

January 3, 1995

J. Thomas Burch, Jr.
Chairman

HAND DELIVERED

John J. Malley, Jr.

Hon. Bob Dole
United States Senate
141 Hart Senate Office Building
Washington, D.C. 20510

Louis A. Ross

J. Edwin Yates
Vice Chairman

William Bennett
General Secretary

ATTN: Darren Dick

David Kaufman
Chief of Staff

and

Lamont Cassin
Deputy Chief of Staff

Hon. Frank Lautenberg
United States Senate
506 Hart Senate Office Building
Washington, D.C. 20510

Benny Silver
Director, Leg. Affairs

Board of Directors

Dolores Alford

William Brown

RE: Missing Service
Personnel Act

J. Thomas Burch, Jr.

Alvin Crossner

Wayne Erlson

Dear Senators Dole and Lautenberg:

Karl Forgyhar

Dick Ferry

The National Vietnam Veterans Coalition, a federation of seventy-eight (78) Vietnam veterans organizations and veterans issue groups, is pleased to support your efforts for long overdue reform of the Missing Persons Act.

Joseph D. Frank

Lamont C. Cassin

The history of the law, as previously administered, has been one of arbitrary decisions based on incomplete information. The administration of the law has produced untold grief among the family members of the missing in action and has angered the Vietnam veteran community. The rote presumptive findings of death have contributed substantially to the ongoing failure of the POW/MIA bureaucracy to meaningfully resolve the issue.

Linda Carpenter

John J. Malley, Jr.

David Fry

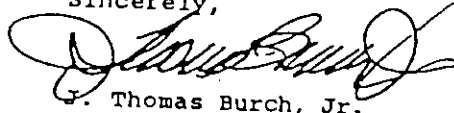
Rich Sanders

The bill you are introducing provides considerable procedural protections to future MIAs. The provisions for appointment of counsel for the MIAs interests, the counsel's access to classified information, procedures for dealing with classified information, centralization of case information in the MIAs personnel file, the ability to reopen hearings for a period of time and effective reversal of the current de facto presumption of death reflexively applied in hearings mark tremendous progress. The encouragement to combine hearings in group disappearance cases would force hearing panels to weigh the evidence in a broader context.

The opening up of the process to include the right of participation of secondary next of kin is a welcome recognition of the fact that there is more than one person in each family who cares about the fate of a missing relative.

We are proud to endorse this much needed piece of legislation.

Sincerely,



J. Thomas Burch, Jr.
Chairman

Missing Service Personnel Act of 1995

-2-

SUMMARY

Overview:

The Missing Service Personnel Act of 1995 updates existing law, last written by Congress in 1942, regarding how the U.S. Government deals with, treats, and processes military personnel and federal employees who are missing in action.

Specific Purposes of the Legislation:

The Missing Service Personnel Act of 1994 amends Title 10 of the United States Code in order to:

- Establish new procedures for determining the whereabouts and status of missing persons.
- Provide counsel to missing persons to protect their rights in all proceedings convened to determine their status.
- Describe requirements to insure access to government information concerning the whereabouts and status of missing personnel.
- Specify the rights of the missing person's immediate family, dependents and next of kin.
- State criteria for making a determination of death.

Problems with Existing Law:

Existing law concerning missing persons has not been updated since 1942. The 1942 law deals primarily with the financial aspects of missing personnel and their dependents. It does not adequately address issues that have emerged over the past 25 years regarding how missing persons and their families are treated by officials of the U.S. government. Specific problems with existing law include the following:

- Existing procedures are arbitrary and capricious.
- Due process for missing persons ends after one year.
- Personnel files of missing persons are incomplete.
- Members of government review boards may be unqualified to make knowledgeable decisions.
- Review boards do not have access to relevant information.
- Classified information is not considered in decisions.

Problems with existing law (continued):

- Rights of the missing person's immediate family, dependents, and next-of-kin are not specified.
- Guidance for a determination of death is inadequate.
- Existing procedures do not allow for an appeal.
- A "curtain of secrecy" surrounds government decisions.

New Provisions:

The Missing Service Personnel Act of 1994 corrects these problems with existing law. Specific features of the new legislation include:

- Due process for missing persons: Continuous & periodic.
- Timely case review: Accelerated initially, then every 1 year.
- Board membership: Three officers minimum.
- Board member qualifications: Qualified and knowledgeable.
- Counsel for the missing person: Provided by the gov't.
- Counsel for dependents: Optional, at their request.
- Rights of the immediate family and dependents: Specific rights of the immediate family and dependents.
- Contents of personnel files: Available and complete.
- Access to government information: All relevant information available to the board.
- Access to classified information: Classified information available to cleared board members.
- Criteria for determination of death: Specific criteria including a forensic examination of remains.
- Review of Department decision: Optional judicial appeal of Department decision.