

CRS Issue Brief

POWs and MIAs: Status and Accounting Issues

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CONTENTS

SUMMARY

MOST RECENT DEVELOPMENTS

BACKGROUND AND ANALYSIS

Areas of Congressional Interest

Definition of Terms

U.S. POWs and MIAs in 20th Century Wars: Statistics

Vietnam War POWs and MIAs

Korean War POWs and MIAs

POWs and MIAs from Cold War Incidents

World War II POWs and MIAs: Soviet Imprisonment of U.S. POWs Liberated from the Germans

102nd Congress Legislation Enacted

LEGISLATION

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

FOR ADDITIONAL READING

POWs and MIAs: Status and Accounting Issues

SUMMARY

There has been great controversy about the status of U.S. prisoners of war (POWs) and missing in action (MIAs) in conflicts between the United States and the Communist powers during the Cold War. The Senate Select Committee on POW/MIA Affairs concluded that some POWs **may** not have been returned at the end of the Vietnam War; and that although there was no "conspiracy" to cover up live POWs, there was serious U.S. Government neglect and mismanagement of the issue.

Those who believe Americans are now held, or were after the war ended, feel that even if no specific report of live Americans has thus far met rigorous proofs, the mass of information about live Americans is compelling. Those who doubt live Americans are still held, or were after the war ended, argue that despite vast efforts, not one report of a live American has been validated (with the exception of Marine PFC Robert Garwood, who returned in 1979). The U.S. Government says the possibility of Americans still being held in Indochina cannot be ruled out. Americans may have been kept by the Vietnamese after the war ended but killed later. The discovery in 1993 of documents in former Soviet archives indicating the Vietnamese Communists held over twice as many prisoners in late 1972 as they released in early 1973 supports this theory, but the credibility of the documents has been attacked as inconsistent with other known facts about POWs. Increased U.S. access to Vietnam has not yet led to public resolution of large numbers of MIA cases.

A study recently prepared by the DOD POW/MIA Office concluded that Korean War POWs were transferred to the Soviet Union and never returned, based on intelligence reports and recent investigations by U.S. personnel in the former Soviet Union.

This appears to confirm long-held suspicions that this had taken place.

During the Cold War, some U.S. military aircraft were shot down by Communist countries other than in wartime. There were indications then that the Soviets captured some of these planes' crews alive; the Russian Government has stated that during the 1950s some U.S. aircraft were shot down over Soviet territory, and some of their crew members survived; and recent studies done for the DOD POW/MIA Office agree. Russian authorities have stated that some Americans liberated from German POW camps at the end of World War II were imprisoned by the Soviets; a statement also supported by recent studies done for the DOD POW/MIA Office.

The Senate POW/MIA Committee agreed there is strong evidence supporting the likelihood of the continued holding of U.S. POWs by the Soviets immediately after World War II; the Soviets, Chinese, and North Koreans after the Korean War; and of Cold War shootdown POWs as well. The committee felt the evidence regarding U.S. POWs from Vietnam being sent to the former USSR is much more ambiguous.

Provisions requiring release of official data on World War II, Korean War, and Vietnam War MIAs were enacted in the FY1992 National Defense Authorization and Intelligence Authorization Acts. Legislation introduced in the 103rd Congress would change procedures for determining if missing servicemembers are dead and link U.S. relations with Vietnam to progress on the POW/MIA issue.

MOST RECENT DEVELOPMENTS

In late September 1993, a study prepared by staff of the DOD POW/MIA Office was released that concluded that Korean War POWs were transferred to the Soviet Union and never released, confirming long-held suspicions.

BACKGROUND AND ANALYSIS

Areas of Congressional Interest

This issue brief summarizes numbers of U.S. POWs and MIAs lost during the Vietnam War (1961-1975), and the Korean War (1950-1953), compares these losses to other 20th century American wars, and describes the POW/MIA investigation and policy process. It discusses whether some POWs from the latter two wars were not returned to U.S. control when the wars ended, and whether some may still be alive. Further, it discusses whether Americans were captured by Communist countries during Cold War incidents, or by the Soviets after being liberated from German POW camps at the end of World War II, and whether any such Americans are still alive. Finally, the issue brief describes legislation and congressional oversight concerning the POW/MIA issue. For further information on broader aspects of U.S. relations with Vietnam, see CRS Issue Brief 93081, Vietnam-U.S. Relations: The Debate Over Normalization.

Definition of Terms

The following terms are frequently encountered in analyses of the POW/MIA issue:

-- **POW (Prisoner Of War)**: Persons known to be, or have been, held by the enemy as a live prisoner or last seen under enemy control.

-- **MIA (Missing In Action)**: Persons removed from control of U.S. forces due to enemy action, but not known to either be a prisoner of war or dead.

-- **KIA-BNR (Killed In Action-Body Not Recovered)**: Persons known to have been killed in action, but body or remains not recovered by U.S. forces -- i.e., an aircraft exploding in midair or crashing; a body, or a person with unquestionably terminal wounds, not recovered due to enemy action or being lost at sea.

-- **PFOD (Presumptive Finding Of Death)**: An administrative finding by the appropriate military service Secretary, after statutory review procedures, that there is no current evidence to indicate that a person previously listed as MIA or POW could still be alive.

-- **Unaccounted For**: An all-inclusive term -- not a legal status -- used to indicate Americans initially listed as POW, MIA, KIA-BNR, or PFOD, but about whom no further information is yet known.

Names are shifted, usually from the most uncertain status - MIA - to more certain categories, during and after hostilities, based on new information, or, in the case of a PFOD, lack of new information over time that indicates an individual is still living.

U.S. POWs and MIAs in 20th Century Wars: Statistics

Statistics on U.S. POWs and MIAs in Vietnam and past wars are often mutually irreconcilable. The procedures and terminology used for classifying what we would now

refer to as POW, MIA, KIA-BNR, and PFOD were different -- or did not exist -- for previous wars. However, the following data provide a basis for some generalizations:

TABLE 1. U.S. POWs in 20th Century Wars

	WWI	WWII	Korea	Vietnam
Captured	4,120	130,201	7,140	766
Still Classified POW	0	0	0	7 ^a
Died While POW	147	14,072	2,701	106
Refused Repatriation to U.S.	0	0	21	0
Returned to U.S. Control	3,973	116,129	4,418	653 ^b

Source: U.S. Veterans Administration Study, 1980.

- a. As of 1980; at this writing, only one American is still listed as a POW. See below, TABLE 3, note b.
 b. Includes escapees, those returned by the enemy before the end of hostilities, and those returned after the end of hostilities.

TABLE 2. Americans Unaccounted For in Previous 20th Century Wars

World War I (1917-18) ^a	Korean War (1950-53) ^d
Unidentified remains..1,648	PFOD..... 4,735
	KIA-BNR..... 1,107
	MIA 24 ^e
World War II (1941-45) ^b	Total MIA..... 5,866
Remains not recovered..78,794 ^c	Total Unaccounted ... 8,177 ^f

- a. Bruce Callender, The History of Arlington's Silent Soldiers. Air Force Times, June 19, 1984: 23.
 b. Source: U.S. Congress, House, Select Committee on Missing Persons in Southeast Asia. Americans Missing in Southeast Asia, Final Report, Dec. 13, 1976. Washington, U.S. Govt. Print. Off., 1976 (94th Congress, 2d session. House. Report no. 94-1764): 73-74.
 c. An estimated 9,000-17,000 of these were subject to the W.W.II equivalent of a PFOD. See ibid: 74.
 d. Ibid: 75.
 e. Still carried as MIA as of Sept. 30, 1954; known to be in Chinese prisons; all later either released alive or subject to a PFOD.
 f. Current Department of Defense statistic -- breakdown not available and does not correlate with any other statistics in TABLES 1 and 2.

Vietnam War POWs and MIAs

591 POWs were returned to U.S. control by North Vietnamese and Viet Cong authorities within the specified 2-month period after the signing of the Vietnam War peace treaty on Jan. 27, 1973. 67 U.S. civilians, not part of the official list of Americans unaccounted for in Indochina (most were trying to help or find their Vietnamese dependents) were trapped or stayed voluntarily in Vietnam after South Vietnam fell in April 1975. All were released by late 1976. Since 1976, a few Americans have voluntarily entered Vietnam, been detained, and eventually released. Since 1973, only **one** U.S. military member has returned alive from Vietnam. Marine Corps PFC Robert Garwood was first listed as a POW by U.S. authorities -- but never by the Vietnamese -- in 1965 and returned voluntarily to the U.S. in 1979. He was convicted of collaboration with the enemy, but his light sentence included no prison term.

After the return of the 591 POWs, 2,583 Americans were unaccounted for (not counting civilians trapped in Vietnam after the South fell, or who later visited

Vietnam). Identified remains of 344 Americans have been returned from Vietnam (280), Laos (59), Cambodia, (3), and China (2) since the war ended on Jan. 27, 1973. Table 3 summarizes data on Americans currently unaccounted for from the Vietnam War.

TABLE 3: Americans Unaccounted for in Southeast Asia (as of Dec. 20, 1993)						
Service	Country of Loss					
	North Vietnam	South Vietnam	Laos	Cambodia	Chinese Waters	Total
Army	10	513	110	36	0	669
Navy	302	95	31	2	8	438
Marine Corps	31	211	22	14	0	278
Air Force	260	200	331	21	0	812
Coast Guard	0	1	0	0	0	1
Civilians	0	25	11	5	0	41
Total	603	1,045	505	78	8	2,239

Source: Department of Defense. All U.S. servicemen except one are currently listed by DOD as KIA-BNR or were formerly listed as POW or MIA, for whom a PFOD has been made. One U.S. Air Force member, a pilot who was known to have reached the ground in good condition, and whose initial capture and later POW status was verified by local inhabitants and enemy defectors, is still formally listed as a POW for symbolic reasons.

Vietnam POW/MIAs: U.S. Government Policy and Organization. Since 1982, the official U.S. position regarding live Americans in Indochina has been as follows: "Although we have thus far been unable to prove that Americans are still being held against their will, the information available to us precludes ruling out that possibility. Actions to investigate live-sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved."

The Defense Intelligence Agency (DIA) is responsible for POW/MIA intelligence evaluation and analysis. Indochina operations are supervised by DOD's Joint Task Force--Full Accounting (JTF-FA), headquartered in Hawaii, which maintains POW/MIA files, conducts research and interviews in Indochina and elsewhere in Asia with refugees and others, and staffs the U.S. POW/MIA investigative organization in Vietnam. The U.S. Army Central Identification Laboratory (CIL) in Hawaii identifies remains returned from Indochina, the Korean War, and World War II. A Deputy Assistant Secretary of Defense for POW/MIA Affairs -- DASD (PW/MIA) -- was appointed in 1991 by the Bush Administration to coordinate overall DOD POW/MIA policy and operations. However, the Clinton Administration has not appointed a new DASD (PW/MIA).

POW/MIA information comes from Indochinese refugees and other human contacts and assets, physical evidence (such as "dog tags" worn by American military personnel, photographs, and aircraft debris), communications intelligence and aerial reconnaissance, and open sources. Between the fall of South Vietnam in April 1975 and

Dec. 20, 1993, according to DOD, 17,686 reports of all kinds have been acquired by the U.S. Government about live Americans in Indochina, including 1,715 alleged first-hand sightings of Americans. Of the 1,715, about 70% (1,195) correlate with persons since accounted for (i.e., returned live or known dead Americans); another 26% (454) have been determined to be fabrications; and 45 (3%) correlate to wartime sightings of Americans. The remaining 21, or 1%, involve sightings of Americans in either a captive (12) or non-captive (9) environment, "represent the focus of DIA analytical and collection efforts," and are still under investigation.

U.S.--Vietnamese Interaction on the POW/MIA Issue: Recent Developments. In 1991 the U.S. opened a POW/MIA liaison office in Hanoi, and since then U.S. personnel have gained greatly increased access to aircraft crash sites, Vietnamese records, and Vietnamese civilians. This increased access has not yet led to resolution of large numbers of MIA cases; much of the material has turned out to be redundant, already in U.S. hands, or pertaining to resolved cases; and there continues to be evidence that the Vietnamese retain large amounts of unreleased data.

Increased access to Vietnamese records and materials raise the issue of whether the U.S. will insist on changing the status of an individual based only on the recovery of remains. Will a person be formally removed from the list of unaccounted-for Americans based solely on records, no matter how conclusive? Or will the U.S. Government insist that only a recovery of remains, no matter how fragmentary, will suffice? U.S. authorities have not indicated how they will proceed. Pressure to make a decision is growing. The Vietnamese are urging U.S. authorities to formally close many cases based on new evidence; indications are that concerns over public reaction, more than disagreements on the part of American analysts that the individuals concerned really are dead, is holding up the decision to close these cases. The question may be as follows: If evidence other than remains is not considered conclusive, it could be argued, what use is it, if no remains are available?

Vietnam POW/MIAs: Were Americans Left Behind? Are Any Still Alive? Those who believe Americans are still held, or were held after the war ended, feel that even if no specific report has thus far been proved, the numbers unaccounted for, and the cumulative mass of information -- sightings, descriptions, and physical evidence -- about live Americans is compelling. Those who doubt Americans are still held, or were when the war ended, argue that despite numerous reports, exhaustive interrogations, and formidable technical means used by U.S. intelligence agencies, no report of a live American (with the exception of Garwood) has been validated as to who, when, and where the individual is or was. Much of the "evidence" cited relates to already accounted-for Americans, wishful thinking, or fabrication.

The "Coverup" Issue. Some say the U.S. Government has engaged in a "coverup" of evidence about live Americans still being held in Indochina. Their assertions are based on sources similar to those used by the Government, but they attach greater credence to some sources than does the Government, and suggest that the criteria set by the Government for validating reports of live Americans are unreasonably, and perhaps deliberately, high. Some critics of DIA have charged that the agency's unwillingness to release intelligence data has been a smokescreen for a coverup. The Government rebuts the allegations of coverup by stating that their assertions are based on incomplete, unevaluated, and unverified data, which DIA analysis has shown to be inaccurate, dubious, or fraudulent. They also assert that numerous investigations have

cleared DIA of coverup charges, and that the ability to maintain a coverup strains credulity in an era of press leaks and openness. Much of the data cited by DIA as refuting claims of Americans still being held is classified, on the grounds that releasing it would endanger intelligence sources and methods, and would provide more fertile ground for fabrication of bogus claims about live Americans. Since 1982, it has been U.S. policy to provide intelligence to families of unaccounted-for Americans that pertains or may pertain to their missing men.

Release of POW/MIA Materials. Legislation was passed in late 1991 to require the release of most of POW/MIA documents. The Senate voted in early July 1992 to request the Administration to release more information; and a few days later the Administration, under congressional pressure, agreed to do so. In August 1993, the first increment of documents (their total runs into the millions of pages) was made available for public review in the Library of Congress. The Library's Federal Research Division is responsible for much of the indexing and cataloging of these documents, and the Photoduplication Service of the Library will make microfilm and paper copies of documents available to the general public at cost. A computer work station in the Library of Congress Computer Catalog Center in the Thomas Jefferson Building of the Library contains an automated data base of the documents. Copies are also available through interlibrary loans.

The Senate Committee's Conclusions. The Senate Select Committee on POW/MIA Affairs concluded some POWs **may** not have returned at the end of the Vietnam War in 1973; that although there was no "conspiracy" to cover up live POWs, there was serious neglect and mismanagement of the issue; that about 100 U.S. POWs expected to be returned were not; and that despite previous executive branch and congressional dismissals of the possibility that some POWs were still alive, the committee had "uncovered evidence that precludes it from taking the same view. We acknowledge that there is no proof that U.S. POWs survived, but neither is there proof that all of those who did not return had died. There is evidence, moreover, that indicates the **possibility** of survival, at least for a small number..." The committee cited the Americans who were expected to be repatriated but were not, particularly from Laos; and the mass of evidence accumulated since the end of the war. The committee noted DOD had identified a total of 305 "discrepancy cases;" men either known to have been captured, or lost in circumstances under which survival was likely or reasonably possible, and who have not yet been accounted for.

The committee said a lack of will to continue investigating the issue in the aftermath of Vietnam, on the part of both DOD and political leadership in successive Administrations in the 1970s, contributed to what observers have called "a mindset to debunk" reports of live Americans, as well as a desire on the part of successive Administrations to wash their hands of the issue. Committee hearings indicate that when the war ended senior policymakers, including President Nixon, recognized the possibility of live Americans could not be ruled out, and disagreed over what could be done about it. Some wanted to be more forceful in public on the issue; others appeared to have been inclined to assume that little could be done, given the lack of military pressure the U.S. could apply to North Vietnam at the time, due to war-weariness.

These conditions may have contributed to the comparatively low-level, less-vigorous, and more behind-the-scenes effort on the issue that characterized not only the Nixon and Ford Administrations, but that of President Jimmy Carter (1977-1981) as

well. The Carter Administration's unwillingness to elevate the issue to a higher profile, some have argued, also resulted from President Carter himself and members of his Administration having been opposed to the Vietnam War in the first place, and being desirous of expediting the normalization of relations with Vietnam until that country invaded Cambodia in late 1978.

"Conspiracies" and Other Issues about DOD Performance. These problems - not the same thing as a "conspiracy" -- has been held responsible by many for the lack of attention, and the loss of fresher information, regarding POW/MIAs in the 1970s. In addition, the committee hearings, and subsequent developments, could be construed as indicating that problems of inadequate intelligence organization and analysis, and a "debunking mindset," persisted into the Reagan Administration era and persist still. Senator Robert Smith, Vice Chairman of the Senate committee, asked the Justice Department to investigate DIA witnesses before the committee for criminal violations, including perjury. Others have expressed concerns that in recent months that experienced field investigators in Indochina have been reassigned from the area and replaced with less capable individuals; some older documents related to prior-year POW/MIA operations have been destroyed without fully examining their contents; and that the Clinton Administration apparently has decided not to appoint a Deputy Assistant Secretary of Defense for POW/MIA Affairs. Still others have pointed to DOD's attacks on the credibility of former Soviet documents purporting to indicate that many more Americans were held than were released by the Vietnamese in 1973, and DOD's reluctance to release a recent study on Korean War POWs (see below).

POW/MIA Private Organization Issues. DIA says some POW/MIA organizations have appealed for money based on "highly suspicious, and often demonstrably false claims," and some individuals have been convicted of fraud in connection with POW/MIA fundraising. The Senate committee report stated "the vast majority of private organizations engaged in POW/MIA related activities reflect the highest standards of voluntary, public service and deserve the nation's gratitude and praise." However, it also stated that "In some instances, an excessive percentage of funds raised has been retained by the fundraising organization. In others, the fundraising solicitations have over-stated to the point of distortion the weight of evidence indicating that live U.S. POWs continue to be held in Southeast Asia."

Distinct from such groups is the National League of Families of American Prisoners of War and Missing in Southeast Asia. The League supports Administration policy, is the only national organization composed solely of the families of unaccounted-for Americans, and is a registered non-profit organization. The league also believes live Americans are still in Indochina, but on the basis of a general preponderance of evidence, known discrepancy cases, and the history of the issue, rather than specific validated proof. The League director, Ann Mills Griffiths, is a member of the Government's POW/MIA Interagency Group (IAG) involved in setting POW/MIA policy and negotiating with the Vietnamese and Laotians -- an unusual involvement of a private citizen in the foreign policy process. The Senate Committee report, commenting on the unusual nature of this arrangement and possible abuses of it, suggested that "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."

Have Americans Remained in Indochina Voluntarily? Some think Americans may have stayed in Indochina voluntarily, citing Garwood as an example. Another deserter, Army PFC McKinley Nolan, defected to the Vietnamese Communists in 1967 and was killed by the Khmer Rouge (Cambodian Communists) in 1975 or 1976. Ideological conviction, collaboration with the enemy and a fear of punishment upon return to the U.S., personal problems at home, a local wife and children, "brainwashing" by Communist captors -- or a combination of these factors -- could have played a role in other Americans remaining in Indochina voluntarily.

The U.S. Government does not seek forced repatriation of Americans living in Indochina voluntarily, but would like to notify their families of their status. The Vietnamese deny Americans are living in areas "under their control," i.e., do not explicitly rule out Americans not "under their control." In addition, the U.S. Government policy cited above on live Americans is careful to refer to "Americans... still being held against their will." It is possible, therefore, the likelihood of at least a few Americans remaining in Indochina voluntarily is considered greater by U.S. authorities than that of Americans being held against their will, but U.S. officials have said they would not classify any American as being present in Communist Indochina voluntarily until all facts were known.

Vietnam POW/MIAs: An Emerging Consensus On Some Aspects of What May Have Happened? The gap between extremes on the Vietnam POW/MIA issue may have been narrowed by recent events. For many years, the debate was framed along sharply divergent lines. **Those who argued live Americans were, or had been, kept in Indochina after the war** concentrated on factors such as the following:

- Over 80% of American POW/MIAs were officer aircrew in excellent physical condition, some of whom were taken prisoner alive and relatively healthy, able to endure many years of harsh captivity, due to their background and motivation.

- Few Americans lost over Laos returned in 1973, although the Vietnamese military presence in Laos would lead one to conclude that many such aircrew could have been taken prisoner. Furthermore, many of the live sighting reports pertain to Americans in Laos, whose government appears to have little control over much of its own territory and little administrative ability to investigate POW/MIA matters.

- Communist governments had a record of keeping some POWs long after the conclusion of hostilities, even if some or most are returned. The Soviet Union kept hundreds of thousands of German and Japanese World War II POWs until the mid-1950s, and some French and French colonial POWs from the First Indochina War (1946-54) did not leave Vietnam until the 1960s and 1970s.

- Many Communist-held prisoners died, but some survived (such as Germans and Japanese taken prisoner by the Soviets in World War II and not released until the mid-1950s; American agents held by China from 1952-72; and Communist countries' own political prisoners who served full terms of 10-25 years).

- The Vietnamese doling out of remains shows they know a great deal more about POW/MIAs than they have admitted.

-- The Vietnamese denied that they held PFC Garwood (released in 1979). William Mathers (whose boat strayed into Vietnamese waters, released in 1985), and Robert Schwab (who went to Vietnam to look for his Vietnamese girlfriend, was imprisoned, and released in 1986), were held incommunicado for long periods; the Vietnamese denied holding Mathers. Tucker Gouggleman (who also went to Vietnam to look for his Vietnamese girlfriend) died in a Vietnamese prison and his remains were released to U.S. authorities in 1976, but the Vietnamese denied holding him while he was alive.

Information from the former Soviet Union. A variety of information regarding POWs has come from the former Soviet Union. In mid-April 1993, a Vietnamese military document, translated into Russian, was found in former Soviet archives. It contains detailed statistics on U.S. POWs being held by the Vietnamese as of Sept. 15, 1972 -- 4 1/2 months before the war ended and the repatriation of POWs began. The document indicates 1,205 Americans were held, 614 more than the 591 returned in early 1973. While some of the data in this document may not jibe with U.S. statistics, other data does, and the general tone of it seems consonant with similar material obtained from Communist countries.

In September 1993, another, similar document was released from former Soviet archives, this time stating that 735 Americans were being held as of December 1972 (as distinct from the 1,205 mentioned in the April document and the 591 who came back). The Vietnamese have denounced the documents as forgeries. There are considerable inconsistencies between both the qualitative information and the POW statistics in the documents and other data from U.S. and Vietnamese sources. However, those who argue the documents are at least as credible as their refutations, and that DOD has denounced them with excessive vigor and based on only superficial analysis, appear to have a strong case as well. The issue is still in doubt.

A former Soviet KGB general asserted that U.S. POWs were interrogated in Vietnam after 1973 by Soviet agents, although his remarks were imprecise, contradictory, and denied by other Soviet intelligence personnel. Russian President Yeltsin asserted that "several American soldiers who evaded fighting in Vietnam were clandestinely moved" from Japan to the USSR, and after short stays in the USSR to other European countries. In addition, former personnel of the National Security Agency charged with monitoring Soviet communications transmissions claim that American POWs from the Vietnam War, particularly those with scientific or technical expertise, were shipped to the former Soviet Union to be exploited by Soviet intelligence. (See below, Korean War POWs and MIAs, and World War II POWs and MIAs: Soviet Imprisonment of U.S. POWs Liberated from the Germans.)

Those who argued it was **unlikely** that live Americans were still in Indochina noted the following factors:

-- The cumulative death rate resulting from loss over water (over 400 Americans unaccounted for), enemy fire, ejection, and parachuting, abuse by local captors, movement to central prisons through rugged terrain by primitive transport, torture, malnutrition, poor medical care, and psychological loss of the will to live could well account for deaths of those Americans unaccounted for.

-- While only nine MIA aircrew lost over Laos were returned in 1973, this is probably because U.S. forces picked up 781 downed U.S. aircrew from Laos during the

war, compared to fewer from North Vietnam. In addition, over 80% of the 519 unaccounted-for Americans lost in Laos (and 90% of those lost in Cambodia) were lost in areas under Vietnamese military control, suggesting that any prisoners taken could have been taken into Vietnamese custody and moved to Vietnamese territory.

-- It made no sense for the Vietnamese to still be keeping live Americans as negotiating assets. American outrage over the sudden revelation of live Americans being held would preclude the softening of U.S. attitudes toward Vietnam that the "bargaining chips" had ostensibly been held for. Furthermore, live Americans would be perishable assets which diminish in value as time passes -- if they exist, they have been kept under wraps for 21-33 years (depending on when they were captured) and have as yet served no useful purpose to the Vietnamese and Laotians.

There is a scenario consistent with virtually all of the general propositions advanced by both sides of the debate. Live Americans may have been kept by the Vietnamese after the signing of the Paris Peace Accords in early 1973, but may have been killed by the Vietnamese when it became apparent that (1) they could not be used as bargaining chips in negotiations for U.S. aid, (2) they were not required as hostages against a U.S. renewal of hostilities, after North Vietnam successfully conquered South Vietnam in 1975 without a U.S. military response; and/or (3) when a growing Western, including American, presence in Vietnam led the Vietnamese to think that their existence would be uncovered.

This latter scenario is consistent with the following: (1) few if any Americans are still in Indochina, **at this time**; but some may have remained alive for many years after the war and a few may still be alive; (2) the Vietnamese held U.S. POWs as hostages to proposed American financial aid ("reparations"), possible U.S. reinvolvement in the war, and/or other political concessions, the discussion of which has been public knowledge since shortly after the end of the war; (3) some deserters from U.S. forces remained in Vietnam voluntarily, and perhaps temporarily; and (4) the U.S. Government may not have pressed the issue as much as it otherwise might, thinking such pressure could result in the certain deaths of Americans who might still be alive, or that it was seeking to avoid public pressure to pay reparations -- what could be construed as blackmail -- to the Vietnamese. Nor is it inconsistent with suggestions that American POWs were taken to the Soviet Union for intelligence purposes.

The final report of the Senate POW/MIA Committee, completed on Jan. 13, 1993, at least authoritatively narrowed some of these areas of disagreement. However, because it is never possible at the end of any major war to account for **all** missing personnel, it is unlikely that the Indochina POW/MIA controversy will ever be completely stilled, even if much more information from Vietnam and other sources -- such as the former Soviet Union -- is forthcoming over time.

Are the Vietnamese, Laotians, or Cambodians Still Holding the Remains of Dead Americans? The slow return of remains since 1973 suggests the Vietnamese have a stockpile which they release as they see fit. In 1980, a mortician who left Vietnam told U.S. authorities remains of about 400 Americans were held in Hanoi. His account is regarded as credible by virtually all involved with the issue. Wartime intelligence indicated that North Vietnam kept a central file on all Americans who came under their control, alive or dead, including those who died in captivity, and information that North Vietnam provided to the United States on some dead Americans

in 1973 suggests systematic recordkeeping. The conditions of 65% of the remains returned from Vietnam, according to forensic analysis, indicate long-term storage.

Some Vietnamese officials say they have provided detailed records to U.S. authorities, but charge the U.S. has not publicly released these records. Within the past few months, as noted above, U.S. personnel in Vietnam have stated that the Vietnamese have been much more forthcoming with information and records, although it remains to be seen if these records lead to the resolution of MIA cases. Others suggest the Vietnamese have not released various records (and remains) because both would indicate mistreatment of American POWs, and might indicate also that some were kept alive when the war ended in 1973 but died in Vietnamese custody thereafter.

The large number of Americans lost in or over Laos, the number of known discrepancy cases, and the few Americans returned who had been captured in Laos suggest that the Laotians know more about the fate of unaccounted-for Americans than they have yet stated. On the other hand, successive Lao governments, anti-Communist and Communist, have exercised little control over large parts of their country, due to Vietnamese occupation and their own lack of resources, suggesting (1) the Laotians may not have the ability to provide many answers about missing Americans, and (2) such answers may be better found from the Vietnamese. The Vietnamese said in late 1992 they would provide the U.S. with information about Americans missing in Laos -- a breakthrough admission, although, like other "breakthroughs," it has not yet resulted in a measurable diminution of the rolls of unaccounted for Americans. Laos is, however, one area where searches of aircraft crash sites have resulted in the recent identification of some unaccounted-for Americans.

Until 1990, U.S. official and private efforts to obtain Cambodian cooperation met with no response. However, in 1990, 1991, and March 1992, U.S. personnel received six, one, and four remains respectively at Phnom Penh, the Cambodian capital. Three has been identified as American.

Korean War POWs/MIAs

Since the Korean War ended in 1953, there have been rumors Americans captured by the North Koreans or Chinese were, and perhaps still are, held against their will in North Korea, China, or the former USSR. TABLES 1 and 2, above, provide statistics on American POW/MIAs from the Korean War. Following postwar POW exchanges, in September 1953, the Chinese and North Koreans were asked to account for 944 Americans which the U.S. had reason to believe had been POWs or otherwise "under enemy control," such as being encircled.

A late August 1993 study prepared for the DOD POW/MIA Office stated that "U.S. Korean War POWs were transferred to the Soviet Union and never repatriated." The DOD POW/MIA Office released this report only after strong public and congressional pressure, and stated that it does not "prove" the USSR held Korean War POWs. The report's conclusions, however, are identical to those of a Rand Corporation study, done under contract to the DOD POW/MIA Office; the Rand study's principal author testified before the Senate POW/MIA Committee and his study was published in the Committee hearings. The DOD and Rand studies are thus congruent with the Senate Committee's statement that there was "strong evidence that some unaccounted for American POWs from the Korean Conflict were **transferred** to the former Soviet Union in the early

1950's." These analyses are based on (1) contemporary intelligence reports, (2) interviews conducted by DOD analysts and investigators with former Soviet military and civilian officials since the breakup of the USSR, (3) reports of third-country citizens encountering Americans after the end of the war in China, North Korea, or the USSR, and (4) extensive debriefings of returned Korean War POWs. Some U.S. POWs were not released by China until 1955, two years after the war ended. Declassified U.S. documents indicate that the U.S. Government maintained an intensive interest in live American POWs from the Korean War throughout the 1950s. The documents are much more explicit than anything yet released regarding the Vietnam War.

Throughout the 1950s and 1960s the Soviets, Chinese, and North Koreans maintained labor camps containing millions of political prisoners. The end of the Korean War in 1953 was followed by intensely bitter relations between the U.S., the North Koreans, and the Chinese. This suggests that the two Communist enemies of the United States during the Korean War, as well as a Stalinist Soviet Union, were very inclined to hold live Americans -- perhaps more so than Vietnam in the 1970s.

During the mid-1950s, the U.S. demanded the North Koreans and Chinese account for missing Americans. After 1955, due to the lack of response by the Communists (except for the return of 1,868 remains in 1954), the issue abated, although the United States periodically raised the issue. In 1957, House Foreign Affairs Committee hearings on the Korean MIA issue aired frustrations similar to those raised since 1973 on Indochina MIAs. In the early 1980s, the issue of Korean MIAs began to get more attention. In 1982, the U.S. began asking for the return of the remains of American dead (as distinct from, and in addition to, the general demand for "an accounting" of U.S. MIAs and POWs). The U.S. has tried to arrange a mutual return of remains with North Korea, but without a positive response. Since 1990, North Korea has returned the alleged remains of 194 U.S. personnel. However, *none* of these has been identified as American. A U.S. mission visited China in early 1993 to discuss the issue; the Chinese reply, according to U.S. officials, was "a brushoff." Although the Senate POW/MIA Committee's report suggests "a dramatic breakthrough has been achieved in terms of establishing a dialogue [with China and North Korea] and gaining access to new information on POWs and MIAs," as with Vietnam, there have been no concrete results yet leading to clarification of individual Korean War MIA cases.

Since 1982 there has been some activism among a few Korean War veterans and veterans groups regarding Korean War POWs and MIAs. In 1984, after a Federal court-directed hearing, one Korean MIA's status was changed by the Army to POW -- although, as with others known to have been POWs, the PFOD made for him stands. Some Korean War veterans have met with the North Koreans to secure a further accounting of missing Americans, but there have been no concrete results.

POWs and MIAs from Cold War Incidents

During the Cold War (1946-1991), some U.S. military aircraft were shot down by the USSR, Eastern European countries, China, and North Korea. Some of these aircraft were performing intelligence missions near or actually inside Soviet airspace; others were definitely in international airspace and/or were not involved in intelligence operations. While virtually all such aircraft losses were acknowledged at the time, often with considerable publicity, their intelligence functions were not.

Between 1946 and 1977, according to a DOD list released in 1992, there were at least 38 such incidents and one involving a ship (the seizure of the U.S.S. Pueblo, by the North Koreans in early 1968). Of the 364 crewmembers, 187 were eventually returned to U.S. custody, the remains of 34 were recovered, 11 were known to be dead from eyewitness reports but remains were not recovered, and 132 were "not recovered, fate unknown." In 1956, the U.S. formally asked the USSR about the crews of two aircraft shot down by Soviet forces in 1950 and 1952, citing intelligence reports (apparently obtained from German and Japanese POWs from World War II, many of whom were not released by the Soviets until 1954-1955) that some crewmembers of these aircraft had been seen and spoken to in Soviet concentration camps. Russian President Yeltsin's letter to the Senate POW/MIA Committee explicitly acknowledged the shooting down of some U.S. aircraft by the Soviets and the recovery of some surviving crewmen. The Senate POW/MIA Committee report, based in large part on the Rand Corporation study described above, generally endorses this evidence. In addition, as yet unpublished work by the DOD staff of the U.S.-Russian Joint Commission on POWs (see below), based on analysis similar to that done regarding Korean War POWs, suggests strongly that some Cold War shootdown crew survived and were taken prisoner by the Soviets.

A second type of "Cold War incident" is rarely discussed and is not discussed in the Senate committee literature -- kidnapping of U.S. personnel, in or near Soviet-occupied territory in Europe after the end of World War II, by Soviet intelligence agents. U.S. Government documents indicate that some Americans identified as having been so kidnapped in the late 1940s and early 1950s were seen by later-released German POWs in Soviet concentration camps.

World War II POWs and MIAs: Soviet Imprisonment of U.S. POWs Liberated from the Germans

There are allegations the USSR held in its prison camps up to 25,000 American POWs liberated from the Germans in 1945. This large number seems very unlikely, if only because the increasing flow of information on the Soviet concentration camp system since the early 1960s, both in writing and from emigre accounts, has provided no indication of mass imprisonment of Americans. In addition, a detailed investigation of the subject for the DOD POW/MIA Office by the Rand Corporation, as part of the study noted above in the Korean War and Cold War sections, concludes that there is no foundation for this large a figure. On the other hand, acknowledgments by Russian President Yeltsin in 1992 that about 450 Americans were not returned, sometimes on the basis of ethnic origin, is consonant with other knowledge of the arbitrary and brutal nature of the Stalinist USSR. Contemporary accounts of U.S. dealings with the Soviet Union during and immediately after World War II on the POW issue are replete with accounts of Soviet obfuscation, truculence, and reluctant cooperation.

Some Americans were actually taken in arms against Soviet forces; these were probably U.S. citizens of German birth who were in Germany during World War II and served in the German armed forces or who otherwise ran afoul of the Red Army as it advanced into Central Europe. Other accounts have suggested that the Soviet secret police singled out American soldiers with German, Russian, or Jewish names for special attention. Russian authorities have released the names of 39 Americans who had been sent to Soviet labor camps after World War II on bogus espionage charges. However,

all of these appear to be civilians living in the USSR who held dual Soviet-American citizenship, or their children; apparently none are U.S. military personnel.

A Joint U.S.-Russian Commission on POWs/MIAs set up by both countries to investigate the allegations of Soviet involvement with U.S. POWs in all wars since World War II has been operating since mid-1992 with mixed results. A good deal of information has been obtained, as the DOD report on Korean War POWs indicates. However, there has been considerable obstruction of the Commission's work by officials still sympathetic to Communist ideology and the former Soviet regime.

102nd Congress Legislation Enacted

P.L. 102-190 (Dec. 5, 1991), FY1992 National Defense Authorization Act SECTION 1082. Disclosure of Information Concerning United States Personnel Classified as Prisoner of War or Missing in Action during Vietnam Conflict. Directs the Secretary of Defense to make publicly available records and other information on all persons classified as POW/MIA during the Vietnam era. Specifies the records shall be placed in a library-like facility in the National Capital region. Prohibits public release of information on living persons unless they consent in writing; and on a person who is dead, incapacitated, or whose whereabouts are unknown unless "a family member or family members of that person determined to be appropriate by the Secretary of Defense" consents. Allows the Secretary to withhold information from release if it "may compromise the safety of a Vietnam-era POW/MIA who may still be alive in Southeast Asia," but requires an immediate notification of the President and Congress of his decision. Requires information on the date of enactment of the Act to be made available for release no later than 3 years after the Act's enactment. Requires information that comes into DOD custody after enactment of the Act to be available for distribution as soon as possible, but no later than one year after enactment of the Act.

SECTION 1083. Family Support Center for Families of Prisoners of War and Persons Missing in Action. Directs DOD to establish, in the National Capital Region, a Family Support Center to provide "information and assistance" to Vietnam War POW/MIA families.

SECTION 1084. Display of POW/MIA Flag. Directs the statutorily-recognized POW/MIA flag (P.L. 101-355; 104 Stat. 416) to be displayed in national cemeteries, the Vietnam Veterans Memorial, and various other Federal buildings on days designated by law as National POW/MIA Recognition Day.

P.L. 102-183 (Dec. 4, 1991), FY1992 Intelligence Authorization Act, SECTION 406: Report Concerning Certain United States Personnel Classified as Prisoner of War or Missing in Action during World War II or the Korean Conflict. Directs the Secretary of Defense to submit a report on World War II and Korean War POW/MIA to the Senate POW/MIA and Armed Services Committees, and to the House Armed Services and Intelligence Committees, no later than 90 days after enactment of the Act, setting forth (1) the number of military and civilian personnel remaining unaccounted for from World War II and the Korean War; (2) a description of the military records pertaining to such individuals and their accessibility to family members and the public; (3) a description of records **not** available to the public or to family members and an explanation of their unavailability; and (4) "an assessment of

the feasibility and costs of identifying, segregating, and relocating all such records to a central location within the United States, including an estimate of the percentage of such records which are currently maintained by the Department of Defense."

S. Res. 82 (Aug. 2, 1991) To establish a Senate Select Committee on POW/MIA Affairs.

LEGISLATION

H.R. 291 (Murphy and Swift).

Missing Service Personnel Act of 1993. Would "ensure that any member of the Armed Forces or any civilian officer or employee serving with or accompanying an Armed Force in the field under orders is fully accounted for by the Federal Government and, as a general rule, may not be declared dead solely because of the passage of time." H.R. 291 would drastically curtail the ability of DOD to make a PFOD, explicitly allow judicial review of PFOD, and explicitly forbid a PFOD based solely on the passage of time. H.R. 291, 103rd Congress, is virtually identical to H.R. 1730 of both the 102nd and 101st Congresses, which were vigorously opposed by DOD. Introduced Jan. 5, 1993; referred to Committee on Armed Services.

H.R. 2521 (Gilman)

POW/MIA Full Accounting Act of 1993. States that the Congress finds that the governments of Vietnam, Laos, China, and Russia have not given the U.S. all their information on POW/MIAs. States the sense of the Congress that the U.S. not normalize relations with Vietnam until the President certifies that Vietnam has rendered the fullest possible accounting of POW/MIA. Prohibits the President from changing the U.S. trade embargo against Vietnam, instructs the President to have the U.S. vote against IMF loan repayments by Vietnam, and directs the President to have the U.S. vote against aid for Vietnam from a variety of international financial institutions until such a full accounting is certified. Introduced June 24, 1993.

H. Res. 109 (King and Levy).

Establishes a House Select Committee on POW/MIA Affairs, with the function of conducting a full investigation of all unresolved matters relating to any U.S. personnel unaccounted for from the Vietnam era, the Korean Conflict, or World War II. Introduced Mar. 2, 1993; referred to Committee on Rules.

FOR ADDITIONAL READING

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 - Hearing on Symbols. Hearing, 102nd Congress, 2nd session. Oct. 15, 1992. Washington, U.S. Govt. Print. Off., 1993. S. Hrg. 102-1030. 100 p.
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 - Hearings on the Paris Peace Accords. Hearings, 102nd Congress, 2nd session. Sept. 21-24, 1992. Washington, U.S. Govt. Print. Off., 1993. S. Hrg. 102-1115. 895 p.
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