacts with the Lao Army Headquarters and Military Region 5. By 1972, this was expanded to include all other military regions in Laos, and was done with close coordination and cooperation with CIA station staff.

Beginning in 1971, the Team ensured all North Vietnamese Army and Pathet Lao prisoners and defectors were interrogated in detail on a wide variety of in-country, theater, and national intelligence requirements. Declassified documents confirm that information on U.S. POWs and MIAs was the first subject covered with all these sources. This small Exploitation Team produced all military HUMINT originated reports from Laos during 1971-75 and averaged one report per day.

Every North Vietnamese Army and significant Pathet Lao soldier arriving at Vientiane was interrogated in detail; however, with the majority of U.S. POWs who survived into captivity being taken to North Vietnam within a matter of days or weeks, there were no known prison camps for U.S. POWs available for exploitation by the Joint Personnel Recovery Center or U.S. led paramilitary forces.

The team's archival records confirm that the problem with wartime HUMINT reporting in Laos was the lack of prisoners and defectors (called ralliers by the North Vietnamese). For example, during 1964-74, there were slightly more than 150 North Vietnamese Army POWs who reached Vientiane. The precise number of defectors may have been a similar amount. This was a drop in the bucket from the tens of thousands of North Vietnamese Army forces from Military Region IV and the 559th Group operating the Ho Chi Minh Trail.

However, these prisoners and defectors were primarily from frontline tactical units, had recently been rotated into Laos, and were not from the rear-area logistical groups where most U.S. airmen were lost. Thus, the prisoners and defectors often had more information about aircraft losses over North Vietnam than over Laos.

The Pathet Lao saw little sustained combat after the mid-1960s, being almost entirely a North Vietnamese by-controlled effort, and their force structure in Laos was negligible. It shrank to almost nothing in southern Laos in 1972, when nearly the entire South Laos Regional Command Headquarters, and all major subordinate units, defected to the Royal Lao Government. A key ingredient in Laos was its severe underpopulation—less than four million people. Laos was half the geographical size of Vietnam, with onetenth its population.

The Team did not operate in isolation to the remainder of the U. S. intelligence organization in the region. The team regularly coordinated with the Order of Battle Center in Udorn, Thailand; intelligence exploitation centers in South Vietnam; and with both Lao and Thai military intelligence officials. The Team was withdrawn from Laos in the Spring of 1975, after local staff came under increasing pressure from the Pathet Lao in Vientiane. The project was terminated at the end of 1975.

Archival records of this Team confirm that the Team conducted its first behind-the-lines agent operation in 1972. Other operations followed later, and declassified documents confirm that DIA was op-

The Nixon Archives refused to allow access by the Committee to any of the Watergate tapes that had been requested. Former President Nixon's refusal to allow even the most limited access in the face of repeated requests, letters and entreaties at the highest levels caused the Committee to draw sound unfavorable inferences about the actions of the former President on this issue.

It is unfortunate that the former President had the power to limit the access and frustrate the wishes of a constitutionally created Committee of Congress to what was clearly the best evidence available.

The Committee believes that it has had access to the main materials on POW/MIA issues within the control of the U.S. Government. However, it should be noted that the Committee relied on the good faith compliance of the agencies and departments to its subpoenas and requests. The Committee had neither the ability nor desire to storm into a department or agency and "seize" its files for its review.

In a Government of laws, the Committee relied upon the lawful compliance of the agencies and departments and found its reliance well-founded. The areas listed above illustrate this: where the agency or department would not comply on a good-faith basis, the issue was joined and the department or agency and the Committee resolved it in a manner acceptable to the Committee.

The only significant area of non-compliance occurred with respect to the Watergate tapes, where former President Nixon's attorneys were able to frustrate the desire of the Committee to review the tapes for POW/MIA discussions.

Summary

The declassification effort has opened a substantial body of evidence to public scrutiny, but declassification cannot provide all of the answers. For the U.S. Government and its citizens, the facts contained in these documents require a judgment. The answers are not in the blacked-out portions of some U.S. document; if there are answers, they are in Vietnam, Laos and Cambodia.

PUBLIC AWARENESS CAMPAIGN

The problem of Americans in enemy hands was a visible and painful reminder of the Vietnam War's cost. Uncertainties about the prisoners and missing combined with the numbers who came home in body bags to erode public support for the war.

Vietnam had signed the Geneva Convention governing treatment of prisoners of war. In an apparent attempt to circumvent the Geneva Convention, Americans captured by the Vietnamese were regarded as "international bandits" or "air pirates;" within the prison system, they were referred to as "criminals," the American public learned after Operation Homecoming.

Given Vietnamese rejection of any limit on their treatment of American prisoners, families were prepared to believe stories about abusive treatment of their kin. When the Vietnamese broadcast antiwar statements made by, or attributed to, American prisoners, their cynical manipulation intensified the anger of Americans at

We continue to urge the immediate release of sick and wounded prisoners, the neutral inspection of prisoner of war facilities, and the prompt release of all American prisoners.²⁰⁶

The same month, the Viet Cong put forward a 10-point peace plan stating that prisoner releases would have to be negotiated by the parties to the conflict as a part of the total settlement of the war. Similarly, North Vietnam argued that repatriation of prisoners must wait until the end of hostilities. The U.S. position was consistent with the provisions of the Geneva Accords, although not heavily supported by precedent.

Search for allies

That year, the U.S. Government sought to bring the issue to international attention, including by pressing for United Nations resolutions and action by the Soviet and Chinese Government, allies of—and potential conduits to—the Hanoi Government.

Similarly, the State Department stressed the Geneva Convention on Prisoners of War, generating a debate over North Vietnam's reservations about that Convention. In general, North Vietnam argued that the conflict was not a war, and the Geneva Convention did not apply—an argument not widely accepted by the international community. Hanoi also argued that the prisoners were war criminals, and thus not entitled to the protection of the Geneva Convention.

The Nixon Administration also worked with a variety of private organizations, including the fledgling National League of Families. By the end of the first year, it added an informal partnership with VIVA, which originally supported a policy of victory in Vietnam that had evolved into a POW/MIA awareness promotion. In 1970, DoD also dealt with the Committee of Liaison with Families of Prisoners and Missing (COLLAFAM), which opposed the war but was able to provide for exchange of mail with POWs. By 1972, several regional organizations also became devoted to supporting POW/MIAs as anticipations of their seemingly imminent return grew.

H. Ross Perot

In the Fall of 1969, Secretary of the Navy John Warner approached H. Ross Perot to discuss the POW/MIA issue. Perot told Committee investigators that at that time Warner, Perot's friend, and Warner's aide (Col. William Leftwich) visited at length about the POW issue. Warner arranged for Perot to talk with Col. Chappie James of the DoD, which in turn led to a meeting with Assistant Secretary of Defense Capen. Eventually, Perot said he talked with Kissinger, who asked him to mount a private effort to assist American prisoners. The objective was to embarrass the North Vietnamese into improving treatment of American prisoners to improve their chance of surviving. Col. Alexander Haig was Perot's liaison with the NSC, he said.

²⁰⁶ Pentagon press conference, May 19, 1969.

Suspicion has surrounded the debriefing of returned POWs for nearly 20 years, primarily because access has been restricted based on debriefing agreements with the returnees.³⁰⁸ Did the government leave men behind? Did key officials know it? Were the returnees told to not report certain information? Was the prison system a closed circle of knowledge; could there have been separate prison systems not known to the returning POWs? Was the American public told the truth?

Debriefing results

Life in captivity

Post-Homecoming debriefings and a DIA Intelligence Appraisal of them, now unclassified, provide a summary of the prisoners of war's experience in Southeast Asia.³⁰⁹

Captivity ranged from several hours in South Vietnam to more than eight years in the North. Most servicemen were captured during the height of the bombing of the North between 1966 and 1968. POWs captured prior to December 1971 were known as the "Old Guys." The majority of POWs were Air Force and Navy pilots shot down over North Vietnam and virtually all were captured within minutes because they descended directly into populated areas. Many suffered ejection injuries and shock which made evasion impossible; while others evaded successfully for up to 12 days. Evasion in Laos was somewhat easier and many more downed airmen were recovered in the sparsely populated and otherwise more permissive environment. POWs captured in Laos and taken to North Vietnam had spent less than three weeks in Laos itself.

The PRG returned 122 U.S. POWs; 28 were released in South Vietnam. All but one had been captured by the Viet Cong and detained near the Cambodian border and the last POW was held in the Delta region. The remaining 94 POWs were captured north of Da Lat City after 1968 and moved to North Vietnam for detention.

Living conditions in the South were primitive and life was hard. POWs often were chained or bound for long periods, primarily as a security precaution. Movement was frequent and involved walking several weeks between camp sites, and the daily survival routine varied little through the years. There was no overall policy or systematic torture of POWs in South Vietnam, but treatment varied by individual camp commanders and guards. It was more difficult to survive captivity in the South, but escape was easier, and 26 POWs (about 12 percent) captured in the South escaped.

Treatment in North Vietnam varied over three eras. Until late 1965, there was little use of torture. From late 1965 until late 1969, torture and mistreatment was common. Beginning in late 1969, torture and mistreatment declined. "Camp rules" were the basis for punishment, and they specified that all American POWs were criminals. This was consistent with North Vietnamese protests

³⁰⁸ Letter, Assistant Secretary of Defense, Command, Control, Communications and Intelligence, dated January 15, 1992.

³⁰⁹ DIA Intelligence Appraisal, DIAIAPPR 35-73, dated 8 May 1973, subject: A Summary of Prisoner of War Experience in Southeast Asia, A Briefings and a 1973 7802 Air Intelligence Group Brief on Captivity in South East Asia.

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Under item #3, it is noted that UNC evidence concerning the survival of 944 Americans "is based on letters written home by prisoners, prisoner of war interrogations, questioning of returnees, communist radio broadcasts, and the actual circumstances of their disappearance from UN Command control."

February 5, 1954 -- A reliable friendly foreign intelligence service reports to the U.S. information they had received from a Turkish source traveling in Central Asia. The source, who had been interrogated in Turkey, states that while at Mukden, Manchuria, he "saw several coaches full of Europeans who were also taken to the USSR. They were not Russians. Source passed the coaches several times and heard them talk in a language unknown to him." Source states that one of the coaches was full of wounded caucasians who were not speaking at all. (Source: Charity Interrogation Report No. #19 referenced in declassified cables dated 23 March 1954)

February 6, 1954 -- Secretary of the Army Robert T. Stevens sends a memorandum to the Secretary of Defense. Stevens recommends that meetings occur with the State Department to formulate plans "for the initiation of diplomatic negotiations through the offered assistance of the United Kingdom." Stevens also recommends releasing a joint State-Defense public announcement, "now held in abeyance by the Operations Coordinating Board, to reassure the families concerned and the American people that our Government is taking all feasible action in seeking an accounting for the missing servicemen listed as prisoners of war in the Korean conflict."

Following the sending of this memorandum, an informal conference is held with representatives of the three Services, Defense, and State. "It was agreed that by memorandum the State Department would describe in some detail what diplomatic actions would be initiated by the United Kingdom, and would seek Defense concurrence in such an approach."

February 23, 1954 -- Seventy wives and mothers of U.S. POW/MIA's from the Korean Conflict travel to the United Nations in New York. They are not received by either the UN General Secretary or the U.S. Ambassador to the U.N. They are told by the General Secretary's assistant, "The UN has no authority over the foreign affairs of member states."

March 5, 1954 -- In a letter to the Assistant Secretary of Defense, Frank Nash, the Assistant Secretary of State Walter Robertson states that they have no objection to the December 18, 1953 British offer to make an approach to the Chinese

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capture of one crewman from this crew.

Both individuals were initially reported missing in action and were later changed to dead/bodies not recovered. In November 1970, U.S. military intelligence received information that Major Hestle and two other U.S. POWs were alive at a POW camp near Vinh. DIA believed this report was not true but was the product of a highly publicized visit by three POW wives to Vietnam early in 1970. Returning U.S. POWs reported hearsay information that Major Hestle was seen alive on a stretcher in a prison in Hanoi. He was not reported alive as of 1973.

U.S. investigators in Vietnam in January 1989 located a possible crash site associated with this incident and received hearsay information one pilot was buried at that site. Captain Morgan's remains were repatriated in July 1989. Vietnam turned over the identity card of Major Hestle in October 1982, but his remains have not been recovered.

South Vietnam

Robert L. Babala
Dennis E. Carter
Robert C. Horton
John L. Bodenschatz
(0439)

On August 20, 1966, the four PFCs were members of the 1st Marine Division and were with a fire team at an ambush site ten kilometers southeast of Da Nang City, Quang Nam Province. They failed to return from their mission and were declared missing. On September 4, 1966, Bodenschatz' dog-tags and a partial wrist watch were located. Local residents did not provide any information about the fate of the four men.

Returning U.S. POWs were unable to provide any information about their fate. They were declared dead/body not recovered based on a presumptive finding of death in November 1974.

South Vietnam

Lawrence B. Tatum
(0453)

On September 10, 1966, Tatum was the pilot of an A-1H which was hit by hostile anti-aircraft fire and crashed eight kilometers north of the Rao Thanh River currently in Trung Luong District, Quang Tri Province. A forward air controller did not observe Tatum bail out but did hear an emergency beeper for approximately one minute. He later observed a presumable parachute slack in the trees on a hillside. He never saw Tatum safely on the ground. He observed hostile forces approach the parachute and evidently pull

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North Vietnam John S. Hamilton
(0644)

On April 19, 1967, Major Hamilton was the pilot of an A-1H, one in a flight of two aircraft searching for two pilots downed over North Vietnam. While over Hoa Binh Province, Hamilton was attacked by four hostile MIG-17 aircraft, and his wingman observed pieces of his aircraft's outer wing fly off after it was hit by cannon fire. His aircraft crashed 24 kilometers southeast of Hoa Binh City. Major Hamilton was not seen ejecting from his aircraft and there was no electronic beeper heard. He was declared missing in action.

On April 19th, that same day, Hanoi radio reported the shoot down of an American rescue aircraft over Hoa Binh Province. This report, while not mentioning the fate of the pilot, was believed to correlate to Major Hamilton's incident of loss.

In September 1970, a People's Army of Vietnam soldier reported two caucasian pilots captured in Lac Thuy District in April 1968 after being shot down in aerial combat with MIG jet aircraft. The soldier identified a photograph of Major Hamilton as similar to one of those captured, and the report was placed in Major Hamilton's file as possibly relating to his capture. After Operation Homecoming, a reevaluation of this report led to a reversal of the wartime evaluation. It was determined that this incident actually correlated to Major Thomas Madison and Major Thomas Sterling who had been lost as described and who returned alive during Operation Homecoming.

Returning U.S. POWs had no information on Hamilton's precise fate. In March 1979, he was declared killed in action/body not recovered based on a presumptive finding of death.

In January 1991, a report was received about a grave with the remains of a U.S. pilot in the area where Major Hamilton was lost. Then, in May 1991, a source provided the rubbing of a dog-tag associated with Major Hamilton and a bone fragment and claimed that remains were recovered from an area near Vinh City, Nghe Tinh Province. This is a considerable distance away from his known crash site. In October 1991, another source visited the Joint Task Force office in Hanoi and turned over a bone fragment and identifying information about Major Hamilton. The source claimed his friend found Major Hamilton's remains at another location, this time in Quang Binh Province.

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After successfully evading, Sergeant Chi related that he had reached the south bank of the Foko River and heard People's Army of Vietnam troops call out in Vietnamese to halt. He observed South Vietnamese Army soldier approximately 100 meters away raise their hands but had no personal knowledge of the fate of Colonel Brownlee.

South Vietnamese personnel repatriated during Operation Homecoming provided several hearsay accounts during 1973-1974 in an effort by the Defense Attache Office, Saigon, to learn Colonel Brownlee's fate. These accounts, all attributed to different South Vietnamese Army prisoner sources, stated that Colonel Brownlee had committed suicide prior to capture. None of these accounts could be verified.

One returning U.S. POW, Captain Reeder, knew Colonel Brownlee had been at Dak To II and knew him to be the senior district advisor but had no knowledge of his fate. Captain Reeder had also heard an account traced to a 42nd Regiment doctor that Colonel Brownlee was dead, but Captain Reeder did not find the source to be reliable.

No returning U.S. POW was able to provide any information on Colonel Brownlee's precise fate. In November 1978 he was declared dead/body not recovered, based on a presumptive finding of death.

In May 1985, the Joint Casualty Resolution Center received a report that a worker in the Dak To area had found human remains there. This report was replaced in Colonel Brownlee's file.

North Vietnam Joseph W. McDonald
(1862)

On May 3, 1972, Lieutenant McDonald and Captain David Williams were the crewmen in the second A-6A aircraft in a flight of two on a mission over Dong Noi, Quang Binh Province. Their last transmission was that they expected to be over water in two minutes. This was after they had already finished attacking their target. Their IFF beacon transponder was located well out to sea after an extensive search. The search was terminated on May 5, 1972. There was no sighting of either the aircraft or crew. Both individuals were initially declared missing. Both were declared dead/body not recovered, after Operation Homecoming.

In June 1989 Vietnam repatriated the remains which were approved as those of David Williams.

A U.S. team in Vietnam located archival documents reporting the shoot down of a U.S. aircraft on May 3, 1972 in which the "air pirates were torn apart." This incident is the only aircraft loss in the area on that date.

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Dr. William R. Maples, Curator of Physical Anthropology, Florida State Museum, University of Florida, told the Committee that a three member team which included Dr. Ellis Kerley, Dr. Lowell Levine and himself was asked by the Army to go to the Central Identification Laboratory in Hawaii and evaluate its procedure and staff. He discussed the Pakse crash and the remains, stating that it was quite different in its overall nature from everything else that seems to go to the Laboratory. In this case the Laboratory did a poor job, but on the whole, they do a good job. One of the advantages is the total lack of training in Vietnam. They do not know what we do in terms of identification, so they can not play games with us.¹³ In the Pakse case, they were wrong in reaching a conclusion when the remains were unidentifiable.

The committee met again on July 16, 1986, to hear testimony from Major Mark Smith and Sergeant First Class Melvin McIntire. The two had appeared before the committee on January 28, 1986, and indicated their willingness to share information and the evidence they had which would prove American servicemen had been held in captivity in Southeast Asia in 1984. They said they had photographs, maps, documents, etc. that would prove live prisoners of war in Southeast Asia. They also testified about the alleged existence of a videotape which depicts Caucasians in captivity in October 1985. Mr. Smith claimed to have viewed the 248 minutes of the tape while Mr. McIntire did not.¹⁴

Major Smith provided copies of photos which contain a total of three Americans. The photographs were provided to him by a source in Thailand who he considers reliable, showing Americans who were left in Southeast Asia at the conclusion of the Vietnam war.

As to the film in question, a letter was written to the White House and hand carried by Congressman Bill Hendon. Major Smith and Mr. Maple were to show up in Singapore with \$4.2 million in cash for Mr. Obassy to obtain the film.¹⁵

Mr. James P. Coyne, a writer appeared before the committee and said that he had been investigating the possibility of live American prisoners of war captured during the war in Vietnam still being alive. He was in Thailand for over three years as a foreign correspondent for Soldier of Fortune magazine. He feels that there are those who would trade on the POW/MIA issue for nothing more than financial gain. Some have appeared before the

¹³Hearing, Vol. II, p. 69.

¹⁴Hearing, Vol. II, p. 106.

¹⁵Hearing, Vol. II, p. 135.

Accounting - Shields Statement	Shields 06/25/92	<p>At the termination of Homecoming we had no current hard evidence that Americans were still held prisoner in Southeast Asia... None of those who returned had any indication that anyone had been left behind. We knew that there was a possibility that defectors were alive in enemy-controlled areas, but had no firm evidence to confirm this either.</p> <p>Robert Garwood was an example of an American whom we felt might be alive and in an enemy-controlled area. But according to the returnees who saw him last, he was not being held as a prisoner.</p>
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APPENDIX 6

Discussion

It is difficult to say whether statements from interested parties constitute a definitive answer to the questions raised by the central involvement of an unelected, unappointed private citizen with sensitive and significant negotiations, and in forming the policies that undergird those negotiations. Throughout the Committee's investigation, it has heard private comments of officials at all levels of Government that refute the praise accorded Griffiths in public comments. It has heard tales of political terror from those who have crossed her, as well as stories of productive works.

Griffiths' long involvement in the POW/MIA issue makes her an unusually influential figure without formal membership in the IAG; whether different policies would have been developed had she not participated will never be known.

The Committee finds wisdom in the principle of Government's maintaining an arm's-length relationship with private organizations, no matter how noble the issue and efforts of the organization. To be accountable to the American public, a proper relationship should delineate Government from private-sector efforts. Therefore, the committee recommends that the role of the IAG, and its present composition, be re-evaluated by all involved agencies and Congressional oversight committees, with a bias against its continued joint operation with a private organization.

INVESTIGATION OF OFFERS

I would not have been surprised at all if they had, three months later, [after the Paris Peace Accords], told us that they had just discovered 50 prisoners and wanted \$2 billion for them. But that did not happen.⁴⁰⁶

This opinion, voiced by Henry Kissinger during his deposition to the Select Committee in 1992, reflects a suspicion maintained over 20 years by some POW/MIA families and others that POWs both remained in captivity after the signing of the Paris Peace Accords and would be the subject of Government to Government contact leading to a "buy back" of American POWs. The Committee has found no convincing evidence of any such offer being made. There were, however, two incidents which require further explanation and prove illustrative of the problems relating to this issue.

The 1981 alleged offer

The Committee received information that President Reagan had received an "offer" in early 1981 transmitted through a third country (Canada and/or China) of an offer by the government of Vietnam to sell live POWs to the U.S. for \$4.5 billion dollars. The source of this information was a Secret Service agent who allegedly was present and overheard part of a meeting in the White House where this matter was discussed.

The agent reportedly overheard President Reagan discussing this offer with Vice-President George Bush, Richard Allen (National Security Adviser) and William Casey (CIA Director). The conversation reportedly took place in the Roosevelt Room, as the four were

⁴⁰⁶ Kissinger deposition, pp. 158-159.

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walking from the Oval Office to a meeting in an adjoining conference room. The agent reported that James Baker (Chief of Staff), Michael Deaver (Deputy Chief of Staff) and Edwin Meese (Attorney General) were waiting in the area of the conference room for the meeting to begin, but he was unsure whether these individuals would have heard any of the conversation.

The Committee treated this report seriously and first attempted to depose the Secret Service agent. Objections were raised by the Department of the Treasury and the Secret Service claiming that such a deposition would forever impair the ability of the Secret Service to guard the President.

The attorney for the agent, J. Thomas Burch (Chairman of National Vietnam Veterans Coalition), explained that the agent would not testify without permission of his agency or a subpoena from the Committee. As an interim alternative to taking the deposition of the Secret Service agent, the Committee told the Administration that it would attempt to substantiate the source's story through the deposition of other potential witnesses.

The Committee deposed several of the individuals reported to be in the general area where the conversation allegedly took place, but none of these individuals said they could recall such a conversation. Of those reported to have actually participated in the conversation, only Mr. Richard Allen was deposed.

Mr. Allen testified as follows:

Q: Changing to another subject, soon after taking office, did the Reagan Administration become involved in an offer made by the Vietnamese government for the return of live Prisoners of War, if you can recall?

A: Very shortly after they came over?

Q: Well, at any time while you were National Security Adviser. I don't want to limit it.

A: The figure of \$4 billion seems to stick in my mind, and I can't remember whether that was during my time in all of this or not. *

I do recall having once written in my life, either in notes or in a memorandum that it was certainly worth talking about, \$4 billion for the return of POWs and MIAs, and that under any . . . I might be able to find those papers . . .

Q: Okay, do you recall whether the \$4 billion was for live American prisoners?

A: Yes, I do. If it was for \$4 billion, it was indeed live prisoners. *

. . . First of all, my reaction (was that) \$4 billion for live hostages sounded somewhat preposterous to me at first. I was obviously for getting into a discussion, at least getting into a discussion about it.⁴⁰⁷

Mr. Allen sent a letter to the Committee on July 21, 1992, clarifying his testimony. He said he had located a copy of his notes (which he attached) of a meeting on September 24, 1986 at which Capt. Red McDaniel, John M.G. Brown, John Malloy, Mike Milne,

⁴⁰⁷ Allen deposition on June 23, 1992, pp. 83-84.

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J. Thomas Burch, and Bruce Rehmer told Allen of the alleged meeting in 1981. Rep. Billy Hendon also appeared in Allen's notes as someone he had discussed the alleged meeting with. In summary, Allen wrote:

It appears that my uncertainty during the deposition was justified, and that there never was a 1981 meeting about the return of POWs/MIAs for \$4 billion.

It becomes clear that my recollection of having written these notes referred to events of 1986, not 1981. During the meeting with Capt. "Red" McDaniel and others, I recall having been surprised by their view that some sort of "cover-up" or "conspiracy" had taken place, and I now recall advising them there were no such meetings in the Roosevelt Room. President Reagan rarely came to the Roosevelt Room, and for very sensitive matters such as a discussion of this quality, it would have taken place only in the Oval Office.

Contact was also made with the Government of Canada as well as several lower level employees of the Department of State and the CIA who should have known about this incident if it occurred. None of the deposed individuals (with the exception of Allen previously noted) confirmed that such an offer was ever made.⁴⁰⁸ An extensive review of all pertinent documents from the State Department, CIA and NSC failed to disclose any evidence of this offer.

The Committee regrets that the Secret Service agent was unwilling, out of concern for his job, to testify concerning his report. Faced with this unwillingness, the Committee was divided about whether to compel the agent's testimony by issuing a subpoena. Some Members agreed with the Administration that compelling the testimony of a Secret Service agent concerning a conversation involving the President would set a harmful precedent, and felt that the agent's report was, at best, uncorroborated by the testimony of any other witness. Other Members felt that the agent had waived his claim to special consideration by talking to others about what he had reportedly heard, and that his testimony might contribute significantly to the Committee's investigation. After a lengthy debate, the Committee voted 7-4, with one Senator absent, not to subpoena the testimony of the Secret Service agent.

The Committee notes that, during its investigation, information was uncovered indicating that Mr. Allen had a discussion with Vice-President Bush in January, 1986 concerning his recollection of the alleged offer. This conversation was allegedly the result of an early January, 1986 meeting involving President Reagan, the Vice-President, then Congressman Bob Smith and former Congressman Bill Hendon. During the meeting, the Congressmen inquired about

⁴⁰⁸ However, in December, 1992, the Committee also deposed Mr. Max Hugel, CIA's Deputy Director for Operations in 1981, and a personal friend of then CIA Director William Casey. Mr. Hugel testified under subpoena. Several months earlier, Sen. Smith states he was told by Mr. Hugel that he was, indeed, aware of the offer—that it was common knowledge at the higher levels in the intelligence community. He further told Sen. Smith that the date January 26, 1981 was a date he associated with the offer, and that the POWs were to come out of Laos. The Senator states that he was told by Mr. Hugel that he did not wish to come in to testify, but would do so under subpoena. During his deposition, he testified that he had no knowledge of an offer, nor remembered telling anyone he had.

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