



STATEMENT

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*Unfortunately - some elements of truth,
especially those from the past, lend
credence to this garbage. No wonder
Sen. Verry has hard time in MN!*

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My name is Tracy E. Usry, I am employed as a Special Investigator for the minority staff, Foreign Relations Committee, U.S. Senate. I am responsible for the conduct of the legislative inquiry concerning the Prisoner of War/Missing In Action (POW/MIA) issue, initiated by the Honorable Jesse Helms, Senior Senator from North Carolina as well as the Honorable Charles Grassley, Senior Senator from Iowa. This concern originated with Senator Grassley, then passed to the Senate Foreign Relations Committee, when Senator Helms became concerned over the controversy as well as the possibility of men being left in Southeast Asia at the conclusion of US involvement there.

Described
by Shump

The Foreign Relations committee has authority to engage in oversight of POW/MIA issues implicit in its broad mandate to study and review foreign policy. Senate rule 25.1j, specifically refers to the Committee on Foreign Relation matters dealing with "[11.] Intervention abroad and declarations of war", and "[15.] Protection of United States citizens abroad and expatriation." The inquiry was initiated in July 1989 and is ongoing to date. The minority staff has published one report, entitled Interim Report on the Southeast Asian POW/MIA issue, dated October 29, 1990, and presently is preparing a second report due to be released in the near future. I will be addressing those issues covered in both reports. I would like to add, that the majority of information gathered, was accomplished by personnel with extended experience in the fields of criminal investigation, Intelligence collection and analysis. These staff investigators are also Veterans of the Vietnam conflict. The staff has been assisted in certain areas by private researchers of the POW issue. In order to better understand the U.S. Government's position in handling the Southeast Asian POW issue, we researched the U.S. Government's position concerning MIA/POWs for the Korean War, World Wars I and II, and the American Expeditionary Force in the Soviet Union in 1917. Our preliminary conclusions will be addressed in this statement. I must also state that this inquiry is by no means complete and addresses only a portion of the issues comprising the MIA/POW problem.

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This inquiry has been made possible by the cooperation of the families of those missing, private researchers, Vietnam Veterans organizations, concerned citizens, as well as former prisoners of war. Although the Department of Defense has cooperated to some extent with the staff during this inquiry the cooperation has been incomplete and begrudging at best. The information developed has been through personal interviews, telephonic interviews, review of documentation of a classified, declassified and unclassified nature, corroborative information from Government and private sources as well as historical research. I must emphasize that no classified information will

misleading

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be addressed in this statement or during the question and answer period.

The focus of our inquiry has centered on the following questions:

1. Does the U.S. Government possess valid information concerning living POWs in Southeast Asia?
2. Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?
3. Has the U.S. Government acted improperly to intimidate, coerce or discredit sources which have valid information concerning living POWs in Southeast Asia?

I will address each of these three questions separately. The first question: Does the US Government possess valid information concerning living POWs in Southeast Asia? The staff position on this issue is YES.

Our Interim Report of October 1990 speaks for itself. Additionally, the United States chief negotiator during the Paris Peace talks, Mr. Henry Kissinger, in his memoirs on the Vietnam Peace Accords, Years of Upheaval (pg 33&34) said, "The United States was aware of at least nineteen American POWs in North Vietnamese custody that were not accounted for by the Vietnamese. LTC (Ret) Stuart A. Herrington points out in his book Peace With Honor?, that as one of several U.S. Military intelligence officers assigned to work with the North Vietnamese and Peoples Republic of China representatives during the period 1973-75, he was responsible for the location and return of POW/MIAs believed to be held by the communists. According to Herrington, North Vietnamese officials stated that the failure to have all POW/MIAs returned was, because of the U.S. Government's failure to live up to the promise of four billion dollars in war reparations made to North Vietnam by President Nixon. The North Vietnamese position was: "U.S. casualties under North Vietnamese control would be accounted for and prisoners returned after fulfillment of the promise." The existence of live American POWs still in Southeast Asia during the period April 1973 -75 was reinforced by our interviews with other American personnel assigned to Vietnam during the same time frame as Herrington. In addition, information developed during our inquiry shows the U.S. Government was aware of several Americans being held by North Vietnam who were considered collaborators, military deserters, or persons Absent Without Leave (AWOL) when captured by the North Vietnamese. The most prominent of this group was Mr. Robert Garwood, a former Marine, captured in DaNang in 1965 and released from Vietnam through his own efforts in 1979. Mr. Garwood, although court-martialed for collaboration with the enemy and striking/mistreating a prisoner is living proof that the U.S.

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Government's position on living Americans in North Vietnam after 1973 is incorrect. Declassified Defense Intelligence Agency reports contained in the volumes of the Uncorrelated Information Relating to Missing Americans in Southeast Asia, dated December 15, 1978, as well as declassified Central Intelligence Agency reports indicate that Garwood was tracked by US Intelligence agencies from shortly after his capture in 1965 until his return in 1979.

Garwood, during his debriefings with the U.S. Government, stated that he had seen Earl Clyde Weatherman, a Private First Class with the U.S. Marines Corps., alive in Hanoi in 1977. Although Weatherman is listed as a deserter, his desertion is as a result of his capture by the enemy. According to intelligence reports reviewed, Weatherman was in an AWOL status when captured. Under DOD guidelines, once he was captured, his status as AWOL should have been changed to Prisoner of War. Is Weatherman actually a deserter, or an unfortunate individual captured while AWOL and never afforded the opportunity for return? Has the Defense Department ever asked about him, or have they assumed he does not want to return simply because he is carried in deserter status? It should be quite evident from the report and these examples, that the position that the U.S. government took in 1973 was incorrect when it said that no live Americans were being held Southeast Asia.

The answer to the second question, "Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?" is YES. This is really a twofold problem, First is the analysis of live sighting reports by the Defense Intelligence Agency, second is the various procedures used by the U.S. Government to resolve cases of individuals missing as a result of the Southeast Asian War. The missing are accounted for through the process of declaring a person as Killed in Action/ Body Not Recovered (KIA/BNR); a Presumptive Finding of Death is made; or the identification of partial remains by the Central Identification Laboratory-Hawaii, permanently closes a file.

The first issue is the greatest part of the problem. The Defense Intelligence Agency was a recipient of information collected on American POWs during the Vietnam war as well as after the war. The majority of the relevant information concerning live American POWs was during the time frame of 1960 through 1986. This is also the period in which the analysis of POW information from Southeast Asia was not always accurate. It appears from a review of a portion of the live sighting reports, that Department of Defense analysts started with a premise that the information provided by non-American sources was a lie and then worked towards substantiating that premise as true. In some of the cases reviewed, where information would tend to substantiate a sighting as being accurate and that of a live POW,

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the information would be later disregarded. In one instance, a DIA analyst was asked why pertinent information was disregarded. His reply was that the source had recanted that portion of his statement. The problem was that the information on the source recanting that portion of his statement was no where in the file. It is quite apparent that the analysis seemed bias toward establishing the source a liar, rather than attempting to substantiate the information provided by the source. The vast majority of the intelligence collection efforts by the DIA, as well as the Joint Casualty Resolution Center, were not professional in our judgement. As established by this inquiry, there was a shortage of qualified personnel to collect POW intelligence, especially during the mass exodus of refugees from Southeast Asia following the 1975 fall of governments in Vietnam, Laos and Cambodia. In essence, DOD has been able to construct a rationale to discredit officially nearly every live-sighting report. In addition to the example previously cited, the staff found instances where the Defense Department merely excluded from its analysis certain details of a valid sighting, such as a source's statement about the number of POWs sighted, their physical condition, a description of the camp or cave held in, whether they were shackled, or, whether they were gesturing for food. By excluding such corroborating details, these details would not be known to anyone reading just a summary of the report or DOD's analysis of a report. In many instances in which a timely follow-up interview would have expeditiously resolved a live-sighting report, there was a general lack of emphasis on resolving the case within the system, and the follow-up interviews did not occur for many months. Already frightened refugees became confused by the failure of U.S. Government agents to accept their information.

One very good example to show how the Defense Department excludes information that is contrary to their analysis is the case of Navy pilot LCDR James E. Dooley. It illustrates very well my previous comment about intelligence analysts disregarding new information. Dooley is listed as Killed in Action/ Body not Recovered by the Defense Intelligence Agency, however, private researchers believe he was taken prisoner in North Vietnam. Dooley was not returned or accounted for during Operation Homecoming in 1973. Dooley was shot down October 22, 1967 while on a bombing run near Hanoi, flying an A-4E aircraft. He crashed south of Do Son, Haiphong province, North Vietnam. Limited observation by fellow pilots, weather and the swiftness of the incident may have led to some confusion over whether or not Dooley survived the crash. In 1973, a returning U.S. POW claimed he saw Dooley's name written on the wall in a prison cell in Hanoi; two Thai special forces soldiers also released by the North Vietnamese in 1973, identified Dooley's photograph as that of a person who was in prison with them; and a propaganda photograph of captured U.S. pilots in Hanoi, dated after the Dooley casualty, shows a partial profile of a person that

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Dooley

strongly resembles Dooley. In 1987, a North Vietnamese refugee interviewed by US intelligence personnel, while in a refugee camp, described the shootdown of an American jet he witnessed in 1968, in the area of Do Son, Haiphong Province. He stated that he saw the pilot bail out with a tri-colored parachute and try to swim out to sea to escape capture. While swimming out to sea, the pilot fired at his pursuers, who were in boats chasing him. Once captured, the pilot was stripped of his one - piece flight suit and placed in the sidecar of a motorcycle, then taken away by North Vietnamese officials to a waiting chinese - made automobile.

An early DOD analyst's evaluation of the source's information noted a number of discrepancies; the analyst believed the source witnessed the shootdown of Navy pilot J.M. Hickerson, which occurred in the same general area as Dooley's shootdown, only two months later.

In April 1989, former POW Hickerson made a written statement pointing out he had landed on the inside of the peninsula at Do Son, did not even enter the water, let alone have access to the sea to swim away to avoid capture, did not fire his pistol, utilized a solid white parachute, was wearing the traditional two piece Marine Utility uniform and was taken to prison riding on the back of a bicycle. JCRC maintains its position that the refugee's information pertained to the Hickerson crash and not Dooley. The analyst refused to change his finding in spite of the other evidence to the contrary presented to him. This is just one of several examples in which the analysis is flawed.

In line with the resolution of live sighting reports, is the accountability of missing through the Presumptive finding of death, which was utilized by the Defense Department to write off all prisoners listed as missing in Laos. Authority for "Presumptive Finding of death" is found in title 5 USC, Section 5565 through 5566, for civilian employees and Title 37, USC, Section 555 through 557 for U.S. military personnel. These codes permit the secretaries of agencies to declare an individual dead after the person has been missing for 12 months under circumstances indicating he or she may have died. Once this declaration is made, surviving spouses, next of kin or children are entitled to government sponsored death benefits, e.g., six-months pay for spouses of deceased military members, government life insurance, etc. After a declaration is made, the individual is then removed from the active roles of the military service or agency responsible for him/her.

The Dooley example cited previously well illustrates this problem of a finding of death impacting on the individual file and the welfare of next of kin also. I wish to cite two additional examples as well. The first, is again taken from the Uncorrelated Information Relating to Missing Americans in

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Southeast Asia . A Vietnamese source identified the picture of a U.S. Marine as a person he saw in North Vietnamese custody. The interrogator indicated he thought the source was mistaken because the Marine was officially listed as Killed In Action/Body Not Recovered.

The next example is that of a documented case of a U.S. Marine corporal who was last seen severely wounded on a Vietnam battlefield and subsequently listed as Killed in Action/ Body Not Recovered. A year later, he had to be reclassified as a Prisoner of War when a handwritten letter from him, dated after his supposed death, was found on the body of a dead Viet Cong soldier in South Vietnam. The letter was addressed to the Marine's parents and talked of life in a Viet Cong prison camp. Based on this information, the Marine Corps changed the corporal's status to Prisoner of War and promoted him in absentia to sergeant. At the conclusion of OPERATION HOMECOMING in 1973, he did not return to U.S. jurisdiction. Since then, a presumptive finding of death was made without evidence that he had in fact died while in captivity.

Accurate identification of physical remains returned from Southeast Asia by the Department of Defense is suspect also. The responsibility for the identification of remains returned from Southeast Asia is the responsibility of the Central Identification Laboratory-Hawaii, which is operated by the Department of Army. The inquiry has reviewed cases where pieces of bone, or sometimes collections of bone fragments were identified as the physical remains of persons previously listed as Missing In Action, or, Killed In Action/ Body Not Recovered. There is a probability that such remains are those of the persons known to have perished at a particular aircraft crash site, or other such incident where individual skeletal remains were consumed by natural or manmade forces, but conclusive proof that these bone fragments belonged to an individual is sorely lacking in many instances. At the core of the problem, was an anthropologist who worked for many years at the Central Identification Laboratory, Mr. Tadao Furue, now deceased. At the center of the controversy was the fact that Mr. Furue called himself a doctor, was usually referred to as a doctor and signed documentation as a doctor, when in fact his total academic achievement was that of a bachelor's degree from the University of Tokyo. Additionally, Mr. Furue employed a questionable process for identification of remains which he called "Morphological Approximation." He used this process when identifying remains that could not be identified by accepted anthropological methods. In September 1986, The Investigations Subcommittee of the Committee on Armed Services, House of Representatives, held hearings to discuss specific problems at the Laboratory. A follow-up hearing was held approximately one year later to review the changes made by the Army as a result of the commission recommendations as well as the initial hearings.

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It should be recognized that the Army instituted the majority of the changes that were recommended; those they didn't implement, they had reasonable answers as to why not. The only problem was that those instances where Mr. Purue's procedure for "Morphological Approximation" was used as the means for identification of remains, were not reviewed for other means of identification. I might add that the evaluation group initially put together by the Army for the review did not in one instance review any report of identified remains in which the questionable procedure was used as the means of identification. The Army did initiate a stop order, so that the procedure was no longer used for identification purposes until evaluated by a board of certified Forensic Anthropologists. What is interesting to note, is that the procedure was never accepted as having sound scientific basis for utilization as a method of identification. To date, none of the remains identified as a result of Mr. Purue's unscientific procedure has been re-evaluated. Independent examination of remains by recognized experts in the field of Forensic Anthropology have stated that in excess of fifty sets of remains positively identified by the Central Identification Laboratory, have been incorrectly identified. One of these experts, Dr. Michael Charney, Professor Emeritus University of Colorado has levied these serious charges against CIL-HI both, publicly and to Committee investigators. Dr. Charney states, "This facility, [CIL-HI], entrusted with the analysis of mostly skeletonized remains of our servicemen and women in the identification process, is guilty of unscientific, unprofessional work. The administrative and technical personnel have engaged knowingly in deliberate distortion of details deduced from the bones to give credibility to otherwise impossible identification." Another prominent Physical Anthropologist, Dr. George W. Gill, former Secretary of the physical anthropology section, American Academy of Forensic Sciences, and a member of the board of directors of the American Board of Forensic Anthropology, substantiates Dr. Charney's statement concerning CIL-HI. Dr. Gill stated publicly, "It is clear from their bones that the problem in the CIL-HI reports results either from extreme carelessness, incompetence, fabrication of data, or some combination of these things." As of this date, these charges levied by Dr. Charney and Dr. Gill against CIL-HI as early as 1986 have not been challenged or refuted by the Department of Defense.

The answer to the third question: "Has the U.S. Government acted improperly to intimidate, coerce or discredit sources which have valid information concerning living POWs in Southeast Asia?", again, it is the staff's position that the answer is YES. I would now like to cite some examples of this.

During the period 1984 thru 1986, while serving as a Special Agent in the United States Army Criminal Investigation Command, I was the Investigating Officer in which Maj. (RET) Mark Smith

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levied allegations against certain military officers stationed in Korea, who amongst other things failed to take appropriate action concerning information provided by him on possible live American POWs being held in Laos. During the course of this investigation, there was pressure placed on me by superiors to gather evidence discrediting Maj. Smith, rather than to pursue the allegations made by Smith. During the course of the investigation, and as a result of interviewing several people, I found that in one instance, Smith's source of information was deliberately compromised by members of the Defense Attache's Office in Thailand. The normal investigative process was not allowed to occur in order to prevent potential embarrassment to an Army general; statements were made concerning Smith's mission as the Commander of the Army Special Forces Unit in Korea, which omitted certain information, thus giving the impression the Maj. Smith was acting without authority in some areas; and his chances for promotion violated through the manipulation of the administrative process utilized for promotion. Somewhat after the fact, Smith's superiors did take steps to determine if Smith's information was valid; however, by that time Smith was so disgusted with the process that he ceased cooperating with the Army.

A second example would be that of the treatment of Robert Garwood, upon his return to U.S. control. Garwood, upon arrival in Thailand, was placed under apprehension by the U.S. Marine Corps, advised of his rights under Article 31 UCMJ, which are similar to those of the 5th Amendment to the Constitution and advised by his appointed counsel not to say anything. Shortly after this, Garwood was debriefed by the Marine Corps concerning his knowledge of other Americans being held in Southeast Asia, to which he provided no specific information, based on advice of counsel. During the course of the trial of Garwood, he spoke of specifics concerning live Americans to his court appointed psychiatrist, a Navy captain, as well as writing letters on the issue to his former girlfriend, both of which were pointed out by the media. Garwood continued not to state anything specific to the U.S. Government during the entire trial period, as well as during the appeal portion after the trial. Since that time, the Defense Intelligence Agency has debriefed him on at least three occasions, two of which each lasted a week. Garwood's refusal to provide specific information on advice of counsel, is his constitutional right. The Government's position that Garwood had nothing of substance to say is inaccurate through omission, and might be viewed by some as a less-than-truthful statement for the purposes of discrediting him. Even after all this time, this is still the U.S. Government's position concerning Garwood.

During the course of this investigation, the staff has seen at least four instances in which the Defense Intelligence Agency's reply to congressional inquiry has not been based totally in fact. In every instance, the omission of certain

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relevant information in the respective file would lead the reader to believe that there was no validity to the constituent's claim of unfair or less than professional handling of their problem by the Defense Intelligence Agency. In one instance, after reading DIA's response to a congressman's inquiry for POW/MIA related data, I commented to the DIA analyst that this letter, signed by Col. Joseph Schlatter, was not representative of the facts as they appear in the respective file. The DIA analyst agreed with my comments and further stated that there were other instances of not actually presenting all the facts from a file similar to this one.

Thus far, I have given you examples of the three questions this inquiry has answered. In addition, I would like to address the issue of the Defense Department's lack of cooperation with Congressional inquiries on this subject. In one instance, at various times within a four month period, one Congressman and two Senators, separately, requested access to live sighting reports as well as other documents held by the Defense Intelligence Agency.

The Department of Defense took between two and four months to respond to their requests. Once the request was granted, in at least two instances the requirements for access were so restrictive as to make total access impossible. The Defense Department allowed access to the Live Sighting reports only when a Senator was available to escort staff personnel to the Defense Intelligence Agency. Then, the Senator had to stay with the staff personnel at all times in order for access to continue. This requirement was not levied because of a clearance or access problem, as all staff personnel present had the appropriate clearances, rather, this requirement was meant to hinder the review process.

This requirement is totally out of line in regards to how the Defense Department works internally. It is routine for staff personnel in the Defense Department to do the research, then provide the pertinent facts to the superior. This then allows the superior to do his work while staff does the research. Apparently, the Defense Department didn't feel that a Senator's time was equally as important as that of their own senior officers. The matter of access to the additional documents requested, both the Tighe Commission Report as well as the Gains Report (an in-house evaluation of the effectiveness of the DIA POW/MIA section, done by one of the previous Chiefs of the section) have still not been addressed satisfactorily by the Defense Department.

In yet another instance, a request for information was made through the Defense Department's Office of Congressional Liaison, which took over two months to be acted on, before a reply was forthcoming. It would seem that Defense Department places little

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or no priority on responding to requests concerning this sensitive issue. This seems rather strange, when the majority of those still missing were members of the same department.

I addressed the issue earlier in this statement that the Staff reviewed the U.S. Government's position concerning POW/MIAs from previous wars. The period reviewed, was from 1917 through the Korean War. Based on the documentation reviewed by the Staff, it is apparent, that American POWs as well as allied POWs were left unaccounted for after World War II and Korea. In both instances, prisoners were taken by the Soviets and never returned. Not only did the Soviets keep American and Allied prisoners liberated from German prison camps, they continued to kidnap American soldiers off of the streets of Europe. At the end of the Korean conflict, American and allied prisoners were kept by the North Koreans, Peoples Republic of China as well as the Soviets. The numbers reflected as being kept by the various communist governments exceeds eighty thousand.

I would like to close with a quote from a document published by the National League of Families, titled Conspiracy and Coverup, dated October 1988,

" Those long involved are acutely aware that information was distorted or withheld in years past; however, now is not the time for those who are currently working this issue to undertake an historical investigation of past efforts- history will take care of itself. The league holds the firm conviction that efforts must focus on the present and future. Our men's lives may well depend on current decisions; they do not depend on history except in the context of policy negotiations."

I would submit that the real problem with the POW problem is historical. It is the intelligence information of the past that was poorly handled, analyzed with a bias of disproving the information, the past identifications of remains though inaccurate, or as what some people believe to be fraudulent means, as well as the past discretion of the Defense Department to discredit people providing what they knew or believed to be valid information.

It is the Defense Department's past handling of the issue in general, as well as a basic mistrust of the Defense Intelligence Agency's ability to properly analyze information, which has ceased the flow of valuable information concerning the possibility of live Americans still being held in foreign countries around the world. Unless the past history is corrected, this issue will never be resolved.