

My contacts told us they brought heavy equipment out to Savoy Island, tore down the buildings, and moved Lundy, Robertson, and all off the island. Back to Borah. Instead of protecting the picture of Borah, the government made copies of it and sent it to the communists; it was on Laotian television. Our people, our—

The CHAIRMAN. Why is that? Hold on. Why is that? They sent it over there to try to trace him, did they not?

Mr. GAYDEN. We asked in the letter, we told them that this guy in the pictures, his life was in jeopardy. Obviously it is in jeopardy. So they put it on Laotian television.

The CHAIRMAN. But let me just ask you, and I am sorry to keep interrupting, but your 5-minute summary is already a 19 minute discussion, and I want to get to the point here. I mean, the question is the evidence, correct? Here is a photograph which you have appropriately brought forward and suggested is Dan Borah, correct?

Mr. GAYDEN. Yes, sir.

The CHAIRMAN. Now, our people have gone out and I gather that the Borah family is flying over, the Government is taking them over—am I correct?

Mr. GAYDEN. No, no.

The CHAIRMAN. I understand they are flying over at their own expense. But what I am saying is that they are going to be taken to this person. Is that not correct?

Mr. GAYDEN. That is right, which of course we would rather be taken to where the person was so he can point out where the picture was taken, and there are some other anomalies, too, that we know about that they do not know.

The CHAIRMAN. Will there not be momentarily a very clear comparison, or am I missing something?

Mr. GAYDEN. You are exactly right. The two Borah sons will be able to look at this man and tell whether it is their brother, of course. And they will be able to take pictures.

The CHAIRMAN. Therefore, what is the issue in terms of this?

Mr. GAYDEN. I am not sure what the issue is.

The CHAIRMAN. Judge, may I ask, here are two pictures, one that you provided, and here is the one that the government took. Apparently this is the same individual, or is it not the same individual?

Mr. GAYDEN. Let me answer you. That is what the Government says.

The CHAIRMAN. I am asking for your opinion.

Mr. GAYDEN. In my opinion, absolutely not.

The CHAIRMAN. These two individuals look strikingly similar.

Mr. GAYDEN. Well, we have showed that in a short period of time to seven experts in the St. Louis area, and every one of them, and I can quote them, that in this photograph, the Government's photograph is probably tampered with.

Senator McCAIN. The Government photograph is tampered with?

Mr. GAYDEN. That is correct. They have overlaid the photograph, and I have got seven experts, and they are looking, by the way, at a third-generation photograph, not the negatives, which the government has.

The CHAIRMAN. Can you submit to the Committee the names of the seven experts?

Mr. GAYDEN. I have them right here, sir.  
[The information referred to follows:]

#### FORENSIC PHOTOGRAPH ANALYSIS

1. Upon initiating this facet of the investigation, Covert Inquiries received, from said client, Five (5) 5 x 7 photos, depicting subject "AHRAO", (purportedly identified as same by the JCRC—CILHI Investigative Team), in the company of another Lao Theung, Mr. Bounthon, and several various team investigators. These photos were received by this reporting agency on 10-23-91. Said Government Investigative Team members purportedly took said photos in Laos on 12 Sept. 91 and subsequently forwarded said photos to the indicated client.

2. In an effort to verify the authenticity of said received JCRC team photos, Chief Chemist, Harold Messler, Laboratory Division, St. Louis Metropolitan Police Department, St. Louis, MO, was contacted who advised following listed evidence technician was the Department's resident photo expert: Police Officer James Stegman, 4986 Magnolia, St. Louis, MO 63139; Home: 314-773-1656; Bus: 314-444-5537, (Also FAX) (Experience—18 years Evidence Technician).

October 26, 1991

A subsequent interview conducted with Officer Stegman, during which Stegman examined the indicated photos, revealed Stegman's opinion that said photographs had been retouched in order to add the Lao, "AKRAO", in the photos. Stegman added that dark lines in two of photos, along with inconsistent shadowing on each posed subject, to him, would definitely indicate possible alterations to the original photos and would warrant further investigation as to an explanation of the discrepancies.

3. Continuing the investigation, this investigator interviewed one Mr. Larry Block, Owner-Professional Photographer, thirty years plus, of Larry Block Photography, 10286 Page Blvd., St. Louis, MO 63132; Bus. phone: 314-427-1800, who advised he had on several previous occasions, completed mechanical photo "drop-ins", (slang for the process of altering photos whereby person(s), objects, are added to the original photograph to give the appearance said person(s) and/or objects were present at the time the photograph was taken). Mr. Block, after examining said (5) five photographs, through the use of a magnifying device, related the following listed discrepancies:

a. White male subjects in all photos do not have consistent shadowing with other persons in the same photos.

b. Foliage, under examination, did not match, in the background sections of several photographs.

c. Although the posing of MSGT. Eddie Smith in Pictures Number 1 and 2 is very similar, Photo #1 shows cut-jagged shoulders on Smith as opposed to Photo #2, Smith's shoulders are rounded.

d. Facial lighting on CILHI Rep. Napoleon in Photo No. 5 not consistent with other two males in the photo.

e. Block related that in his opinion said photos are "drop-ins" and said photos have been altered to give an untrue conclusion.

f. Block stated that in order to obtain proof-positive, said photos would have to be examined by a competent photo laboratory—Eastman Kodak, to check for varying grain patterns that would not be conducive to a true print or photograph. Altered photographs would possibly contain different grain patterns due to the different film batches that are distributed.

October 29, 1991

4. An interview conducted with Eastman Kodak Corporation, Rochester, New York, per Legal Representative Anne Warner, revealed, after being appraised of the circumstances, that said corporation's laboratory could perform the required analysis. Due to the corporation's present policy of not offering said service unless Eastman Kodak was involved in said litigation or Eastman Kodak was ordered to complete said analysis by a Court-ordered subpoena, her company would have to decline any requested assistance.

5. An interview conducted with Professional Photographer David Stout, Owner-Operator, 12 years, Commercial 35 Laboratory, 2732 Sutton, Maplewood, Missouri, Phone 314-781-7030, and subsequent to his viewing the aforementioned photographs, revealed that Stout also noted several inconsistencies in said photos, (as previously listed, shadowing, black lines, facial lighting, etc.). Mr. Stout then conducted a negative slide enhancement of said photos selecting various points of enhance-

ment, (44 slides). At the conclusion of Mr. Stout's enhancement process, Stout related the following information:

a. Slide #117, Photo #5, Subject CILHI Rep. Napoleon's facial grain structure different than the grain structure in the two Lao's faces. Stout stated that since said photo was not of a first generation print, probable 2nd-3rd generation copy, that it would be hard to raise the grain to the necessary specific degree in order to reach a positive conclusion.

b. Stout advised that possible photo alterations could also have been completed by an electronic/computer process referred to as "electronic imaging".

6. An interview conducted with one Mark Hamel Head Technician, Display Photo-Graphics, 803 Lafayette, Maplewood, Missouri. Phone: 314-961-6622. Revealed, after conducting an examination of said photos, that his opinion/conclusion was that said photos could possibly have been altered through the use of computer enhancing and/or electronic imaging. Hamel could add no further.

7. An interview conducted with one, Joseph Toohey, Chief Technician, Spectrum Image Group, 10835 Midwest Industrial Blvd., St. Louis, MO, Phone 314-423-8111, and upon being appraised of the aforementioned photographs, revealed that his firm did in fact, do electronic imaging on photographs. When questioned as to whether he would analyze said photographs to locate any possible discrepancies, Toohey advised his firm would first have to get clearance from their Legal Department prior to completing that type of request.

8. An interview conducted with one, Jerry Taylor, Assistant Chief Photographer, and one, George Maravich, Chief Photographer, ADSTAT Photo Group, #10 South Broadway, St. Louis, MO, revealed, subsequent to their examination of said photographs, that said photos did contain numerous inconsistencies that would generally give the appearance that said photos had possibly been altered. Maravich stated he was aware that "electronic imaging" was in use in altering, to various degrees, photos to represent person(s) and/or objects not originally in the photo.

October 30, 1991

9. An interview conducted with one, Cynthia Cygan, Laboratory Manager, Photo Touch Up Specialist, Silver Image Group, 4248 Forest Park, St. Louis, Missouri, revealed that the only Midwest company providing electronic imaging for photographs is one, Crosfield Design Systems, Minneapolis, Minnesota, (See Attachment C-1, C-2, and C-3, of this report for imaging particulars).

10. Located and conducted subsequent interview with the following Forensic Photographer—Legal Consultant: Mr. Fabian Sickels, Sickles Legal Photography, Inc., #70 West Sherwood Drive, St. Louis, MO 63114, Bus. Phone: 314-426-2400. Qualifications: Qualified Forensic Expert in photography analysis Federal Court and State Court. Professional Laboratory Owner-Operator since 1945. Prior Combat Photographer, U.S. Marines, WWII. Qualified in all levels Court—Civil Cases—Photo Analysis. Photo analysis completed by Sickels for various Law Enforcement Agencies. Photo Analysis completed in Sickel's Laboratory in presence of Custody Officer/Investigator to maintain correct custody chain.

Mr. Fabian Sickels, upon examining said photos related the following expert opinions:

a. Said photos are of 2nd to 3rd generation copies.

b. Sickels related he could not definitely state said photos had been altered, but due to the various inconsistencies apparent in the photos under magnification, said photographs certainly deserved a more thorough examination which could be completed by him and staff members with the original negatives and 1st generation prints of the indicated photos.

c. Quote: Fabian Sickels, "Photos generate enough suspicion to warrant competent examination of the original negatives and this first generation photo prints."

d. Sickel advised that his laboratory, if afforded the opportunity by the investigating officials, (D.I.A.) (JCRC), while in their presence or at a professional photo laboratory of their choice, also in their presence, through the expert examination of said photo's original negatives and 1st generation prints, could conclude whether said photos are true or not true, altered or not altered.

The CHAIRMAN. Would you, please? They are saying that this photograph of Bill Gadoury is a fake, is that what you are saying to us?

Mr. GAYDEN. In varying degrees from "fake" to "it needs to be studied." They would not accept it on its face. So it is in varying degrees.

The CHAIRMAN. The experts will not accept this on its face?

Mr. GAYDEN. Well, I can quote someone for example—

The CHAIRMAN. So now they are going to introduce this person, correct?

Mr. GAYDEN. Do you want to hear some of the quotes?

The CHAIRMAN. Sure.

Mr. GAYDEN. One of them says, this is the chief photographer for the St. Louis Police Department, in his opinion that "the said photographs have been retouched in order to add the area in the photos."

Mr. Block, another one, through the use of a magnifying device, says, "White male subjects in all photos do not have consistent shadowing with the other persons in same photos; the foliage on examination did not match in the background sections of several photographs; (c) all of the pose of Master Sergeant Eddie Smith in the pictures (1) and (2) is very similar; photo number 1 shows a cut jagged shoulders on Smith, as opposed to photo number 2, where Smith's shoulders are rounded; (d) facial lighting on representative in Napoleon photo number 5 is not consistent with the other two males; (e) Block related in his opinion that photos are drop-ins and photos have been altered to give an untrue impression.

I might add that they refused to give the Borahs the original negatives or a first-generation copy for this hearing.

The CHAIRMAN. Is Bill Gadoury here?

VOICE. He flew back.

Mr. GAYDEN. There are others in varying degrees.

The CHAIRMAN. Were any of you present when these photographs were taken?

VOICE. No, sir.

Mr. GAYDEN. I would also like to make the letter of Major Gittins an exhibit, too.

The CHAIRMAN. Absolutely. All of this will be placed into the record.

Mr. GAYDEN. In closing, we have a lot of evidence; this is not all we have. For example, the hair samples of Albro Lundy. We can afford—we believe 90 percent of this is wrong; if I am wrong with the Borah picture. I am a judge; I was born with an eraser on my pencil, and I will admit it.

[The prepared statement of Mr. Gayden follows:]

PREPARED STATEMENT OF HAMILTON GAYDEN

Mr. Chairman, Mr. Vice Chairman, Members of the Select Committee: My name is Hamilton Gayden and I thank you for this opportunity to discuss our present ability to investigate the existence of live Americans in Southeast Asia. By way of background, I am a State of Tennessee Circuit Court Judge and an author of a novel, a story of an American P.O.W. However, I appear before you as an individual American, not as Judge nor as an author.

I also introduce to you in absentia an American-Laotian by the name of Khambang Sibounheuang. A year and a half ago, Khambang and I formed a pact; we agreed to merge in an effort to gather evidence of American POW's and, if the situation presented, to help in an escape attempt. Khambang is presently in Southeast Asia.

Our original motives were somewhat different although in time our interests have become more similar. My desire was to help liberate live Americans from bondage; Khambang's main interest was to draw attention to the oppressed Laotian people who are being subjected to endless deprivation of human rights and liberties—the POW issue might draw attention to the conditions in Laos and Vietnam today.

At this point, Khambang and I have accumulated considerable evidence: photographs, finger, thumb and hand prints; human hair including "root hair"; signatures, written messages, live witnesses; some of the evidence has been discarded by comparison; thumb and finger print comparison and interviews of live witnesses; and we may even be able to provide a live video of American P.O.W.s. We have already delivered considerable evidence to the Foreign Relations Committee, although we admittedly have no clue as to whether that evidence is secure. We believe our evidence to be 90 percent accurate. We also believe we will be able to prove beyond a reasonable doubt the identity of a handful of American POW's, and by a preponderance of the evidence of many other American and allied P.O.W.s. We offer an educated guess that there are as many as 300 to 400 American and allied POW's scattered in small or large groups of camps and guarded villages throughout Laos, Vietnam and possibly southern China.

Our evidence comes from many sources including Khambang's Laotian contacts in Laos and Thailand, military and civilian. (Khambang is the 13th ranked member of the International Free Laotian congress, was a company commander in the Royal Lao Army and is a veteran of the secret war in Laos, 1960-1975.) We also are in contact with an Interpol agent, one ex-CIA Special Forces person who obtained evidence for the United States on POW's in Asia, and a DIA informant, among others.

To address the question of what "our capabilities" are we must draw a distinct line between "Our" meaning Khambang, myself, other private individuals and friends who have had no encouragement or help from the U.S. government. In fact, we believe we are justified in adopting the approach that the U.S. Government is our number one enemy.

In order to understand our government's directive to those agencies charged with MIA/POW affairs, we must come to grips with the ominous realization that the ever-present threat that the Vietnamese and Laotian leaders will disclose to the American people the existence of live Americans who still want to be repatriated is the focal point and driving force for the administration's Southeast Asia foreign policy, and it is this silent yet politically explosive blackmail that dictates the purpose and policy of the government agencies charged with MIA/POW affairs.

The directive from the top is simple: "There are no POW's!" And this is a direct quote from the President, the National Security Adviser and the Secretary of Defense.

The sole quest for accountability is condensed down to delivery of "remains only." This statement paraphrases a Laotian Ambassador who stated to an American businessman that the Laotian government has privately continued to attempt to negotiate for the release of Americans. The program for the agencies is to deceive, discredit, deny, debunk and most importantly, interdict—no live POW's: the goal is for the Vietnamese and Laotians to carry out the final act; dead men don't talk.

Looking at the big picture, the realities are that we are on the threshold of being asked to accept a Southeast Asia Foreign policy where we promote democracy with money and men and women in Cambodia and concomitantly refuel Communism just across the borders in Laos and Vietnam. This inconsistent policy will assuredly lead to needless bloodshed for American men and women and our allies stationed in Cambodia.

In our endeavor to obtain evidence we have had to box from many angles as we have many enemies who do not want the facts to emerge—that there are live Americans still being held against their will.

The duplicity of our own government is unchecked. Why? Because the American people want to believe our leaders. A prime example is the simple pronouncement by the Defense Department that the three men in the recent photograph are Russians. The average person on the street believed it. Yet it is an incredible lie.

Even Khambang and I, for a short period of time, opted to cooperate with the Defense Department in giving them raw intelligence. The result was that the Defense Department passed the information, against our requests, to the Communists. We also have been told of the Defense Departments' destruction or loss of official finger print files, "red flagging" of recent confirmed live-sighting reports, and "red flagging of live files" all in the past weeks.

The Defense Departments excursions into Laos in search of Donald Eugene Carr is a floor show to deceive—to have the American people think the Defense Department is working on the problem. The way to get Donald Carr and the 30 men he is with out is to give the Laotians an ultimatum or negotiate. And we know, don't we, that the Laotians allegedly found Daniel Borah, the "mountain man", immediately from one photograph passed to the Communists by the same defense department. The Communist have the Carr photo. Why don't they just go get him!

We also know that there is a plan in place to "end-run" this Committee to begin immediate talks with Vietnam. At the time of this writing I am told by an informant that the President himself will unilaterally announce the beginning of talks. The two reasons advanced to justify "immediate talks" is that we are wasting an opportunity to develop oil reserves and because the Laotian and Vietnamese Communists are cooperating on the MIA/POW issue. Simultaneously, we are told in November, Americans being held in Southeast Asia will be removed to an area west of Dien Bien Phu where they will be held pending the progress and outcome of talks to normalize relations, and the Final Solution is tentatively set for January to February of next year. We are told our government is fully aware of this plan, and one of the essentials of this plan has already taken place—the delay of any inquiry by this Committee.

In closing, I am going to quote the Vietnamese Ambassador to United Nations, Ambassador Nguyen Can, who said to a group of us who met with him in the fall of 1989 at the Vietnamese Mission in New York, to paraphrase: We will never be able to account for Americans because your government won't let us.

Senator SMITH. Was any recording made on anything other than just a photograph?

VOICE. He was fingerprinted.

Senator SMITH. Do we have Borah fingerprints, Dan Borah's fingerprints?

The CHAIRMAN. Was video taken or was it only stills?

VOICE. Still photography.

Senator SMITH. Do we have Dan Borah's actual fingerprints?

Mr. GAYDEN. Senator Smith, the answer to that is after 6 months, they showed up. But the Borah family does not fully accept those as being true fingerprints of Dan Borah.

Senator McCAIN. So it is your allegation that the U.S. Government has tampered with the photograph in order to make these two people look alike. Because these photographs look incredibly alike.

Mr. GAYDEN. I am relying on experts, Senator McCain. I am admittedly not a photograph expert.

Senator McCAIN. Well, an expert identified this first picture, a forensic expert, as being Mr. Borah.

Mr. GAYDEN. Which brings me to this question. We also have the picture of Larry Stevens which came out of the Denver Post.

Senator McCAIN. Focusing on Mr. Borah right now, OK?

Mr. GAYDEN. It seems to me an independent expert, with a \$1 million budget that this Committee has, an independent expert could be hired by you guys to find out the truth. Because they are going to say one thing, and probably we are going to say another.

The CHAIRMAN. Wait a minute. The Borah family is about to meet this person, correct?

Mr. GAYDEN. That is correct.

The CHAIRMAN. Are you going to say that that will not settle it?

Mr. GAYDEN. Absolutely.

The CHAIRMAN. You do not think that will settle it?

Mr. GAYDEN. If the Borah sons come back and say, no—no, I take that back. If they say that it is not Dan Borah, there are several other possibilities. For example, they have got the report of the names; they are totally wrong. The names they use for the wife and the children are absolutely wrong. The place where the picture was taken is not correct either. And so they either do not know—

The CHAIRMAN. Wait a minute. Let me just suggest, okay, that when DIA goes back there, they take every possible angle photo-

graph, they videotape it, they bring this back to us in the most complete manner possible so that this issue does not gain a life of its own. Is that possible? Can we somehow wire them over there and make sure that happens?

Because certainly to my non-expert eye, but being in politics, we look at a lot of photos. These look like the same human being to me, and I think it is very important, obviously, because that will, I think demonstrate; I do not know what more they can possibly do at that point in time. Would that begin to help satisfy you if the entire event were videotaped?

Mr. GAYDEN. I think it is going to be videotaped. Our people are taking videos over and cameras. They are going loaded, too. And that does not mean that that is the only piece of proof we have, a plethora of proof we will offer through the Senate Foreign Relations Committee.

On the Stevens picture, one last word. The Stevens picture that came out this week, that Michael Charney says is Stevens, the Government is going to say obviously it is not Stevens. I would say why do you guys not get together and hire an expert? Let him tell you; let a third party tell you. That is the way we do it in our court, instead of us throwing stones at them and them throwing stones at us.

The CHAIRMAN. What do you mean by hire an expert?

Mr. GAYDEN. Let the Committee hire their own expert to take the Stevens photo and say, tell us—

The CHAIRMAN. On the Stevens photo, we are going to do analysis on these other photos, absolutely. But I want to wait and see what transpires on this Borah photo. But absolutely, on the Stevens photo, we will look at that as carefully as we can, and also on the other photos that, the Robertson, Lundy, Stevens photo, the joint photo.

Can I ask, could we hear the testimony from Al Lundy and company? Or Gladys, are you going to go first?

#### STATEMENT OF GLADYS STEVENS FLECKENSTEIN, MOTHER OF LT. COMDR. LARRY STEVENS

Mrs. FLECKENSTEIN. I do not think I need to even read what I have written because Judge Gayden did come out with a picture of my son. I have had that completely ID'd. We had it blown up. This is the blow-up.

The CHAIRMAN. Just for the record, so everybody knows who you are talking about.

Mrs. FLECKENSTEIN. This is my son, Lt. Comdr. Larry James Stevens at a young age. This is the picture that was brought out, that Judge Gayden brought out. He would be 49 years old next month. I believe it is my son. I have had it analyzed by Dr. Charney, who has analyzed it not only one time, but two times. We have also had another private source analyze it, by the name of Tom Wilson from Pittsburgh, and he has definitely ID'd it.

I also was waiting for the Government to analyze it, because when they found out Dr. Charney had done the analysis, it was sent to the DIA, and in return they sent it back to me as of Sep-

tember 16, saying that they would not accept an independent source, but that they would do their own analysis.

The CHAIRMAN. I am sorry, I did not mean to interrupt you, Gladys. I did mean to, but not rudely. But, Judge, you brought that out, is that correct?

Mr. GAYDEN. Well, "you" is a euphemism for the Lao contact. I am actually the American depot for the Lao. It was brought out by Laotian freedom fighters.

The CHAIRMAN. It was brought out by a Laotian. When was that brought out?

Mr. GAYDEN. Probably I would say in May, May 1991.

The CHAIRMAN. Of 1991.

Mr. GAYDEN. Yes. On the back of the photograph, I believe, is written September 1990; it was taken on Savoy Island.

The CHAIRMAN. And this Laotian who gave this to you, have you had prior contact with this person?

Mr. GAYDEN. He came to the U.S. in February, and I met him personally.

The CHAIRMAN. Who paid for his trip to the U.S.?

Mr. GAYDEN. He paid for it himself. His son lives here in South Carolina.

The CHAIRMAN. I beg your pardon?

Mr. GAYDEN. His son lives in South Carolina.

The CHAIRMAN. He brought that with him when he came?

Mr. GAYDEN. No, he did not. He sent it in May. He came here in February, and that came later.

The CHAIRMAN. Was there a full articulation of precisely what his route of acquisition was?

Mr. GAYDEN. Yes, he came from Vietnamese friendlies, who may be dead, by the way, as of 3 weeks ago; a Mrs. H-o-a, who was in the 5-page code that is also with the Senate Foreign Relations Committee, and a major and a Vietnamese general. These three individuals were responsible for bringing Albro Lundy to the banks of the Mekong River, where they were interdicted 3 weeks ago.

Mrs. FLECKENSTEIN. I would like to finish my statement. As of September 16, I received the information from the Defense Department that they didn't accept the picture which had been analyzed by Dr. Charney, and that they would analyze it themselves. I waited up until now. I've called and called trying to get that analysis to me, which I did not get, and didn't know about until I arrived here yesterday morning and it was handed to me by Major Gittins.

My son from California had been on the phone to Dr. Carl Ford, and he wouldn't even speak to him about this issue, but did get to his aide. The aide said it would be in the mail, and I needed that information before I got here, so I was pretty upset about that.

The CHAIRMAN. Well, they are going to come back next week to respond to a lot of the other things that have been set forth here. And so I can promise you that that will be on the agenda when they do come back.

Senator REID. Mr. Chairman, what information did she want?

Mrs. FLECKENSTEIN. I wanted the analysis done by the Defense Department on the picture of my son that you're looking at here. In the conclusions in the report that we did get from the DIA, I only read the first two lines. I think that says enough. But it says I

cannot say whether or not the service record and purported images show the same man. The man in the two images do look somewhat alike.

At the end they say, finally, I am concerned about the technical foundation upon which Dr. Charney has made his identification. Again, I say I positively believe Dr. Charney. He has done two different analyses on it. He went public with it on live television in California, I saw it on channel 4, stating that he had the analysis and it was my son, Lt. Larry Stevens.

And that's about all I need.

The CHAIRMAN. Let me ask you a question. How do you balance that kind of an analysis against—and I just ask you this personally—how you balance that kind of analysis against the fact that we know that some of these photos—in fact, four of them, it appears, are fraudulent. We have seen the actual photograph from the Soviet magazine. How do you deal with that?

Mrs. FLECKENSTEIN. I can deal with it very well. For one thing, this second picture that came out of my son, his father has been dead for quite a few years. My grandson took a look at this picture and he disappeared for a while and came out with a picture of Larry's father. And I was in shock at the complete, total likeness of his father, who would have been approximately the same age as Larry is today in that photo.

And that certainly was another convincer to me.

The CHAIRMAN. But does part of you sort of steel yourself for the potential that there are some hoaxers out there, and somebody might be taking advantage of you?

Mrs. FLECKENSTEIN. I am quite sure that there could be people out there working the situation, because we have heard of that. Yes. But in this instance I have—Dr. Gayden has brought this picture out. It was taken in 1990 in September. It has been totally analyzed by three different times.

The Government has not said yes or no in this report from them.

The CHAIRMAN. So, therefore, obviously, you—

Mrs. FLECKENSTEIN. I have to accept it. That is my son. Because it is. That is my son. I have been fighting for 22½ years to find that boy, because I've always felt that he was alive. Now here he is in this picture. And I have to say again, you mentioned the report of the three men in that picture. Well, we got conclusions from that too. I still state again before this Committee that that man in the three man picture on the right-hand side is my son taken at a much earlier date.

He is the image of his younger brother. I am positive that both of those men are the same. When you put the pictures up and really analyze them against that picture and the ones that I do have, you can see the resemblance.

But I do want to say that in conclusion of the three man picture, this comes from Sandia Laboratories, this is the Government's analysis on that three man photograph. And I have to read this to you. It says I—now, they sent me a 19-page letter trying to tell me that this picture was taken after World War II; they're Russians, in Russian uniforms. They have guns. But their conclusion, after all of that: "I cannot prove that this photograph is a hoax, but I believe there is substantial evidence that rifles are being held. It

doesn't make sense that captive POW's would have their picture taken holding weapons. This, however, is conjecture on my part. I have found no evidence that this photograph has been tampered with.

"I also have found no evidence that it is tamper-free. I recommend a continued historical literature search to locate the original image."

Now, again, let me repeat, "I cannot prove that this photograph is a hoax." This is from the DIA, Department of Defense.

The CHAIRMAN. I understand that, but they did find that the signed piece of it had been taken—

Mrs. FLECKENSTEIN. We've never paid any attention to that sign. The only thing we paid attention to are the three faces in that picture, and you will have their testimony as to their feeling about that.

The CHAIRMAN. Now, is it your—just so I understand these pictures correctly, the picture on the left is the one similar to the one right here in front of you. And that is the recent picture that you say that the Judge brought out?

Mrs. FLECKENSTEIN. Yes.

The CHAIRMAN. And the other picture in the middle is the one that you say, that is the one I recognize from the three person picture?

Mrs. FLECKENSTEIN. Yes. That's the one—the one on the right-hand side of the picture. That is my younger son.

The CHAIRMAN. I beg your pardon?

Mrs. FLECKENSTEIN. This is my younger son on the right-hand side.

The CHAIRMAN. I understand that. But the picture in the middle.

Mrs. FLECKENSTEIN. Yes.

The CHAIRMAN. You are saying that the picture in the middle is the same person as the picture on the left?

Mrs. FLECKENSTEIN. Yes. I definitely think so. But I think it is at the time of aging in there. I think this picture was taken quite some time ago. But the three men have been seen, as Dr. Gayden has just said. And we know those faces are real. They are our men.

[The prepared statement of Mrs. Fleckenstein follows:]

PREPARED STATEMENT OF GLADYS STEVENS FLECKENSTEIN

Members of the Senate Select Committee. My name is Gladys Stevens Fleckenstein. I am the mother of L/CDR Larry James Stevens. After taking off from the USS Coral Sea, Larry was shot down in a night action over the Ho Chi Minh trail in Laos on February 14, 1969.

Eye witness reports from three U.S. fliers who saw the crash of Larry's plane state they picked up a 5 to 10 second beeper signal 2 or 3 minutes after Larry's plane impacted the ground. They are positive the signal came from Larry.

The official report from Larry's commanding officer on the incident stated that he felt the chances of Larry's survival were good. A navy man, John Hamill, Lemoore, California, who was aboard the Coral Sea on this same cruise told me that the ship's crew was told that Larry "punched out" immediately and was known to be alive on the ground. These and other data throughout the years only strengthen my belief, Larry is alive.

I have always felt in my heart that my son survived the crash. Now I have that proof. After 22½ years of searching, traveling to Paris, Geneva and Laos, flag raisings, speeches, and doing whatever I could do to keep the awareness about our LIVE POW's before the public. We have spent everything we have had over the years and now I have reached the end of my quest to find my son. We have found Larry Ste-

vens. I have a picture brought out by a source of the Three POW's in my possession. The man on the right is my son. I have a new LIVE POW picture, of Larry wearing a blue shirt, brought out by Judge Hamilton Gayden's sources. This blue shirt POW photo has been positively identified by Dr. Charney of Colorado Springs, Colorado. Larry Stevens has been positively identified by a second forensic expert, Thomas Wilson, of Pittsburgh, Pennsylvania. (Documentation of photo I.D. attached.)

My family and friends who have men in a "missing" status have long felt that the U.S. Government, and especially the DIA, are not aggressively pursuing the data and evidence that support our belief that live Americans remain captive in Southeast Asia today.

One single fact shows the most damning proof that DIA is not serious about finding live POW's. Using information that DIA had been sitting on for 6 months, the families contacted a source known to the DIA for those 6 months, talked with him by phone, flew to his home in California, and were given a copy of the Three POW Photo showing the three men, and which had the names of Colonel Robertson and L/CDR Stevens on the back. All of this was accomplished in well under 72 hours from the time news of the sighting report was first received by the families on November 8, 1990. Yet, in a letter dated December 10, 1990, a month later, Deputy Chief Trowbridge states DIA is still trying to interview this same source.

In support of my belief that DIA is remiss and not doing a adequate job on the POW/MIA issue, I offer the following:

1. DIA has over 1,400 first hand live-sighting reports which claim that live Americans are being held against their will. These 1,400 reports are classified and are denied to the families and to the American public (including Members of Congress).

Why should reports of incidents that occurred 20 to 25 years ago remain classified? Is it "national security" matter or is LIVE POW information being classified in order to cover up DIA's ineptitude?

Worse yet, these files denied to the families have been TURNED OVER TO HANOI.

2. The Tighe report specifically charges DIA to have a mind-set to debunk all live-sighting reports and states that evidence proving LIVE POW's exists, remains classified and is hidden from the families and from the several congressional committees which have oversight responsibility.

3. The 5-page letter submitted by then Chief of the POW/MIA section of DIA, Col. Millard A. Peck, makes the same charge.

4. The interim report as well as the final report by the "U.S. Senate Committee on Foreign Relations Republican Staff" document in detail similar allegations.

5. DIA and the IAG (inter agency group) have launched a concerted and continuous attack to debunk the identification by family members of at least five military men whose reported photos have been made public lately. The names of L/CDR Larry Stevens, Col. John Robertson, Maj. Albro Lundy II, Lt. Daniel V. Borah Jr., and Maj. Donald G. Carr (all names appearing on official MIA lists) have surfaced along with photos and reports which claim these American military men are still alive. Instead of trying to deny these men are alive, the DIA should send out their teams to follow all available leads.

Our men shot down and captured are advancing in age. We need the WILL to find them NOW and bring them home AT ONCE. Advancing age, disease, confinement and possible torture are not conducive to their health and well-being. DIA's most urgent task is to send investigative teams to the prison sites and caves where indigenous people have stated that live Americans were observed being held against their will. I feel this may be our men's last hope to ever see their homeland again. It is up to you, the newly formed Senate Select Committee, to BRING THEM HOME NOW.

#### STRANGE HAPPENINGS THAT PUZZLE ME

1. The FBI claim they have no fingerprints for any of the men in the three POW photo. Yet, all three men have held high security clearances. It seems strange that the Los Angeles Hall of Records have a birth certificate of my two younger sons, but not one of my POW son, Larry Stevens. The same situation exists with hospital and DMV records. (See the Fingerprint Saga, attached.)

2. DIA sends us a tape and written material in a foreign language. When we request an English translation, DIA sanitizes all names and places in the returned English version, but leaves this data in the foreign copy.

3. Instead of helping the family members, DIA forces us to prove time and time again that our men are alive, while DIA classifies all the records we need.

DIA claims that the pictures of the 3 men is a hoax and yet they cannot prove it. I received a 19-page report from Sandia Laboratories and their conclusions which I would like to read to you.

"I cannot prove that this photograph is a hoax, but I believe there is substantive evidence that rifles are being held. It doesn't make sense that POW's would have their picture taken holding weapons. This however is conjecture on my part. I have found no evidence that this photograph has been tampered with. I also have found no evidence that it is tamper free. I recommend a continued historical literature search to locate the original image." Let me repeat part of the first line—"I cannot prove that this photo is a hoax."

Regarding the purported picture of L/CDR Steven's alone, Sandia Lab's state: "I cannot say whether or not the service record and purported images show the same man. The men in the two images do look somewhat alive. Sequence 1 on the video tape documents this. However, sequences 2 and 3 on the video tape show that an imposter can also be photographed to look somewhat like the service record and purported images. The increased width in the purported image compared to the service record images of the test subject as a youth and as an adult. Age and weight gain did not increase the width. Finally, I am concerned about the technical foundation upon which Dr. Charney has made his identification."

Dr. Charney has positively identified my son's picture two different times and I believe in his analysis one hundred percent.

I have fought the fight all these years when our government should have brought my son, and all LIVE POW's home and as full as possible accounting of those who perished. Last, they flew me out over the Ho Chi Minh Trail, Laos, and I left my heart and my son in that lonely and foreign land.

At the very best what is going on here is gross incompetence starting with Carl Ford and leading to President Bush.

At worst, there is an active government cover-up.

Gentlemen, if there are any real men left in the leadership of this country, I call on you now to stop this pathetic charade and bring my son, Larry Stevens, home.

Larry has managed to get his picture out. What more can he do?

The CHAIRMAN. Let me hear from the members of the Robertson/Lundy/Stevens—or let me hear from the Roberts and Lundy family here.

#### STATEMENT OF SHELBY ROBERTSON QUAST, ROBERTSON FAMILY MEMBER

Ms. QUAST. I'm Shelby Robertson Quast. I'm here speaking on behalf of Col. John Robertson. What we've chosen to do is share my testimony with my sister, Deborah Robertson Bardsley, because she just recently returned from Hanoi, and has some interesting things to share with you.

Tomorrow marks a year anniversary since I first got this photograph. And, in marking that anniversary, what I want to do is I want to set the record straight. There seems to be some confusion throughout the world. We continually hear that this photograph is a hoax. That it's a fake. That people believe that we found this photograph in a Soviet magazine.

The Washington Post ran a story yesterday that, once again, it was in a Soviet magazine. It was a Soviet baker. Let me quote Carl Ford. Let me quote Colonel Cole. Let me quote Bob Sheetz, Susan Strednanski, the Defense Department press person. That picture has never been found in a Soviet magazine.

I guess I'm asking for some help. We have said this so many times, yet I continue to hear it's been in a magazine. It's simply people don't want to hear that. And I would like to, for the record, set it straight. It has never been found to be a fake or a hoax, or ever found in a magazine.

The CHAIRMAN. The picture of the threesome together?

Ms. QUAST. Absolutely.

The CHAIRMAN. You are absolutely accurate. That is correct. It has never been found in a Soviet magazine, and it has not yet been proven to be a hoax. And that is—

Ms. QUAST. Excuse me. If I could, I want to just ask one thing. Could you—I would prefer that you don't say it hasn't yet been found to be a hoax.

The CHAIRMAN. Well, what I am saying is that the DIA has found inconsistencies that they have cited.

Ms. QUAST. But what they have found and what they have reported to me—

The CHAIRMAN. I was simply using the words that Gladys used that she read from them. That is all.

Ms. QUAST. OK. Yeah. What's been reported to us is the fact that the sign has indeed possibly been altered or added. That's not something that we want to say has not happened.

The CHAIRMAN. That is correct. No judgment has been made to the Committee's understanding.

Senator REID. I thought—in fact, I think I met this young man in an elevator. He was carrying around a picture of his father. He is a lot older than he looks, too. But, anyway, after I saw him I read that this came out of a Soviet magazine. Where did this come from?

The CHAIRMAN. There were several photographs that came out in one package, so to speak, from the same source.

Ms. QUAST. I'm going to address that entire thing, actually. I'm going to address it in the testimony. If I could do that, I think I will answer your question, Senator.

The CHAIRMAN. Go right ahead.

Ms. QUAST. I would like to just continue to set the record straight, and it addresses that point. This photo came out from several sources. Not just one. The list includes foreign officials. It includes a monk. It includes a shaman, a general, a teacher. A towel merchant happens to be included in that list.

The photograph was first received in November, and that was through a Cambodian refugee. It was not in combination with the other four photographs. The second picture received from site two by an American was also not in connection with those other four photographs.

Admittedly, there might be somebody who got a hold of one of the copies of the photograph and is marketing it, but I want to be clear, this has come through several sources, and one of them was tied with the other four photographs. While I was in Cambodia I did see those four photographs. Only one of them had an altered date on it at that time. Something has been added since they came out to Thailand and back to the United States.

When we got this photograph in November and it was identified as being my father, what we did was we decided to work backward and based on the photograph to see what evidence existed that may show that my father is alive. And I just want to tick off quickly what that evidence is. My father, Colonel Robertson, was a Vessey discrepancy case, defined by Gen. Vessey yesterday as last known alive.

Two, a villager, a Vietnamese villager, stated he captured a bright-haired pilot in September 1966. Another man in the same province but from another village talked of capturing a dark-haired pilot. Only one plane went down in that province during the entire time of the war.

The villager who stated he captured a bright-haired pilot took the pilot to his home and, while waiting for officials, had a conversation in English with this pilot. My father's backseat pilot, Hugh Buchanan, who's dark-haired, said he never had a conversation in English when he was captured before the officials came to pick him up.

Senator REID. Say that again.

Ms. QUAST. There are two pilots in the plane. My father had blond hair. His backseat pilot, Hugh Buchanan, had dark hair. In one province there are two reports of two pilots being possibly captured, one with bright hair, one with dark hair. And what I'm saying is that a villager who allegedly captured the one with bright hair said—had a different story of capture than Hugh Buchanan, who came home a returned POW, experienced.

There is one other discrepancy between the two captures. And that is, Hugh Buchanan was captured by somebody he felt would be in his forties right now, while the man who captured the bright-haired pilot was apparently in his 70's.

Congressman Pete Peterson testified under oath before the House Committee that he was interrogated with my father's I.D. card and dog tags, both of which were in impeccable condition. There was an interrogation report in our file, and it describes the capture of a U.S.—

Senator REID. I am sorry. Congressman Peterson was?

Ms. QUAST. He was a POW.

Senator REID. But you say he was interrogated. And what about the dog tags?

Ms. QUAST. He was interrogated with my father's dog tag and I.D. cards. He was pulled out and he was individually pulled out and asked how he knew Colonel Robertson. And he was shown my father's I.D. tag and dog tags. At that time, he said they were in impeccable condition and he could only assume that the body or person of my father was also in the same impeccable condition. He never did see my father, though.

Hugh Buchanan never stated Robertson went down with his plane. He stated he did not know what happened. My father's commanding officer felt that Colonel Robertson could have survived the crash and been taken prisoner. Successful experience ejecting from a burning aircraft was something that my father had before. In Germany he did the same thing and was commended for that. He was a category two. His supposed remains that were returned were actually found to be an animal bone and a rock. The remains of Colonel Robertson have never been returned to the United States or identified in Southeast Asia.

In August 1990, DIA received a live-sighting report on my father. In October 1990, they received a photograph with my father's name on the back, as well as Lt. Cdr. Stevens, as well as fingerprints. The photograph was positively identified by the family.

I traveled to Cambodia with that and spoke with the man who said that he had been a guard at my father's prison and had allegedly spoken with my father. DIA received over eight live-sighting reports stating that my father was seen somewhere in—throughout Laos, Cambodia and Vietnam.

And my sister also traveled to Hanoi and spoke with the person that felt the person he captured could have been my father.

This is all proof that goes to substantiate why he could be alive. The only thing that could possibly substantiate his death is a villager report that said he disintegrated in the aircraft. Yet, my father's file is one of the Vessey 57 discrepancy cases where fate has been determined. There's a lot of evidence to suggest my father could still be alive, but they still closed the case.

I want this case to be returned back to an active discrepancy case, or I'd prefer that the Committee take a look at the file and see if there is indeed evidence to have found fate determined in that case.

The reason that this concerns me as much as it does is the emphasis on the road map—that the road map places on resolving discrepancy cases. It states that the Vietnamese need to cooperate fully to resolve the discrepancy cases, provide witnesses to resolve these cases. However, what I was hearing the last 2 days from various people testifying is if we ever receive a live American from Vietnam we will never normalize.

I'm just asking what the message is we're sending, because I'm confused. It sounds like we're saying, if you ever return a live American we'll never normalize with you. But if you want to normalize, we have to resolve the discrepancy cases. And I'm just hoping the Committee can clarify that for me.

The third part I just want to touch upon is quickly to address the access to information. I have been promised at a very high policy level access to my father's file, but denied access by those people that have testified before this Committee when I went to see the file. I'm asking what is the policy and who actually runs the show for the POW policy.

We've been told that families have access to all information in the files. In our case, that's simply not true. There is another photograph that's not the same. We saw that at the Defense Intelligence Agency, and we simply have not been able to see the report that that photograph came in with. There is an October 18 report that was sent to the Stevens family about Robertson, yet we've not received it.

There's also another—the analyses of the photo we have not received. The reason I'm bringing that up is our casualty officer went into the Defense Intelligence Agency this morning, compared notes, and gave us a report from 1988, but those three are still missing. What I'm saying is I don't believe the family is indeed getting all the information.

The last point I just want to touch upon is I've spoken to people in the DIA POW office. This person is in a position to know. I feel that what they told me was when Mike Peck was in office—I just want to state this for the record—that there was more excitement and more interest toward the live POW issue during Colonel Peck's tour than at any other time, either prior or after his tour.

Mike Peck stepped outside of Pentagon policy when he let me talk to a source and actually get this photograph. And he did something that was extremely decent. When he walked out of the Pentagon with me that day he knew he had just kissed his career goodbye. I just want to say I hope that we can look at the policy that enables people to keep this secrecy and not let that happen again. [The prepared statement of Ms. Quast follows:]

PREPARED STATEMENT OF SHELBY ROBERTSON QUAST

I am the daughter of Col. John Leighton Robertson, POW. I will testify on behalf of the Robertson family. I want to state for the record that the Robertson/Lundy/Stevens photo has never been found to be a fake or a hoax. It has never been found in a Soviet magazine.

I will present compelling evidence that Col. John Leighton Robertson could still be alive and in captivity. My father is currently included in the 57 Vessey Discrepancy cases where fate has been determined. There was no basis for this decision. My father's case should be taken out of this category and put back into the active discrepancy cases. I have requested that this be done numerous times and I am hoping that the Select Committee will feel compelled to help me.

I would also like to discuss the emphasis the State Department's places on resolving the discrepancy cases in the road map for normalization with Vietnam. It appears that the Vietnamese may be pressured into resolving these cases even when there is not credible evidence to do so. My father's case is a strong example of this.

There seems to be a great deal of confusion surrounding who actually runs the show regarding the POW issue. It seems that DIA's special office for POW's can override decisions and policies made at a much higher level. DIA's special office for POW's has not provided the Air Force casualty officers or the family with all the reports they have received despite repeated requests, and they continued to deny access to analyses that have of the Robertson/Lundy/Stevens photo.

Why is policy still in place that enables the POW issue to be surrounded in a shroud of secrecy?

There are a lot of questions surrounding the POW issue and I am asking that you help us get to the truth. It may be difficult to navigate around the policies and economic pressures to normalize but it is our responsibility to get to the truth regarding our POW's, mine as a daughter and yours as Members of the Select Committee on POW/MIA affairs. My father deserves at least that much.

There is compelling evidence that Col. John Leighton Robertson could still be alive and in captivity from the Vietnam war.

Vietnamese villager stated that in September 1966 he captured a pilot with "bright hair" while a man from another village within the district talked of capturing a pilot with dark hair. Colonel Robertson had blond hair while his back seat pilot had dark hair. The villager felt he recognized a photo of John Leighton Robertson as the "bright haired" pilot he captured September 16, 1966. (Documented on October 1991 trip to Hanoi. Film footage available upon request from Deborah Robertson Bardsley.)

Villager stated that after capture of "bright haired" pilot, he walked him to his home; while waiting for officials a college student came and had a conversation in English with the "bright haired" pilot. Hugh Buchanan did not speak to anybody who spoke English while waiting for officials.

Could it be that two pilots were indeed captured September 16, 1966 and that the student that spoke with the bright haired pilot was one of the students from the Super phosphate plant sighted in the attached CIA document. The pilots taken to this plant were reportedly handed over to the Soviets and Chinese. Is it possible that Colonel Robertson went into a separate prison system from the initial point of capture—and that records may have been altered from the beginning.

The villager who captured the dark haired pilot is now in his forties, Hugh Buchanan stated that the villager who captured him in 1966 was in his twenties. The villager who captured the "bright haired" pilot is now in his seventies.

Vietnamese official stated he knew of the villager that captured Colonel Robertson.

Interrogation report No. 503-68 included in Colonel Robertson's file, provides information concerning the observation and description of a U.S. pilot downed over BAC Giang Province, NVN. The description of a blond haired pilot in his forties could match that of Colonel Robertson, but not Hugh Buchanan. Hugh Buchanan was 21 and Colonel Robertson was 36 in 1966.

According to district officials in Vietnam, only one plane crashed in this province during the entire period of the war. Two individual pilots appear to have been captured in this province September 16, 1966, not just one.

Congressman Pete Peterson, former POW, testified July 31, 1991 under oath before the House Subcommittee on POW's that he was interrogated with an ID card and dog tags, both in impeccable condition, belonging to Colonel Robertson.

How did the Vietnamese get the ID card and dog tags of Colonel Robertson? If Colonel Robertson went down with a fiery aircraft, how did his ID card and dog tags survive the crash without damage? How did the Vietnamese know that Colonel Robertson knew Pete Peterson. They were not in the same squadron, but know each other prior to Vietnam. Is it because Colonel Robertson questioned his captors about the fate of Pete Peterson who had been shot down 6 days earlier?

Lt. Hugh Buchanan never saw Colonel Robertson after Lieutenant Buchanan ejected. Hugh Buchanan never stated that Colonel Robertson went down with the plane. Hugh Buchanan is available for comment.

Colonel Robertson's commanding officer felt that Colonel Robertson could have certainly survived the crash and been taken prisoner. He extended his MIA status beyond the 12 month reevaluation period.

Colonel Robertson had experience successfully ejecting as a pilot is less than ideal circumstances. In 1956, while stationed in Sembach Germany, his plane blew up in the landing pattern. He safely ejected from his aircraft at less than 300 feet above the ground, he was awarded caterpillar wings for a successful forced ejection below 300 feet. Colonel Robertson was continuously evaluated as being level headed, even when under extreme pressure.

Colonel Robertson was classified in category 2—a status reserved for men about whom the U.S. government had suspicion that the enemy had further knowledge.

Colonel Robertson was listed as one of the 119 Vessey discrepancy cases. A U.S. team traveled to Vietnam to "resolve" the discrepancy case.

March 1990 JCRC investigation of case 0459 (John Robertson). Team spoke with villagers that had several contradictory stories. The team chief stated that the villagers were nervous and hesitant to provide any information regarding this case. The U.S. Hanoi office recently stated that they suspected the villagers had been coached as to what to say. Not one of the villagers saw a dead body, yet "alleged" remains were turned over to the U.S.

April 1990, the Vietnamese returned the above mentioned "alleged remains of Col. John Leighton Robertson. Upon investigation of Box 2 with the name John L. Robertson attached, received during the April 10, 1990 repatriation, CILHI found the skeletal material consisted of three bone fragments, all of them from a large mammal the size of a horse or cow. In addition there was a piece of non-bone material, possibly a rock. No remains were received in this repatriation that can be identified as Robertson. No remains identified as John Leighton Robertson have ever been returned to the U.S. or identified in Vietnam.

Vessey discrepancy case of Colonel Robertson became one of the 57 Vessey discrepancy cases where fate had been determined, this determination was agreed on by the Interagency Committee. Vietnam states at every opportunity that this case has been resolved. Resolution of the Vessey Discrepancy cases is an integral part of the State Department's roadmap for normalization with Vietnam. Vietnam may be under pressure to resolve discrepancy cases even when they do not have any evidence to accurately or truthfully do so, the Interagency Group, DIA and JCRC did not question this flagrant lack of evidence, but agreed with the inaccurate analysis. Why? Is it possible that the groundless analysis used to "resolve" the case of Colonel Robertson was a calculated effort to further the normalization effort?

August 1990 DIA received live-sighting report of Col. John Robertson and LCR. Larry Stevens.

October 1990. DIA received faxed copy of photo and another live-sighting report of Colonel Robertson and LCR. Stevens. The photo had the names of these two individuals written on the back. This photograph was accompanied by finger and palm prints allegedly of Col. John Robertson. However, the finger prints of John Robertson, Albro Lundy and Larry Stevens are missing from ALL U.S. government files. No comparison can be made to the finger prints received. Where are the finger prints? Why were they removed from the files of each of the men pictured in the photograph?

The Robertson family positively identified the photo as being that of Col. John Leighton Robertson.

Shelby Robertson Quast traveled to Cambodia and spoke with a man who claimed to have been a guard at a Vietnamese prison camp where Colonel Robertson was

held. He claimed to have spoken directly with Colonel Robertson and identified him as the man on left of the photo.

DIA has received over seven live-sighting reports of Colonel Robertson, of which I am aware. DIA had knowledge of the person who allegedly took the photo and where the photo was taken. Copies of these reports are available on request. The location of the place of captivity was independently reported to us by a retired NSA crypto linguist, prior to receipt of the first hand report that DIA has in its possession (DIA denied to Shelby Quast ever having this information). This report available upon request.

October 1991. During trip to Hanoi, Deborah Robertson Bardsley spoke with villager who claimed to have captured "bright haired" pilot that he identified as likely being Robertson.

Independent analysis of the Robertson/Lundy/Stevens photo and a photo of Colonel Robertson taken prior to September 16, 1966, finds identifying matching points of Colonel Robertson and the person pictured on the left in the Robertson/Lundy/Stevens photo identified as Colonel Robertson. This analysis includes an identifying mark that has increased substantially in size when compared to photos taken prior to September 16, 1966. This shows that aging has occurred. Presentation of identification analysis and video footage available upon request.

The above evidence as to why Col. John Leighton Robertson could still be alive and in captivity is very compelling; yet Colonel Robertson is still listed as one of the 57 discrepancy cases where fate has been determined. The only evidence to support this finding of fate is the contradictory statements of Vietnamese villagers.

Shelby Robertson Quast has requested numerous times that the analysis used to determine the fate of Colonel Robertson be reviewed. The case of Colonel Robertson should be returned to its original discrepancy status; there is absolutely no evidence to support the analysis that led to the determination of fate; while, to the contrary, there is information to support the fact that he may be alive.

#### STATE DEPARTMENT'S ROAD MAP FOR NORMALIZATION

Phase I of the State Department's road map for Normalization with Vietnam.

After the signing of the Paris Agreement for a Cambodian political settlement Vietnam must:

—cooperate fully to resolve quickly the remaining unresolved "last known alive" discrepancy cases through unilateral efforts, to include providing the necessary witnesses and historical records to facilitate joint investigations.

The signing of the Paris Agreement took place October 23, 1991.

It appears that the State Department and the Administration are pressuring Vietnam to resolve the remaining unresolved discrepancy cases; to provide witnesses and historical information that will effectively close the case. No where in the road map is there a demand for live Americans.

Criteria to be a Vessey 1 & 2 discrepancy case: high knowledge ability of Communist governments, included are the last known alive on the ground cases.

This appears to be exactly what took place with the case of Col. Robertson. He last listed as one of the 119 Vessey discrepancy cases, the Vietnamese provided the "necessary" witnesses to resolve the case. The contradictory statements of these witnesses was accepted to quickly resolve the discrepancy case. Thus complying with the State Departments criteria for normalization. While the evidence that compels one to believe that Col. Robertson could be alive was not even followed up.

Why did the Inter Agency Committee, made up of the State Department, the Department of Defense, National Security Council and National League of Families that fate had been determined when no credible information had been presented.

The Vietnamese have officially stated on numerous occasions that they would like the names of the individuals providing information of live American POW's so they can be punished. Why does the U.S. government provide raw data of live sightings and complete with names and locations to the Vietnamese government, when the families can't see this information. Why doesn't DIA attempt to speak with these individuals instead of giving the names to the Vietnamese so they can be punished?

#### WHO IS RUNNING THE SHOW

Shelby Robertson Quast requested to debrief her trip to Cambodia with the person she traveled with to DIA's special office for POW's. She was refused because policy did not allow family members to debrief with nonfamily members. It was prohibited by policy. DIA refused to review the policy despite numerous requests by the family and the Air Force.

Shelby Robertson Quast requested to see the 22 pages of information regarding the Robertson/Lundy/Stevens photo referred to in DIA's 7 page analysis. Carl Ford assured access to this information to both Albro Lundy and Shelby Quast. When Shelby Quast attempted to see this information she was denied access by DIA. How is it that DIA's special office for POW Affairs can override a decision made by Carl Ford.

Shelby Quast submitted a list of questions regarding the Robertson/Lundy/Stevens photo to Carl Ford's office July 21, 1991. She was informed on July 22, 1991 that the questions had been answered by Carl Ford's office; but they had been sent down to the DIA special office for POW Affairs. Shelby Quast has never received a response to these questions despite numerous requests. Why does the DIA special office for POW Affairs approve questions answered by acting Assistance Secretary of Defense? Who is running the show?

Shelby Robertson Quast requested through the FOIA to see all versions of the Robertson/Lundy/Stevens photograph. At a meeting with Bob Sheetz and Chuck Trowbridge of the DIA special office for POW's, she was informed that there was only one version of the photograph. Yet when Chuck Trowbridge showed Albro Lundy and Shelby Quast copies of the photo, there were clearly two separate versions of the photo. One, the highly publicized version, and the other showing a great deal more of the bodies of the men in the photo. How many other pictures of these three men exist. When Shelby Quast contacted the Air Force Case officer regarding the other photo, she was informed that the AF had never received that information from DIA's special office for POW's. Is DIA's special office for POW Affairs picking and choosing what information they share with the military and the family?

Shelby Quast requested to see the original of the above mentioned photo. She scheduled an appointment with Chuck Trowbridge to see the original photo along with the source of information and report. She confirmed her appointment with DIA; yet when she arrived at DIA the photo had allegedly been sent to the lab and Mr. Trowbridge did not have the accompanying report handy. Shelby Quast has called DIA several times since to see the original photo; she has been told each time that it is not available.

Shelby Robertson Quast had requested to see her father's file. She was told that policy prohibited access to the file and was referred to Carl Ford. Carl Ford stated that she could have access to Col. Robertson's file; however when she made the appointment, confirmed her intentions with Carl Ford's office and Col. Jordon's office, she was denied access to Col. Robertson's file by Chuck Trowbridge of DIA's special office for POW Affairs. Shelby Quast was simply informed that Carl Ford misspoke. Who actually sets the policy, why can Chuck Trowbridge override a change in policy made by Carl Ford. Who is accountable?

The family of Col. Robertson has been continually told that they have all the information in the file. However, it is a fact that they do not. The fact that another photo exists along with an accompanying source report that neither the family nor the Air Force has is proof that there is information in Col. Robertson's DIA file about which the family has not been informed. Why is POLICY being used to enable DIA to keep information from the Robertson family and the Air Force regarding Col. Robertson?

Why does the DIA give the families and the Air Force sanitized live-sighting reports, why the forward raw data including source names and locations to Vietnam?

At a meeting with Bob Sheetz and Chuck Trowbridge, Shelby Quast and Albro Lundy were informed that DIA did not have any information regarding the person who purportedly took the photograph; yet Shelby Quast has a live-sighting report that states otherwise. Why was this information denied?

Despite numerous requests, Shelby Quast has never received any information regarding alleged follow up of any of the 22 live-sighting reports mentioned in the DIA 7 page analysis. No one in the U.S. Hanoi office has been tasked to follow up on any of the live-sighting reports on Robertson, Lundy or Stevens. They have not even seen these reports. Is anyone at DIA or DOD actively following up on any of the live sightings? If so, why is the family being denied the information?

Despite numerous requests in person, in writing and through FOIA, Shelby Robertson Quast has never received any of the analyses or photo overlays of the Robertson/Lundy/Stevens photograph that DIA mentioned in its 7 page analysis. Why is the family denied access to the photo analyses?

Why is the U.S. government allowed to stand behind a policy that enables them to deny access to information regarding POW's; when the war has been over for 18 years.

Why can Chuck Trowbridge override a policy decision made by Carl Ford? Who is accountable? When Shelby Quast questioned how Carl Ford could assure her access

to her father's file on one day and the next day she could be denied access, she was simply informed that Carl Ford misspoke.

Senator SMITH. I just want to interrupt for one quick question, Shelby.

Did you get any official explanation on the Pho To photo? Did you get any official explanation as to what that means?

Ms. QUAST. No, I've never seen anything official.

Senator SMITH. Are you aware that there is?

Ms. QUAST. Well, not from the Defense Intelligence Agency.

Senator SMITH. Did you, from the Defense Intelligence Agency?

Ms. QUAST. No, we received one from a retired intelligence—

Senator SMITH. What did you get on that?

Ms. QUAST. He was able to decipher it as being a particular location.

Senator SMITH. Just for the record it is. There is a village in Hanoi on the road from Son Tay to Vinh Yen called Pho To. I have not even—and I just want to say for the record that I have had a number of discussions with Government officials on that point on that photo. I was not told that but I did find it out on my own by simply looking at a map, which I should have done in the first place. But again, it is interesting how you have to elicit information.

I just wanted to ask one other question and we will get right back to you.

Just for the record here, when did you and how did you find out about this photograph?

Ms. QUAST. I first found out that there was a live-sighting report from the Stevens family, because my father was mentioned in a report sent to them. And I called DIA and went in the next morning. This was November 8 I found out; went in the morning of November 9. And while we were there they said, well, we've received a faxed copy of a photograph that is allegedly your father and Lt. Comdr. Larry Stevens. The names were written on the back.

The next morning I went in and asked to please speak with that source. I had found out from an analyst, Warren Gray, that the source, the Cambodian source in California, had been trying to give them the photo. He did not want to send it through the mail, but felt there was an extremely tight time constraint and had asked DIA to please come and get it or bring him out. Whatever they wanted to do, he wanted to pass this information on and get in touch with the families.

At that point Colonel Peck let me talk to the source, and I flew to California myself and picked up the photograph.

Senator SMITH. Were you told that the photo had been in the agency for a while?

Ms. QUAST. I've heard a lot of different things. I've heard that, yes, they've seen it since last July; then I heard no, it was only faxed in. I'm not exactly certain when they first saw the photograph.

Senator SMITH. I apologize for interrupting, please go ahead.

Senator REID. Mr. Chairman, one thing I do not understand is where Mrs. Quast, where you live?

Ms. QUAST. I live in Vienna, VA.

Senator REID. So you live in Vienna. And Mrs. Fleckenstein, where do you live?

Mrs. FLECKENSTEIN. I live in Big Bear Lake, CA.

I would like to add, if I may, just one little thing here on what she said about getting this information through Colonel Peck. All of what she was talking about, all of this was accomplished in well under 72 hours from the time news of the sighting report was first received by the families on November 8.

Yet, in a later letter dated November 10, 1990, 1 month later, deputy chief Trowbridge states DIA is still trying to interview the same source, and that source told Shelby that he had been trying to get hold of the family for 6 months and hadn't been able to—or allowed to.

#### STATEMENT OF DEBORAH ROBERTSON BARDSLEY, ROBERTSON FAMILY MEMBER

Ms. BARDSLEY. I'll just take a moment. I am disappointed that some of the Senators are missing. I recently returned from Hanoi, just 14 days ago, and it was actually due to a suggestion on the part of Senator Kerry. He called me when he returned from his trip and said that he thought it would be very enlightening for me to go over there myself. When I received an offer from Scottish Television that they were making a documentary on the POW issue and would like to extend an invitation to me to go to Hanoi and just document what it was that I could find out over there, I was very happy to take them up on that invitation.

I found out several things I never realized. That I was the first family member to actually, in Bangkok, go to site 2, which is a refugee site of about 192,000 refugees, where a lot of the live-sighting reports on POW's come from. I was the first family member, I understand, to visit Stony Beach and JCRC in Bangkok at the American Embassy. I understand that I was the first family member to go to the American Hanoi Office. I was the first family member to go to Son Tay Prison. I was the first family member to meet with Mr. Dich, the head of the Vietnamese MIA office, Mr. La Bong, the deputy director of the Department of Americas, Mr. Le Mai, the vice minister of the Department of Americas, Mr. Nguyen Co Thach and Mr. Kiet, the Prime Minister.

There are a lot of things I would like to talk about, however, Senator Kerry's aide told me that if I would like to talk about my trip I'd have to fit it into the 5 minutes allotted to my family to speak on my father's case, so I will just make myself available for any questions. However—

Senator SMITH. Any information you have you may provide for the record, and you may take a little more time if you wish.

Ms. BARDSLEY. Thank you very much.

A couple of things. As I think everybody has heard discussed here in the past few days, family members do not have access to source names or locations on sighting reports. When I was meeting with some of the Vietnamese officials they said to me, next time you come to Vietnam, why don't you bring us the names of the people who have told you these terrible things about these hoaxes. They provided me with a newspaper article from the Washington

Post in case I didn't know that our picture was a hoax. They said next time you come you bring the sources that have told you these terrible things and we will punish them.

As a matter of fact it was interesting, and reminded me that on July 26 the Vietnamese released a press release that said—it was regarding the Robertson-Lundy-Stevens picture. They felt—really, I guess, in shorthand that the picture was a fake and the guys were dead. That whoever had provided this photo deserves severe punishment.

Now, the day after this was put together, and actually the day that it was released, I understand that an American official was in Vietnam to speak to them about the picture, and Mr. Dich of the MIA office in Vietnam gave me some information that was given to him by this official.

I'll tell you I was really quite shocked and surprised to find that a Vietnamese official was giving me source names that were involved with the picture. I simply couldn't believe my eyes, frankly, especially, considering that he had just told me that they would punish these sources. And to find out that an American official had given classified information—after the past few days I've heard that is simply not policy for us to do that.

Senator SMITH. May I clarify? I want a clarification. The Vietnamese gave to you a list of sources that were provided them by American officials?

Ms. BARDSLEY. Yes.

Senator SMITH. Sources of collecting data?

Ms. BARDSLEY. Yes, names and locations, even, I see, of a government official in the Cambodian ministry who's involved in the Robertson-Lundy-Stevens picture.

Senator SMITH. So one of the sources listed was an official in the Cambodian ministry, and that source was provided to the Vietnamese?

Ms. BARDSLEY. Yes, it was.

Senator REID. How long were you in Vietnam?

Ms. BARDSLEY. I was in Vietnam for 5 days, and I feel like in my 5 days that I was in Vietnam I found out more about my father's case than I've learned from the Government in 25 years.

Senator SMITH. Would you submit for the record that list of sources? Would you be willing to do that, and who provided that list to you, or a copy thereof?

Ms. BARDSLEY. Yes, as I said, in fact I hope that what I'm saying is now being provided for the record. And I don't know, I tell you. I hesitate because if this is classified information I don't know that it is legal for me to turn it over to you now. I'm serious. I do have a copy here, and I can let you look at it, I guess. If an aide would like to take it up—

Senator SMITH. Oh, so it would not be classified.

Mr. LUNDY. This is classified information. This information is not provided to any of the family members—

Ms. BARDSLEY. Or Senators or Congressmen.

Mr. LUNDY. A high-ranking member of our State Department gave this list to the Vietnamese.

Ms. BARDSLEY. Also, along with this list, once again to my surprise, I do realize that some of the sighting reports in regards to

the Robertson-Lundy-Stevens picture are classified, and that we family members cannot see this information. So I was once again very surprised that a Vietnamese official gave me a classified sighting report that lists the location of the camp that these men were allegedly held in, the name of the general who runs the camp, and the name of the man who took this picture, and described that it was taken in front of a specific kind of trees.

My sister, Shelby, right before I left to go to Hanoi, implored the Defense Intelligence Agency to please let her look at the files, asked if there had ever been a report made that had to do with any person that may have been involved with taking this picture, and was told at that time that no such report existed.

Now, this is one of the really quite surprising things that I found out on my 5-day trip to Hanoi. Once again I would be happy to answer any further questions.

Senator SMITH. All right, I think that—

Ms. BARDSLEY. Excuse me, if I could add one thing. I was very interested to hear that one of the sources on this list, Colonel Cole testified yesterday, is now missing and unable to be found in connection with the picture. And, I'll tell you, I'm concerned that a list of sources is given to the Vietnamese when they say they want to punish sources, and then I hear from Colonel Cole that one is actually missing. I have some questions and concerns about this.

Senator SMITH. We have some questions about it, too, and we will take those up, I assure you, with the officials involved.

Mr. Lundy, I think you are the last witness in the group, and so why do you not proceed for a few minutes, and then we will try to take some questions.

Mrs. FLECKENSTEIN. Can I just add one thing? Judge Gayden just gave me this note. He said that I should mention the fact that there is a hair root sample of my son also, and all of my family has sent hair over there to be analyzed.

Senator SMITH. Your comment there made me think of something, and now I apologize—we will get right to you in a second. How many people here in the room are either current military or former military—members of the military—just raise your hand?

[Show of hands.]

Senator SMITH. If you were fingerprinted when you went in the military, would you put your hand down?

[Show of no hands.]

Senator SMITH. There is not a hand remaining, let the record show. I am absolutely amazed that whether these fingerprints that are being presented to us in the name of a prisoner or allegedly prisoner—are accurate remains to be seen, but I am absolutely flabbergasted that we cannot find fingerprints on record anywhere in the service record of military personnel. The first thing that happened to me when I went in was I was fingerprinted, and apparently everybody else here was too.

So I am just going to put all officials in control of these on notice that I intend to know why, in the case of all of the live-sighting reports, and all of the individuals involved in those reports, why we do not have fingerprints in the service jackets of those individuals. And if you do not know why you better start looking because I want to know why. [Applause.]

Mrs. FLECKENSTEIN. Senator Smith, that isn't all of it either, because I—when I was looking to get fingerprints I went to the Hall of Records in downtown Los Angeles. They had no birth certificate on my son, but they have on the other two of my sons. I went to Sacramento; they have no birth certificate on my son. DMV, the hospital records, there are no fingerprints to be had anywhere.

Senator SMITH. I do not understand that, but we will find out about it.

Al, go ahead.

Mrs. FLECKENSTEIN. Thank you very much.

#### STATEMENT OF ALBRO L. LUNDY III

Mr. LUNDY. Thank you for allowing me to speak on this. I again want to stress for the record, Senator Reid and I had a nice conversation in an elevator about this particular photograph and about my father. I have asked one photo analysis that we've done to be passed around to the Senators. It's a simple photo overlay. It's done on acetate, and if you take a look at it—you just lift the acetate up—one of the photos is my father as a younger man and then the other photo is the copy of the photo drawn out. You see that it matches perfectly. All the features are the same, the head shape is the same, everything with regard to the photo is exact. That's a very simple analysis, something that could have been done very easily, I think by the Government immediately, but has never been done, or at least has never been provided to us.

I'm going to start out telling about the Lundy family a little bit, and about Maj. Albro Lundy because I think he is the reason and those men are the reason that we are here. My father, still serving in Vietnam right now, went over in 1970, a highly decorated individual, I've put in the record. But we were told he was killed Christmas Eve, 1970. The Government told us that, and my family—6 children ages 12 to 9 months old, and my mother accepted that and it was brutal. I almost lost my mother at the same time I lost my father because of the closeness of that relationship.

But my mother worked very hard to get over it. She went to law school. Myself and my older sister worked very hard helping raise the children.

We never thought twice about my father being alive. There were some mysteries with regard to the circumstances of his accident—incident. We didn't have those cleared up for us, but we never thought twice. To us he was dead. It was very difficult to get to, but to us he was dead.

I was approached by an individual named Scott Barnes in 1981, I guess. Scott Barnes said that he had been in the embassy, in the CIA, in Thailand—Bangkok, Thailand—the CIA portion of the embassy. And he had seen an individual file, a secret file, a top-secret file given to him by Colonel Mather—Paul Mather, who I think, interestingly enough, has been rehired by the DIA. And that Colonel Mather said here's someone we've had reports about. He might be alive. Now this is CIA information by the way.

Our family—and I brought this man—I met him by coincidence in church. My name is Albro Lundy and my father's name is Albro Lundy, and he had seen a visitors' roster and approached me. He

said I would like to tell you about the information. He had information about my father's case that I didn't have with regard to the circumstances of the accident, the individual area where he went down, things that the family hadn't been provided. He said your father may be alive.

We said, thank you very much. We think you are very well intentioned, but we know you're wrong. My father is dead. And we sent Scott Barnes on his way. Scott Barnes never again contacted me until this photo came out.

In 1985, I finished law school and I said, you know, I wonder about the mysteries. The mysteries were my father's parachute opened, but they said there was no one in it. I didn't understand how a parachute could deploy without any weight in the parachute. There had to be somebody there and I've spoken to parachute experts about it. They say you've got to have some weight on a parachute for it to deploy.

So I wanted to talk to the witnesses. I figured there were witnesses to my father's incident. There's no way they could call him killed in action, body not recovered, unless they had some witnesses.

So I wrote a FOIA, and I want to direct your attention to this blow-up here. You have it attached in the bound copy of my statement. So if you cannot read it, but the part that is highlighted says specifically, this is all the information in the file, there were no witnesses to this incident. Then down at the bottom, I just want to highlight there, it says, sensitive to the people. That is from the Air Force, that is the DOD, that is my contact. There were no witnesses and Albro Lundy, just graduated from law school, said this is the official Government response to me, and I didn't look any further. I believe there are no witnesses.

I'm a family of military background. We believe our Government. We know our Government. We trust our Government. My father was the ultimate patriot. I didn't look any further. There were no witnesses.

Judge Gayden sent me a letter, Easter of this year. He says, I have information about your father, who might be alive. I say to myself, another one, my father is dead. But I call him up because this time I am interested; I want to follow up the leads, and he has got basically information which I did not think could come from just anybody about my father.

He has got my father's Social Security number, he has got my father's birth date, he has got his correct rank, and he has got his correct name, Albro Lundy, which is as unique as his Social Security number. And besides, he is dead.

I said, where is this information coming from and why would somebody bring information about Albro Lundy out; he is dead. No one would be so stupid as to try and pull a hoax; he is dead. I had better follow this up a little more. Because I could not understand where that information came from. So I start writing.

Actually what happened is, a little while after that, my mother got information from the government, the same, very same information that Judge Gayden had sent to us in a TWX. In that TWX it had a cover letter, and Chuck Trowbridge was the person that

had written the cover letter. He said, disregard this information; it really is nothing but a dogtag report.

My mother did not look any further. She took that and threw it in the trash. My father is dead. She threw it in the trash. I said, Mother, I would really have liked to have seen that. I had to get my own copy. I called up and got a copy, and I read through it again, and I said, well, dogtags do not have birth dates on it. Chuck, how could that be? Why did you call this a dogtag report?

Chuck has not responded to me as far as that is concerned.

Senator REID. Who is Chuck?

Mr. LUNDY. Chuck Trowbridge. I am sorry to be so familiar. He testified here earlier. I said, well, I am going to read the report itself, because it was basically a letter purportedly written for my father with this information. I did not believe much of the information on it. But I did not know where that correct information had come from, and that was very unusual to me.

And I saw something at the bottom of the letter that amazed me. It said thumbprints. Now, I did not get the original; I got a transcription. But it said thumbprints.

Senator REID. Is this from the judge?

Mr. LUNDY. No, this is from the DIA. And nowhere in the cover letter that said disregard this did it mention these thumbprints. Nowhere. And so I called up and I said, there is thumbprints in the original; have you checked? Have you checked my father's thumbprints? I think we can get rid of this right now.

Because to be honest with you, I did not tell my mother anything about the investigation I was doing. I opened the case as a case in my law office, and I was going to disprove it because my father was dead; this was a hoax. I spent literally thousands and maybe tens of thousands of dollars worth of man-hours trying to disprove this case.

I did not want to bring it back into the family. My father was dead, and I knew what this would do to our family if I brought it up again. Three and a half months worth of investigation before I told anybody in our family about this.

You know what I was told when I asked about the fingerprints—have you checked the fingerprints? Now, this has been in the DIA's hands now for 5 months. They said, we do not do that unless the next of kin requests it. That was the response.

I said, well, I am next of kin. And they said, no you are not. I said, well, what do you call me. No, you are not next of kin; your mother is next of kin.

So we had to go through a little formality. But I requested it, and I got an answer back: There are no fingerprints in your father's file. There are no fingerprints to check on him.

I said, my father had top secret security clearance, nuclear, intelligence. He was ROTC, went to regular. How could there not be fingerprints in my father's file? And then I looked through the file very carefully. Here is the—I would like to draw your attention to this next blow-up, and it says right there, there is a letter in his file, it says, attached are forms and fingerprint cards on the above subject.

Senator REID. But look at the date on it.

Mr. LUNDY. Right. But they do not throw anything away. That does not make any difference when the date is; 22 of December, 1954, that means my father was fingerprinted and the card was in his file. Then, more importantly, look down there on the bottom, it says, "National Agency check is completed on this individual." That means the fingerprints were good. That means Henry classification cards had been done. That means my father's fingerprints had been checked out in the Government, and the Government had a set of fingerprints in his file, that very file I was looking at.

Much to my amazement, when I flipped it over to find the attachment, there was no fingerprint card attached, nor were there any Henry classification cards. I cannot understand that. I still cannot understand that. It is absolutely unbelievable.

This is a smoking gun letter, that there is cover-up in our government. It could not possibly happen if there was not, because guess what? Somebody had to pull that card from his file; it just does not magically disappear, or they just forgot to take out the cover letter.

The CHAIRMAN. Well, we are going to inquire when the folks come back next week.

Mr. LUNDY. Moving on to the photo itself—

The CHAIRMAN. We need to do that. We need to try to wrap this up. I am not trying to cut you off, but I just need to.

Mr. LUNDY. I understand. I felt that was probably the most important aspect with regard to the Government's response.

The CHAIRMAN. Have you ever asked them about that?

Mr. LUNDY. I have letters.

The CHAIRMAN. About the fingerprint thing, though.

Mr. LUNDY. Right—

The CHAIRMAN. And their answer to you is what?

Mr. LUNDY. There are no fingerprints—

The CHAIRMAN. No, but as to why, as to what happened?

Mr. LUNDY. "We do not know. We are very sorry." That is one of the most embarrassing things I can tell you. Carl Ford, if can quote Carl Ford—

The CHAIRMAN. Is it beyond the realm of possibility that it might be incompetence and not—

[Laughter.]

The CHAIRMAN. I am just asking the question.

Mr. LUNDY. One, two, three, all—

Ms. FLECKENSTEIN. All three of them, they were highly cleared for security.

Mr. LUNDY. And it just so happens that there are pictures of all three, legitimate pictures, that is what I want to get to, because I did photo analysis. Before I would even take this to my mother, before I would even bring it up, I made sure in my own mind that my father was alive.

Let me put it this way, that I had enough evidence that somebody would not have to prove to me he is dead. OK? And I think that is what our Government should be doing right now, it should be saying to the Vietnamese, you prove to us he is dead; you prove to us all of these guys who are missing are dead. It is not our responsibility to prove they are alive because they know they are alive.

We knew they are alive, and that is my father. This analysis, I had a 16-point analysis done. There are 16 facial features—and if you saw the overlay, it is obviously recognizable—16 facial features of my father on one to the other. It is him; there is nobody that is disputing that. The only people have been the DIA who said they are inconclusive, they do not have a result. Inconclusive is all they have said as far as it being him.

But I went to my mother July, I say July 5, probably, and I said, Mother, I have got information, you need to know about it. I think now is the time you should hear it. She did not hear any information, she just wanted to see the photograph. I said, let me brace you. She just wanted to see the photograph. Minutes later, after she saw the photograph, she said, that is your father. Absolute identification.

We do not need anything else. All of our families know, we absolutely know those are our parents or sons. We do not need another analysis.

The CHAIRMAN. May I ask you a quick question there? Apparently some other families claim it is theirs.

Mr. LUNDY. Is it not interesting that the other families, and we are tight, families of POW's and MIA's—and I was not part of this 5 months ago, I could not even think about POW's. My father was dead. We are so tight, they treat these people like sisters. She calls me her son, because we stick together; we have to.

None of those "families" that the DIA has talked about have come forward, have called and said, let me help you here, this is my son or this is my brother. Would it not be a relief to me? I am looking for the truth. If that is not my dad—

The CHAIRMAN. We are going to try to get at that.

Mr. LUNDY. I asked Chuck Gittins, I said, please, Chuck, contact those people. Please write them and tell them to contact me. I need to know, I need to know. I do not know if Chuck has done it or not, but they have not contacted me.

I do not even know, to be honest with you, if there are other families. Because I think they would have gone public, because if that is their man, they would want him home, too. They would be right here in front of you saying, I want my man home. And they did not do it.

The CHAIRMAN. Let me ask you one other sort of—

Mr. LUNDY. We could just ask Chuck that question.

Chuck, have you followed that up? That request I asked of you?

[Applause.]

Mr. GITTINS. [Inaudible.]

Mr. LUNDY. There you go.

[Applause.]

The CHAIRMAN. I did not hear what he said.

Mr. LUNDY. I asked Chuck if he had followed up the request I had to forward my name and a request that the families contact me, to those "other two families." And he did not know what I was talking about.

Mr. GITTINS. He has not made that request to me, sir.

Mr. LUNDY. That is an absolute untruth. I have made it two different times, once at the Pentagon and once at the POW Task

Force hearing that I did in front of Chairman Solarz. Twice. I have not done it in writing; that is my mistake.

The CHAIRMAN. Let me gavel this quietly back to order and see if we can try to pull this together.

Mr. LUNDY. I will finish up here.

[The prepared statement of Mr. Lundy follows:]

#### PREPARED STATEMENT OF ALBRO L. LUNDY III

In March 1970 at the age of 37, Maj. Albro L. Lundy, Jr. said goodbye to his parents, wife and six children to answer his country's call. In the face of extreme controversy about a conflict half a world away, he unquestioningly went off to fight for freedom against an enemy known as communism. He is first and foremost, a patriot. Major Lundy is a fighter pilot but his military record shows far more. Prior to his assignment to Southeast Asia, he had taught German Luftwaffe pilots how to fly America's best planes. Upon return from his tour in Vietnam, he was to be assigned as the military attache to an Eastern European embassy (he went down just 12 days before his rotation home). Major Lundy had also served at Space and Missile Systems Organization (SAMSO) where he had designed weapons systems and operations. This assignment came after he had completed his master's degree in Human Factors.

In addition to his family, his love was flying and he was very skilled at it. During the first 8 months of his tour in Southeast Asia, Major Lundy was awarded the Silver Star, 2 Distinguished Flying Crosses, the Air Force Air Medal and 6 Air Force Commendation Medals, (Fourth through Ninth Oak Leaf Clusters.)

#### FACTS OF LOSS INCIDENT

On Christmas Eve 1970, Major Lundy was flying a med-evac search and rescue mission in North Central Laos over the Ban Ban Valley. Although two other A1E fighter groups had refused this mission, Major Lundy volunteered. Three Air America helicopters, two Raven forward air controllers, an Air America C-7A and another A1E were flying on that mission. Major Lundy reported having a rough engine and that he needed to leave the airplane. Subsequent intelligence analysis indicated that his engine was hit by groundfire, as the area was heavily defended by both North Vietnamese and Pathet Lao ground troops.

Major Lundy announced that he was leaving the airplane and the observers watched an apparently normal chute deployment. One observer reported seeing someone in the chute initially, while other observers reported that no one was in the parachute as it neared the ground. Ground rescue teams were unable to reach the parachute site as the area was very hostile and casualties were taken.

Major Lundy was declared MIA, survivability rated as Category 1 (indicating out of aircraft at time of crash—Attachment 1). Two days later Major Lundy was declared KIA/BNR. There is no clear explanation given as to why he was declared KIA. Although combat forces try to make the best determinations they can in the face of uncertainty, this does not mean their judgments are infallible. For instance, Ernie Brace, who had been declared dead by the U.S. Government, returned alive in 1973 during Operation Homecoming I.

Immediately following Major Lundy's "death", and for 20 years thereafter, the Lundy family was given but a fraction of the above information. For instance, both the telegram and official condolence letter from the Commander of the 56th Special Operations Wing, Col. E.J. Walsh, specifically indicated that Major Lundy did not leave the aircraft and that "he died instantly as a result of the aircraft crash." (Attachment 2) Yet, one witness states that he saw Major Lundy in his parachute and the government to this day lists his survivability category as 1, meaning that he was out of the airplane. Additionally, the family was told that a parachute deployed from the plane, yet no adequate explanation has ever been given as to how his parachute could deploy if he went down and was incinerated in the plane. Finally, from whom, when, and where did any of this information come from? The family was not given any information to answer these questions or verify the facts.

#### FAMILY RESPONSE

Major Lundy's family accepted the KIA/BNR designation despite the mysteries surrounding the crash. The Lundy family went on with their life. Johanna Lundy went to law school, became an attorney and raised six children on her own. Major Lundy's loss was so traumatic to the family that they completely avoided the POW/

MIA cause even while the war was ongoing. The Lundy family accepted the death of Major Lundy so firmly that when Scott Barnes met some of the family at church in the summer of 1981 and said he had information that Major Lundy was still alive, the family said they were not interested in his information because Major Lundy was dead. Barnes approached the family because he saw Albro Lundy III's name in a visitor's book and recognized the unique name.

Scott Barnes reported on Major Lundy in his book *Bohica* on page 42. The Lundy family formally requests the Senate Select Committee to subpoena the CIA files on Major Lundy that are referred to in *Bohica* and to subpoena Col. Paul Mather, to question him about Major Lundy and all other POW's. (Attachment 3)

Major Lundy's eldest son, Albro III, had always wanted to speak to the wingman who watched his father go down and in 1985 he submitted a FOIA Request for his father's file and the names of the witnesses to his crash. The Air Force responded by sending Major Lundy's personnel and medical files but sent a letter stating that there were "no witnesses to Major Lundy's incident." Albro Lundy III accepted this letter as the truth and did no further follow-up. Despite this letter, when the Robertson/Lundy/Stevens photo was leaked to the media, the government immediately said that there were four witnesses to the "death" of Major Lundy. (Attachment 4)

Why did the government lie to the family when they knew there were witnesses and at least one witness statement? The government has lost all credibility in the family's eyes—they now want to see all the original documents for themselves. And so they should. There is no legitimate reason to classify these documents.

#### FIRST LIVE REPORTING OF MAJOR LUNDY

In the Spring of 1991, the government sent Johanna Lundy a transcription of letters purportedly written for Major Lundy. The government classified them as "dog tag reports" of an obviously fraudulent nature although the report contained correct information not found on a dog tag. Johanna's response was to toss them in the trash and mention it to her family in passing. This is another example of how firmly the family believed that Major Lundy was dead.

Albro III ordered his own set of documents and while examining them found a mention of thumbprints buried in the bottom of the transcription. It was difficult for him to understand why this wasn't mentioned in any of the government's analysis. Certainly this could prove or disprove the correct nature of the report and whether or not Major Lundy did survive.

Albro called his Air Force Liaison officer, William Frampton, about the case. His first question was, "Have you run the fingerprints yet?" Frampton replied that they do not check fingerprints unless the next of kin requests it. Lundy III was stunned. At this point it had been 5 months since the original documents were received. This is the "Highest National Priority" and the government does not even try to match fingerprints of a possible POW? The Pentagon leaves "no stone unturned" in their search for POW's and does not try to verify fingerprints? Lundy also noted that they also did not call the Next of Kin and ask if they wanted them checked or mention them in their reporting. In some cases the NOK may not even know that fingerprints exist to try matching.

#### MISSING FINGERPRINTS

Lundy's amazement at the cavalier attitude toward the fingerprints turned to shock when it was discovered that his father's fingerprints were missing from the file and no match could be attempted. In addition to knowing that his father had been fingerprinted at least 5 times, Lundy III possessed a letter from his father's file saying "Attached is Major Lundy's fingerprint card." (Attachment 5) His father's prints did not just fall out the file if they were attached to this letter. Someone had to take them out on purpose.

#### ENTER: THE FAMOUS PHOTOGRAPH

In late April, Judge Hamilton Gayden called Albro III and suggested he contact Gladys Fleckenstein, the mother of Lt. Comdr. Larry Stevens, because she might have a photo of Major Lundy. Gladys had had the photograph in her possession for almost 6 months and had never been able to identify the third man in the photo. The names of Stevens and Robertson were on the back of the photo Shelby Robertson Quast had obtained.

Gladys had previously been aware of the Lundy family name from a letter sent to her by Chuck Trowbridge of the DIA in February 1991 stating that Major Lundy was supposedly held with Robertson and Stevens (Attachment 6). Gladys requested the Lundy family address, however, the government would not release this informa-

tion. The fact that private individuals had to bring these families together is not so incredible when compared to the fact that the government possessed a 3-man photograph with an unidentified third man and independent corroborating evidence that these 3 men were being held together and never once contacted the Lundy family to possibly identify the third man. This blatant government malfeasance directly contradicts the stated POW policy of being the "nation's highest priority."

Upon receiving a copy of the photograph from Gladys's source, an American humanitarian worker who received the photo at Site 2, Thailand, Albro immediately submitted it to a preliminary photo analysis that showed the photo had not been tampered with, except for the label applied as the sign. Albro who wanted to protect his family, especially his mother, did not mention the photo or his investigations.

#### SECOND EYE-WITNESS ACCOUNT

On June 27, Lundy was called by the Air Force Liaison with a second-hand live sighting of his father, still reportedly held with Robertson and Stevens, that was received in January 1991 by DIA. As of September, 1991, the DIA still has not investigated this live sighting. This was confirmed by Bob Sheetz, Chuck Trowbridge and Warren Grey in a meeting with Lundy and Shelby Quast September 1991. In fact, when the question was raised at this meeting specifically about these men, none of these individuals, supposedly fully briefed on the case, even recalled the existence of a second live-sighting report. DIA had the report 5 months before giving it to the family and has still not followed up a live sighting now 9 months old on this highly visible case. If the families had been given the names of the sources and supposed locations, instead of having this information classified, the men might be home right now.

#### PHOTO IDENTIFICATION

Albro finally told his mother about the existence of the photo in early July, just prior to flying to Washington for the National League of Families conference. Johanna demanded to see the photo before hearing any corroborating evidence, and she identified the photo within minutes. "That is a picture of my husband," Johanna Lundy has said to the world. Nothing but an actual photograph of her husband would convince her that he survived. It took the weight of this picture, along with the other evidence, as well as the government's dishonesty and malfeasance to cause her to question the government's initial declaration of his death. "Why would they lie if they don't need to?" she states. This photo is also unanimously identified by all Major Lundy's relatives and friends.

This photograph has also been analyzed and the identity of Major Lundy has been confirmed by photographic and computer photo analysts. These analyses will be submitted separately upon request of the Committee. Particularly with Major Lundy there is an unmistakable correlation of Major Lundy's features in his young photo's to his aged image in the Robertson/Lundy/Stevens photo.

#### PENTAGON TREATMENT OF PHOTO

Albro Lundy III has made four trips from California to the Pentagon to see the file on his father and has been denied access each time. The first time occurred during the League of Families conference where the Robertson, Stevens and Lundy families all met together for the first time. When all three families questioned Pentagon officials during the League of Family Conference July 11-14, they all said they had never seen the photo before. Because of the families' definite identifications of the men in the photo, Carl Ford and Ken Quinn made plans to give the photo to the Vietnamese and request repatriation of the men.

On July 5 the photo was given to the Vietnamese and surrounding governments. On July 16, the photo was leaked to the press—not by the families.

On July 17, the Pentagon held a press conference saying the photo could not be proved authentic and "unnamed Pentagon sources" said the photo was a hoax.

Before Ken Quinn could even get to the bargaining table on July 25, the real OFFICIAL government policy was made quite clear to the Vietnamese; THE POW'S ARE ALL DEAD.

The Pentagon undermined Ken Quinn's trip to Hanoi to discuss the Robertson/Lundy/Stevens photo by releasing to CBS News a 7-page analysis discrediting the letters and therefore, by association, the photo, even though the two had never before been connected, on the eve of his meeting. This analysis, containing a plethora of errors and misinformation too numerous to cite here, was handed to nationwide news media before it was released to the three families involved. Carl Ford had promised the families prior to this that nothing would be released to the news

media without it first being given to all three families involved. When questioned by Albro III about this breach of his promise, not to mention policy, Ford responded, "I guess my word is not worth much. is it?" Absolutely not, says the Lundy family.

One of the most tragic results of this breach was the fact that Johanna Lundy was told by reporters over the phone that the analysis indicated that remains of her husband and his identification card had been found. The fact that the government would even have printed this information when it knew that Major Lundy flew sanitized, (meaning that he flew without any identification on his person because he was flying in the secret war in Laos), and that the official government line to Mrs. Lundy until this moment had been that he was incinerated in his plane, is nothing less than brutal and blatant dishonesty. The government has yet to make a retraction nor provide the Lundy family with any of the evidence they purport supports this lie.

The government has had this photo in its possession since June 1990 according to DOD News Briefing on August 6, 1991. A FOIA submitted in September requesting all copies of the photo and photo analyses done on it has still not been responded to by General Soyster. The families were told by Bob Sheetz that the photo was not sent to the FBI for analysis until July 1991. Why did it take the DIA one year to even submit this photo for analysis? Why does DOD continue to focus on any potential aspect of this case except for the identities of the men? Why does the only photographic analysis (from Sandia) released to the families dwell on the erroneous identification of the photo as circa WWII instead of specifically focusing on the specific identities of the three men? In fact, an identity analysis was not even requested of Sandia.

Concerning other Pentagon allegations about this photo, the Robertson/Lundy/Stevens photo has never been found in any Soviet magazine nor has it been proven to be a "fake" or a "hoax". The Pentagon's official response to the families is that the families' identifications indicate that these men are who we say they are and the Pentagon is seriously investigating it. Yet, in actuality, they are doing nothing to bring these men home and, in fact, are discrediting the evidence that shows they are alive.

#### QUESTIONS REQUIRING ANSWERS

Why would our government risk their credibility with the Vietnamese by giving them a photo they had done no analysis on?

If the government truly had evidence showing questions about the photo, why did DIA not share this information with the families when they made numerous trips to the Pentagon requesting all information on the photograph? Or did DOD just start slandering the photo for their own purposes after it became public?

If two other families have actually identified the middle man in this photo, why haven't they come forward to shed light on this photo and to help bring their man home?

Why hasn't the DOD forwarded the Lundy family's request to these two families that they come forward or contact the Lundy family privately? Did the DOD just create this story as a way to debunk the most readily identifiable image of the three men?

How could a parachute deploy without a person in it?

Who were all the people who saw Major Lundy's incident? Where are the witness statements of the Durax pilots referred to in Park Bunker's witness statement?

Why was Major Lundy rated survivability Category 1 and still declared KIA without further proof of his death?

#### CERTAINTY OF PRISONERS IN LAOS

The United States lost 586 servicemen, missing in action, in Laos during the Vietnam War. In February 1973, the communist Pathet Lao, through their spokesman Soth Petrosky, claimed to hold dozens of our men as prisoners of war and demanded that the U.S. negotiate for their release. Within 2 months, President Nixon fell from power because of Watergate and never negotiated with the Pathet Lao. The Vietnamese, as recently as July 1991, through their U.N. Ambassador, told Johanna Lundy that the Vietnamese did not negotiate with the United States regarding POW's held in Laos and that the U.S. must negotiate directly with the Pathet Lao. To this day, not one living American POW has returned from Laos. 'You do not understand. . . there is a greater destiny for our foreign policy in Asia and the POW's are expendable in pursuit of that policy. . . .' said Harriet Isom, Charge d' Affairs, United States Embassy, Vientiane, Laos, 1990.

## SUMMARY

In the Lundy case, the family has been deliberately lied to, Major Lundy's file tampered with, all evidence including the live sightings and fingerprints have not been pursued and the photo has been erroneously slandered by the government. The Lundy family feels the government has shown a complete lack of good faith in trying earnestly to follow up all possible leads on the possibility of Major Lundy's captivity. They have in fact deliberately obfuscated the truth, prolonging the captivity of Major Lundy as well as all the other live POW's. It's time to stop the ludicrous charade that has been perpetrated by the Department of Defense. We pray that the Senate Select Committee can reveal the truth and finally bring our loved ones home.

## FORMAL INFORMATION REQUEST

The Lundy family formally requests the Senate Select Committee to obtain and provide to the Lundy family the following information which we know exists:

- All classified information on Major Lundy.
- CIA Radio Intercepts on prisoners captured in Laos from 1970 until today.
- All photo analysis done since receipt of the photo in June 1990 which should include DIA and FBI's photo analysis.
- All reports of photo and sources.
- Latent prints of Major Lundy known to be held at the FBI.
- Any and all Henry Fingerprint Classification Cards on Maj. Lundy.
- Witness statements of all Air America pilots referred to in Park Bunker's witness statement.
- All CIA files on Major Lundy, particularly the one referred to in *Bohica*.
- Subpoena of Col. Paul Mather to discuss post-1973 reports of Maj. Lundy.

## QUESTIONS REQUIRING ANSWERS ON THE LUNDY CASE

Why would our government risk their credibility with the Vietnamese by giving them a photo they had done no analysis on?

If the government truly had evidence showing questions about the photo, why did DIA not share this information with the families when they made numerous trips to the Pentagon requesting all information on the photograph? Or did DOD just start slandering the photo for their own purposes after it became public?

If two other families have actually identified the middle man in this photo, why haven't they come forward to shed light on this photo and to help bring their man home?

Why hasn't the DOD forwarded the Lundy family's request to these two families that they come forward or contact the Lundy family privately? Did the DOD just create this story as a way to debunk the most readily identifiable image of the three men?

How could a parachute deploy without a person in it?

Who were all the people who saw Major Lundy's incident? Where are the witness statements of the Durax pilots referred to in Park Bunker's witness statement?

Why was Major Lundy rated survivability Category 1 and still declared KIA without further proof of his death?

Why did the government lie to the family when they knew there were witnesses and at least one witness statement?

Why did it take the DIA one year to even submit this photo for analysis?

Why does DOD continue to focus on any potential aspect to discredit this case except for the identities of the men?

Why does the only photographic analysis (from Sandia) released to the families dwell on the erroneous identification of the photo as circa WWII instead of specifically focusing on the specific identities of the three men?

The CHAIRMAN. Let me, let me just say to you, because I think that we have been for today at this a long time. You have been at it a lot longer, and we recognize that. Let me try, unless colleagues have any further—Senator Kassebaum.

Senator KASSEBAUM. I am just curious, because, Judge Gayden, you seem to be a conduit largely through your Laotian connection, is that correct?

Mr. GAYDEN. That is correct.

Senator KASSEBAUM. Do you have any idea why all of a sudden there seems to be, through this Laotian connection, these photographs coming? Have they asked for financial reward? Or do you have any ideas why this is happening as it is?

Mr. GAYDEN. Well, there are two things, probably, well, three things. The predominant thing is, and this has not been mentioned at all, I think that the sudden full court press by this administration to normalize relations is because the Communists are losing it. They are losing it, I know through the Laotians; they are losing it in Laos and they are losing in Vietnam, just like they did all of Eastern Europe.

We have affidavits from Pathet Lao soldiers that that is Dan Borah, Communist soldiers with a hammer and sickle in their own file with the Senate Foreign Relations Committee. They do not mention that; the Defense Department does not mention that. We could get them here, possibly. They will tell you it is Dan Borah.

We have people right now that are actually revolting against the Government.

Senator REID. I cannot understand this. What happened with the hammer and sickle?

Mr. GAYDEN. We have affidavits from military Communist officers with the hammer and sickle saying that that is Dan Borah. So what it is, is there is actually a revolution going on, but we do not read about that in our news. But it is going to happen.

So I think there is a full court press on to defuel the Communists, in my opinion, to keep the secrets. This way it is now coming out through the Pathet Lao and the Vietnamese Communists.

The CHAIRMAN. Well, Judge, I am not going to pick an argument with that, because there is another side that would suggest that it is going to crumble over there no matter what. I think it is, personally, with time. It may be sooner rather than later.

But the question here is whether or not we are going to further the process of getting answers no matter what happens politically. I mean, that is really the question. One day longer is one day too many, and we have all agreed on that.

So the question is not so much the dynamics of the politics and everything, frankly. It is whether or not we are able to get answers now, and whether there is a process in place that allows us to do it. Now, do you believe that is the reason?

Mr. GAYDEN. No, there is another reason, and Senator Smith is familiar with this. We get both kinds. We have, we, and I say "we," my Lao connection has several contacts. Some of them are actually after the \$2.5 million reward; that is a motivation, no doubt about it.

Senator KASSEBAUM. Have they collected some money?

Mr. GAYDEN. I am sorry?

Senator KASSEBAUM. They have collected rewards?

Mr. GAYDEN. No, they have not, no. When one of them comes across, it was 24 Congressmen, of which Congressman Smith was one of them. They have really come and generated a lot of interest, and the Vietnamese, as I have been told, that are part of this Lao connection, are strictly for coming out and turning in the Vietnamese and showing that the Vietnamese have been holding POW's. They are not interested in the reward if they are alive.

The CHAIRMAN. Let me intercede here.

Mr. LUNDY. I wanted to say one other thing.

The CHAIRMAN. Absolutely.

Mr. LUNDY. Specifically with regard just to the treatment of the families, and my coming in here now. Because as soon as my mother identified it, basically I flew to Washington and gave the photo to the Defense Department, and said, here is my dad, go get him, please bring him home. Bring my dad home.

I was naive. I was absolutely, entirely naive. Because instead of my Government saying, like when Bobby Garwood was identified, they brought him home, instead of my government going over there and finding my dad and bringing him home—

The CHAIRMAN. No, he came home on his own with the help of another nation.

Mr. LUNDY. OK, that is fine, I am sorry I misquoted there. I have put up now with 5 months' worth of the photo being slandered erroneously. Never once have they questioned the identities, never once have they done anything but connect it to things which are fake. I mean, really, absolutely fake.

There are nine different sources. My source is a woman, an American, who brought it out. But that never gets mentioned in the press. Everybody says that photo is a hoax. I look at them and I say, but that is my dad, that is my dad. So my point here is that my little girl, she is 3 years old, and she says, when is Papa coming home; Papa is in Laos. Papa is in Laos. I am reading her a book, and the book is called, *The Emperor's New Clothes*.

Everybody knows, everybody knows there are men alive, and that we left them there. What I am asking this Senate Select Committee to do is be a little boy in the audience that looks over and says, he has got no clothes on, because that is the charade that is being played right now.

The CHAIRMAN. All right, let me try to bring this to a sensible conclusion for the first 3 days. First of all, it is clear, we could spend another 3 hours with all of you in a panel in open session. But we are going to wind up at the end of that 3 hours where we are right now, which is where the Committee really needs to begin to do some analysis outside of the Committee, by bringing in some experts, sitting with you individually and pulling this together.

It is clear, and the last 3 days I think have indeed been different than I predicted. I said I did not think there would be revelations; I think there have been some, and not the least of which was a statement by a gentleman who spent years at this effort, that he believes that people were alive for a period of time.

I think the fact that this is the first time we have ever had people from on the ground, in Vietnam, come forward is new. I think the level of distrust is in itself its own revelation, and it is a tragedy; there is no other way to describe it. It is extraordinary that so many people are here feeling that there has been a breach of faith with them—convinced that there is, not feeling it, just convinced.

Whatever it is that has happened, whether there is legitimate cause or illegitimate cause, the fact remains that this has documented why this Select Committee had to be created, and it has documented the difficulty of the task ahead of us. There are too

many families who, for whatever reasons, are not getting the answers that they deserve to have, not being treated the way that they deserve to be treated. That has to change.

Now, Secretary Cheney came here personally 2 days ago, and said it has changed, and will change. The proof of that will be Albro Lundy and whether or not you get the information, and whether or not each and every one of you get that, and whether this Committee does.

But I think there has got to be a mutuality in this. I think there has got to be an effort to try to help the DOD and DIA and others to be able to do their job in these next months. This Committee is here with a life now that will watch that very, very carefully. We are going to be sort of the intermediary, if you will, the interlocutor.

We are also going to be doing an awful lot of hard work of our own, a great deal of research, a lot of the facts. Now, nothing that has come before us in the last 3 days at this point is going to be discounted, is going to be cast aside.

We are going to divide up the Committee in a way that allows staff to be able to address each of the sort of compartments that are in front of us, ranging from photographs to live-sighting reports, to the intelligence review to the case-by-case review, to the question of the experts that are needed to try to discern some of this, to the on the ground effort in Vietnam itself.

The Committee obviously has an enormous amount of work in front of it.

Next week we will hear from some of those about whom accusations have been made today and give them an opportunity to respond.

Colonel Cole is here now; Major Gittins is here now. Major Gittins, if you want an opportunity to respond now, but I think it would be better to bring you back with everybody else and have an opportunity to answer these kinds of questions. And we will proceed then to do that and to set that up in as short an order as possible.

The State Department has sent up a deposition in writing with respect to the accusations made by Mr. Burch, and those will be entered into the record at this point in time.

[The letter referred to follows:]

U.S. DEPARTMENT OF STATE,  
Washington, DC 20520.

HON. JOHN KERRY,  
Chairman, Select Committee on POW/MIA Affairs,  
U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN. Thank you for your letter of September 20 asking the Department to respond to the allegation that the Secretary ordered a mass destruction of POW/MIA records. Upon learning of the accusation, our Vietnam desk officer contacted Mr. Burch in an attempt to clear up what may be a misunderstanding. Mr. Burch declined to provide us with information that would have helped our investigation.

The Secretary of State has not issued a written or oral order this calendar year to destroy POW/MIA files. As best we can determine, no other Department official issued a written or oral order this calendar year to destroy POW/MIA files. In any case, we have been unable to find anyone in any of the bureaus listed in your letter who received such instructions.

As you might expect, offices within the Department of State routinely retire, for either destruction or storage, old documents to make room for new documents. While the Department does not preserve and store every copy of every document on every subject, substantive documents, including those dealing with POW/MIA issues, are preserved and stored.

To my knowledge, the only file retired this year that might pertain to POW/MIA matters was a chronological letter file kept by the previous desk officer for Vietnam, Donald Stader. A copy of the transaction form is attached. Although Mr. Stader's letter file is still intact and will remain so at least until the Committee can further clarify Mr. Burch's allegations, chronological files are eventually destroyed because a copy of each document in those files also routinely appears in a subject file that is preserved for storage.

As you may know, there are retired individual State Department office files dealing with POW/MIA matters located in the Washington National Records Center in Suitland, Maryland. They have been declared permanent records by the National Archives and Records Administration.

We have done our best to investigate Mr. Burch's allegation and can find nothing to substantiate it. If the Committee can provide more information, we would be happy to investigate further.

Please let me know if I can be of further assistance.

Sincerely,

JANET G. MULLINS,  
Assistant Secretary, Legislative Affairs.

Attachment: As stated.

But we will continue to follow up on those issues also. I want to thank you, each and every one of you. It is no fun for you to sit here, I know, to vent your spleen at your own government in whom you have believed as deeply as you have.

This is obviously about as contentious an issue as there is. And it is going to be hard for this Committee to sort some of it out, although I think we are really on a road to being able to do a lot of it.

And Senator Smith, do you have any comments you want to make?

Senator SMITH. Yes, very briefly, Mr. Chairman.

First of all, I want to thank Senator Kerry for his cooperation throughout these hearings and also in the process of setting up the Committee, which was a long and arduous task—too long. Some of that was out of our control, however.

We look upon this as the beginning. We know it has been a long, long road, but we have made some commitments and I have made some that I intend to keep, that we are going to do everything in our power if it is humanly possible to find out the truth.

And Jack, in the case of something as dramatically different as what you have to say and what other people have to say, I would, although I would like to ask you some questions now, I would prefer to wait to get the response and then come back and do that.

But we are driven to do this. I want to assure you that. We are driven to find the answers. We are not miracle men and women, but we are driven to try to find the truth. If we can do it, we will. We are not going to give any false hopes. But this has been a very, very good start, because we got to hear you, all of you, we got to hear every witness tell his side or her side of the story. What we have to do now is dig. This is not meant to be complete. It is just the beginning.

I do want to make—it has nothing to do with the witnesses, and just a quick moment, Senator, of personal privilege. Earlier in the day I made a comment regarding something that I perceived to be

the truth that was different from what Senator McCain perceived to be the truth. It was exactly that. What his perception of it was and what my perception was and it was in no way that I intend or in any way to challenge the veracity of Senator John McCain, whom I have the greatest respect for.

It was a difference based on a set of facts that he had and a set of facts that I have and I will make my side of that available for the record.

The CHAIRMAN. Thank you, Senator. Senator Reid?

Senator REID. I know that time is late. I do want to say this. I think, for my peace of mind, it would have been much better had we ended these hearings the first day. Because there there was very little controversy, it would have made for a nice clean hearing and we could have gone home and not worried about it.

I have learned a great deal in these 3 days. The fact is, they did not end the first day, and I think we have a lot of facts that are going to take a lot of digging.

I want to publicly commend and applaud you and Senator Smith and the entire staff for the fine hearing that has been developed. I was a trial lawyer before coming back to Washington and personally prepared and had prepared many, many cases. This is starting out like a very well-prepared case and we should come to a good conclusion.

The CHAIRMAN. I appreciate that comment very much, Senator. It would be nice if this were clean and easy. The reason there are 3 days of hearings and the reason there is controversy is that there is controversy. If we are going to lay this out, there is no way to avoid that. There is nothing that is going to be easy about it.

On the other hand, I really see a framework that is coming out of these 3 days. I also must tell you that until proven otherwise, I am convinced that Secretary Cheney's put himself on the line here in a way that no other Secretary of Defense has done.

This Committee is going to do its utmost, obviously, to follow-up on that and hold that to account. I have worked closely with these people over the last weeks and I believe they want this issue resolved.

I also believe that there is a new page that has been turned over in terms of the openness. Now, that proof will be in the next weeks—very shortly. We are told that much is to be declassified. We are told that much will be available that has never been available before and some of it already is.

So bear with us. If you do not get something right away, I hope it is mostly because we are understaffed and overworked and not because there is an effort not to get it to you.

But I suspect this process is going to open up. And the test of that will be our work and your cooperation with us over the course of these next weeks.

We will not not ask any questions and we will not avoid seeking the answers, no matter how difficult they are.

On that note, we stand adjourned.

[Whereupon, at 7:35 p.m. the Committee adjourned.]

## POW/MIA POLICY AND PROCESS

FRIDAY, NOVEMBER 15, 1991

U.S. SENATE,  
SELECT COMMITTEE ON POW/MIA AFFAIRS,  
Washington, DC.

The committee convened, pursuant to notice, at 9:40 a.m., in room SH-216, Hart Senate Office Building, Hon. John F. Kerry, chairman, presiding.

### OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

The CHAIRMAN. The select committee will come to order. Good morning, our apologies for starting a little bit late this morning. We were having a Members meeting from 8:30 this morning. We were hearing some testimony in closed session and now are moving into the open session.

As everybody knows, this session is the wind-up, if you will, of the initial 3 days of the select committee's hearings. I have said previously, and I am not going to stop repeating it because I think it is terribly important to keep in mind, that the opening days are exactly that—opening days—and their purpose is to outline the parameters of this issue.

We heard from the administration, we heard from veterans organizations, we heard from a foreign witness, we heard from people who have been on the ground in Vietnam for the first time ever in the course of this kind of inquiry, and we heard from the families. We agreed that since we knew that certain kinds of allegations were going to be made, that it was fair to permit those against whom the allegations were made to come back and to be able to answer some of those in open session in order to help the committee but also in order, in fairness, to be able to address those as a matter of public record, and that is why we are here today.

But again, I emphasize on behalf of the entire committee, and we have just in our own meeting with Senators confirmed our inclination to proceed efficiently and quietly to a certain degree in these first months with a significant number of depositions and a significant number of private meetings in order to gather facts, and to separate fact from fiction, and do the best job that we can of trying to lay out reality here. But I will confirm that every Member feels very strongly that no stone should be left unturned, but every Member also feels very strongly that at the appropriate moment, obviously it all has to be laid out in public, or we become part of the problem, and we do not intend to let that happen.

So this is not a morning for long opening statements. I will say something for the record and ask any of my colleagues if they want to add quickly to that.

Senator McCAIN. I wanted to add one brief comment, Mr. Chairman. We have been contacted by many people who wish to testify before this committee. Obviously, this committee cannot take personal testimony of every person who wants to, but I know that they are all assured that we will take their deposition, their statements and read with interest any statement or any information that they feel needs to be brought before the committee, correct?

The CHAIRMAN. That is absolutely correct. We welcome that information. We know there are people out there who have it. There are also people out there who think they have it and do not, and we want to make it very clear that the committee is not going to tolerate folks who want to use us as some kind of springboard or platform for wild-eyed, cock-eyed theories that have no basis in fact whatsoever.

We are going to be tough with respect to that, and we have a process set up to try to do it, but we do want at the end of this process for everybody who has legitimate information to feel that this committee was receptive to it. We already have met with people that have never been part of any prior inquiry. We are going to meet with other people who have never been part of any prior inquiry, and I suspect that the chips will fall where they may in that process.

Mr. Ford, thank you for coming back. We appreciate it, and without further ado we would welcome any opening statements that you and Mr. Sheetz and Mr. Quinn want to make. I do want to swear you in again, which is important.

[Witnesses sworn.]

**STATEMENT OF CARL W. FORD, JR., ACTING ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS; ACCOMPANIED BY ROBERT SHEETZ, CHIEF OF THE SPECIAL OFFICE FOR PRISONERS OF WAR AND MISSING IN ACTION, DEFENSE INTELLIGENCE AGENCY**

Mr. FORD. Thank you, Mr. Chairman. We very much appreciate this opportunity to come back this morning. I wish I could tell you that we had been able to, in the past week, do all of the homework that we plan to do and that we have been able to respond to all of the questions and concerns and allegations.

We haven't, but as the Secretary pledged to you, we are committed to carry through 150 percent, is that we will provide you with anything you request, and that we see this as an opportunity to lay out for the committee what we are doing and how we do it, and we believe that that opportunity will be a positive thing for us and the families and the American people.

I have taken some of the comments that we have been able to develop so far and put them into my statement, and I'd like to go through that. I will be submitting as I go along various documents for the record. My staff and I are already at work going beyond that, but it will be given to the committee as we complete it over the next few weeks.

First, I'd like to clarify a point that came up in last Thursday's testimony concerning the phrase, last known alive discrepancy cases. This is something that's been confusing to a lot of people, and we've tried to put some rigor to our definition so that hopefully we can dispel some of the confusion.

The way we define a discrepancy case is a case about which the U.S. Government has convincing evidence that the Governments of Vietnam, Laos, or Cambodia, should have specific knowledge. The term, discrepancy case, includes not only individuals who were last known alive, but also individuals who we are not certain of their fate, or who were known dead but for whom the Indochinese Government should be able to provide information or remains.

As you can see, the definition is broad. Within this broad definition, we have identified three sub-category cases. We did this because over the years a great deal of confusion has developed over what precisely we were talking about when we use the terms, discrepancy case, compelling case, last-known-alive case, Vessey case. All meant different things to different people.

The three sub-categories of discrepancy cases are first, the last-known-alive cases, those cases in which the U.S. has information that the individual survived the loss incident and fell into enemy hands. In the case of air incidents, this includes cases in which the crew members are believed to have successfully exited their aircraft and have been alive on the ground. In the case of ground incidents, this includes cases in which individuals were last known alive, were not gravely wounded, and were in proximity to enemy forces who should have specific knowledge of the incidents.

The second category is a POW at Homecoming, a specific group of individuals who, during the Vietnam War, were classified by their commanding officers and service Secretaries as POW's but did not return during Operation Homecoming. These cases are also known to many families as last known alive, due to their POW status. There were 97 individuals so listed. Subsequently, 42 listed POW's have been accounted for through unilateral Vietnamese repatriation. The remainder are still unaccounted for.

The third category are those that we think that the Vietnamese, or the Laos, or the Cambodians, should have knowledge of the incidents. Circumstances of loss or subsequent information is convincing that Vietnam, Laos, or Cambodia, should have knowledge of the incident. In some of these cases there is convincing evidence that the individual did not survive the incidence of loss. In many cases, there is convincing evidence, however, that Vietnam also has remains.

With this background, now we'll shift to the 119 individuals who have been discussed in the testimony here called variously the Vessey cases and the Vessey discrepancy cases. The first point to make is that from the beginning the list was not meant to be all-encompassing. In 1988, DIA, JCRC, General Vessey, and the Office of the Secretary of Defense, worked together to develop a list of most compelling last-known-alive cases as well as other discrepancy cases, i.e., cases of individuals for whom the Vietnamese should have knowledge of the fate of the individual and the remains if the individual is dead.

The list was not exhaustive, merely illustrative. The primary purpose was to shed light on the live prisoner issue by asking the Vietnamese to help us solve cases in which there was either hard evidence or a strong possibility that the individual survived the incidence of loss but did not return in Operation Homecoming, and for whom, as of 1987, there had been no accounting.

So far, despite our investigative efforts, we have not returned any live Americans or uncovered proof that unaccounted for Americans are alive in Vietnam. There are additional cases beyond the 119 individuals which fit into the discrepancy case definition. Again, not all of the Vessey discrepancy cases involve individuals who were last known alive. Some of them involve individuals who are known dead, but the Vietnamese should be able to provide information or remains.

In addition to the 119 individuals whose cases were presented to the Vietnamese by General Vessey, we determined that there are 64 other individuals who meet the last-known-alive definition as well as 13 individuals who were classified by the respective service Secretary as a POW at Operation Homecoming in 1973, and who are not included in the Vessey cases, who are otherwise not accounted for.

This group of cases will be the focus of the full-time efforts of the Hanoi Office under the CINCPAC joint task force already described to this committee by General Christmas. They will all be investigated within Phase I of the CINCPAC plan.

Next, I would like to address an issue which has been implicit in the testimony you've heard from many family members regarding DIA. The issue of family members and DIA analysts meeting directly to discuss individual cases has proved problematic. DIA is an intelligence collection and analysis agency. Their personnel are not trained for family outreach, and the function of family outreach is not an appropriate one for that agency.

The families' primary point of contact for discussion of their cases is the designated Service Casualty Affairs Office. Those offices are staffed with personnel trained to perform the family outreach role. In cases where the family is dissatisfied with the service received from the Service Casualty Affairs Office, the proper place to redress that problem is with my office.

The problems experienced within DIA that resulted in the changes made by the Secretary's management inquiry associated with Colonel Peck related to functions assumed by the POW/MIA office that were not within their mission. Those functions have been removed and placed within my office.

Where it is appropriate, if there are questions about the intelligence, what we will do is, when they meet with us, we will ask Mr. Sheetz or members of his staff to join with us when we meet with the family so that they can explain from their perspective the intelligence, but that the meetings are conducted and the contact with the families are done by myself and my staff.

Let me now turn to some allegations that were made by Dr. O'Grady. We certainly understand the grief felt by Dr. O'Grady over her family's loss. We have reviewed the O'Grady case file, and we believe that Dr. O'Grady's family has been properly served by our casualty affairs process.

The O'Grady case is one in which we believe that the family has been promptly and accurately notified about investigative activity and information relating to the case. Dr. O'Grady's sweeping allegations of Government nonfeasance, malfeasance, and misfeasance, are without factual basis.

For example, Dr. O'Grady states that her family was advised from the time that her father became missing that he was dead. That statement is quite simply wrong. From immediately after his incident of loss, the Air Force believed there was a good possibility he survived. He was seen to eject from his aircraft. He was seen with a good parachute, and his chute was seen on the ground, but he was not in it. All indicates were that he survived his ejection.

Colonel O'Grady was carried in a missing-in-action status until 1977, when his status was reviewed at the express request of the primary next of kin, and his status changed to deceased, and a presumptive finding of death was entered in his case.

Senator McCAIN. Who was the primary next of kin?

Mr. FORD. His wife. A second most serious allegation was made by Dr. O'Grady which requires discussion. She alleged in her testimony that identifications were made with teeth and teeth fragments, but when independent forensic anthropologists were consulted there were no dental records to be compared to. Again, this is absolutely false. There has never been a dental identification rendered by the U.S. Army Central Identification Laboratory without benefit of dental records. In every case, either an antemortem dental x-ray or dental chart was available to provide the factual predicate for the dental identification.

The CHAIRMAN. Let me just interrupt you for a moment. Where does that come from, her perception that it was not there? Do you know?

Mr. FORD. I don't know, but I have Col. Johnnie Webb, who is the head of our CIL-HI facility in Hawaii here, and if there are questions about this, he can either answer them for the record later, or you can call him to testify.

I have a detailed written response to other allegations made by Dr. O'Grady in her testimony that I would like to submit for the record, but let me note, I always feel personally very uncomfortable when I have to make statements like this that suggest that a family member has not gotten the story exactly right. It also suggests that somehow I'm portraying the Defense Department as never having made any mistakes with the families, or not having always been sensitive to their concerns.

As I said the other day, there are too many examples—more than I would like to have to explain to you—where we have, in fact, made mistakes and not been as sensitive as we can, and we will not try to hide that fact. All you have to do is talk to some of these family members and realize how distraught they are over so many years, and how difficult it has been for them, and when mistakes are made they clearly remember them.

But again, it's also important for us to make sure that the professional—professionals in our casualty offices and our various offices like CIL-HI, when charges are made, we also have to defend them as well.

Let me move on to Robertson, Stevens, and Lundy. As dissatisfied with the Department's performance as the families clearly are, the Department of Defense has vigorously pursued the investigation of the photo.

I have personally made myself available to the families to answer their questions and respond to their concerns, as has my staff and the Director of the DIA Special Office for POW/MIA Affairs.

We have been unable to either confirm or disprove the identifications of the subjects in the photo made by the family members. We are continuing to investigate the photograph. Any—any suggestion by the families that there has been less than an honest effort to investigate and locate the source of the photograph is disingenuous. The facts establish otherwise.

We have requested assistance from the Vietnamese at the highest level of Government. We have sent three separate investigative teams to Cambodia to follow up information in an attempt to locate the source of the photograph. We have requested all of our defense attaches worldwide to search for the photo.

We have tasked several technical means to obtain information on reports associated with the photographs, and have established all-source collection requirements to obtain additional information about the photo, the individuals, or the associated reporting. We are continuing to investigate vigorously. However, without some new leads we may not be able to solve the mystery of this photo.

Finally—and this is an important point—the Colonel Robertson case is not closed. It is still under active investigation, and any preliminary judgments made have been set aside pending further investigative activity and information. I would like to submit a brief written response to the specific allegations contained within the testimony of the families for the record.

Next, let me turn to Mr. Donahue's testimony about his brother, and if I might, let me just read very briefly from the transcript of that testimony. He was asked by Senator Reid about getting the live sighting reports, and Mr. Donahue said, yes, and I would like to mention one, if I may, right at the top, if I can read from it. I also have information about live prisoner of war.

And he reads information about a live prisoner of war named Jefferson Donahue—that is a phonetic spelling—date of birth, airplane number, and it gives the aircraft number, and it gives my parents' zip code in Florida instead of the aircraft number, and how this guy in the jungles of Laos ever got my parents' zip code number?

And Senator Reid then said, where did you get that, and he said, this was a live sighting report provided, classified. This is the declassified version provided by the Defense Department.

Let me also submit for the record a fact sheet that was circulated by the family in Southeast Asia, and let me just read briefly from that. It's toward the end, and it shows a photograph of Mr. Donahue's brother and some of the information about him, and then at the end it says:

The family of Capt. Morgan Donahue is willing to underwrite by prior arrangements the cost of obtaining credible and demonstrable physical evidence of his survival—i.e., fingerprints, photographs, et

cetera. They will also offer a substantial reward to anyone arranging for his escape or delivery alive and well to a location to be mutually agreed upon in the city of Bangkok, Thailand, where he would be met by his father and others.

No information on how he reached Bangkok, who brought him there, or how he managed to get back to the United States, will ever be disclosed to anyone, including representatives of the Thai Government or the United States. At such time as arrangements are made with persons capable of this task, the family of Captain Donahue will provide information which can be used to positively identify only him.

Captain Donahue's father can be reached at No. 7 World Green, Cocoa Beach, FL, U.S.A., zip code 32931, and his telephone number is—and then it gives his telephone number.

I think it is quite clear where it is possible that this person in the Lao jungle got the zip code of Mr. Donahue's brother. Unfortunately, it probably came from this flyer with the offer of a reward.

The CHAIRMAN. When was the flyer distributed?

Mr. FORD. I will have to check, Mr. Chairman. I'm not sure. The one I have doesn't have a date on it, but I will get that for the record.

[The information referred to follows:]

Over a period spanning two decades, members of Morgan J. Donahue's family and others have circulated flyers in Southeast Asia seeking information on the missing Air Force officer. Attached is a 4-page, undated information sheet which we believe was circulated circa 1979. Note that the last page clearly lists the address of Captain Donahue's father, including his zip code.

In 1987 an ethnic Lao in Thailand told DOD interviewers that Jack Bailey had given him a Lao language flyer on Captain Donahue. The Lao man, who claimed to have been previously involved in gathering POW information and remains, said that based on the flyer on Captain Donahue he planned to give up his other activities and devote himself solely to searching for Captain Donahue.

#### FACT SHEET—MISSING U.S. AIRMAN

Name: Morgan Jefferson Donahue  
 Rank: Captain, U.S. Air Force  
 Serial No: 560-587-7424 FR  
 Date of Birth: 2 May 1944 (Age—34 years)  
 Place of Birth: Hollywood, CA, USA  
 Height: 6 feet 4 inches (1.90 meters)  
 Weight: 175 Pounds (79.2 kilos)?  
 Hair Color: Dark Brown  
 Eye Color: Very Dark Brown  
 Teeth: A lower broken front tooth has a plastic cap

Captain Donahue, then Lieutenant Donahue, was assigned to the 606th Special Operations Squadron (Candle Light) of the 56th Special Operation's Wing at the Royal Thai Air Force Base at Nakhon Phanom, Thailand, located adjacent to the Mekong River between Thailand and Laos. He was a Navigator flying a C-123 flare dropping aircraft. The air distance between his base and the Ho Chi Minh Trail to the east where his aircraft went down was approximately 85 miles.

On the night of 13 December 1968, at 0300 hours, local time, Captain Donahue's aircraft, with a total crew complement of seven, the pilot, copilot, flight engineer, two navigators and two "Flare Kickers" (individuals who were responsible for dropping flares via the loading ramp in the rear of the aircraft to illuminate North Vietnamese vehicular traffic on the Trail moving south) were flying a mission at approximately 8,500 feet mean sea level (2,000 to 3,000 feet above the ground) on an assigned length of the Trail searching for surface movement of North Vietnamese vehicles, with the mission of illuminating such traffic by flares. Once such traffic was located and flares dropped, the C-123 aircraft functioned in forward air control-

ling capacity to direct medium size bombardment aircraft to any such target for ordnance dropping purposes. On the night in question, a convoy was spotted by the crew of the C-123, and a B57 aircraft loitering at a higher altitude was given the location of it and directed to it by radio by the C-123. For whatever the reason, in descending on its first bombing run, the B57 struck the C-123 cruising below it. Both aircraft were damaged in the collision and subsequently crashed. The B57 struck the ground near the bank of a river and the C-123 hit the ground in a wooded area in the nearby rocky hills (Karst).

It is not believed that either of the two pilots in the B57 aircraft survived the accident, however, the aircraft commander of the C-123 airplane parachuted safely from the aircraft and landed in the top canopy of one of the many tall trees in the area. He remained concealed therein until shortly after 0800 hours local time when he was rescued by a Jolly Green Giant helicopter. He was subsequently debriefed back at his home base, Nakhon Phanom, at which time he stated that he saw at least one other parachute descending beneath him in the darkness after he had bailed out of his aircraft, but it was too dark for him to identify the user. He was unable to say how many of his crew had successfully escaped from the airplane. The location of the crash scene of the C-123 was approximately 75 nautical miles from the Royal Thai Air Force Base at Nakhon Phanom on the 105 degree radial of the TACAN radio navigation station at that Base. The impact area was reported as being northwest of the village of Sepone (Tchepon), approximately at Ban Phaphilang (XD055824), which, at that time, was in Pathet Lao controlled territory as it is today.

No word was received on the fate of Captain Donahue after the accident in which his aircraft was involved until the Spring of 1975. At that time the Sepone inhabitants positively identified Captain Donahue from pictures and descriptive literature brought to them from Royal Lao territory. He was described as the American "pilot" who had landed by parachute near their village on the night of 13 December 1968. He apparently broke a leg on landing and was captured by Pathet Lao who took him away the next day in a cart.

In the summer of 1975, a credible source of information was arrested held by the Pathet Lao in their Headquarters Building in the City of Vientiane, Laos. According to that source, now in the United States, the name of Captain Donahue was regularly mentioned by Pathet Lao intelligence personnel as the list of Americans they were holding was periodically read off in briefings in the Headquarters. The source, who also reads and understands Lao, further stated that whenever the opportunity presented itself, a quick scan of Pathet Lao documents that were laying around on desks was made. A number of these documents reflected the names of U.S. personnel still in Pathet Lao prison camps, and among them there always appeared the name of Captain Morgan Donahue. What the source of information saw and heard demonstrated that Captain Donahue was indeed alive and being held in a highly secure and little known prison camp near Sepone as recently as the summer months of 1975.

A third credible source of information, the former Director of National Security of Laos, was located and interviewed in 1977. He stated that prior to fleeing Laos in 1975, before the takeover by the Pathet Lao in 1975, he gave the names of over 200 American "pilots", who had been captured by the Pathet Lao after their aircraft had been brought down to the U.S. Embassy in Vientiane. Having some recall of the names on the list which he surrendered to the U.S. Embassy, he claims to have remembered that of Captain Morgan Donahue and affirms that there is an excellent chance that Captain Donahue is still alive in Laos.

Further, another credible, high ranking source of information stated that he had located and talked to Captain Donahue who was being held in a high security prison for American pilots near Phu Bhan. He subsequently planned a night helicopter escape for Captain Donahue, but unfortunately the takeover of the nation of Laos by the Pathet Lao at this same time precluded the effort from being made. The source of information disappeared about this time, and it is not yet known whether he was seized and taken to an indoctrination camp (seminar) to be "re-educated" or whether he was liquidated.

Particularly worthy of note is the fact that during one of a number of visits the father of Captain Donahue made to the villa, in Vientiane, of Soth Pethrasi, who was the Chief Delegate of the Pathet Lao prior to the takeover of the country by the Pathet Lao, he was personally told by Soth that the Pathet Lao forces had captured and were holding over 100 American "pilots". Soth refused to identify or give the locations where these Americans were being held and stated that the matter was one which should be formally addressed when the war was over.

During the 1973 prisoner release by the North Vietnamese after the Paris Peace Accords were signed by U.S. Secretary of State Henry Kissinger and Le Duc Tho of North Vietnam, nine Americans were freed by Hanoi, but because they had been captured on the Ho Chi Minh Trail by North Vietnamese in Laos, the Pathet Lao claimed that the nine were being released by them and not the North Vietnamese. Intelligence sources allege that the Pathet Lao are still holding captured Americans because Kissinger did not recognize Laos in his Paris Peace Accords, and the Pathet Lao refuse to give their U.S. prisoners to the North Vietnamese to surrender to the Americans.

The family of Captain Morgan Donahue is willing to underwrite, by prior arrangements, the cost of obtaining credible and demonstrable physical evidence of his survival, i.e., fingerprints, photographs, etc. They will also offer a substantial award to anyone arranging for his escape or delivery alive and well to a location to be mutually agreed upon in the city of Bangkok, Thailand, where he would be met by his father and others. No information on how he reached Bangkok, who brought him there, or how he managed to get back into the United States will ever be disclosed to anyone, including representatives of the Thai government or of the United States.

At such time as arrangements are made with persons capable of this task, the family of Captain Donahue will provide information which can be used to positively identify only him. Captain Donahue's father can be reached at #7 Willow Green, Cocoa Beach, FL, USA, 32931. His telephone number is 305-783-2698 (home) and 305-853-2121 (office).

There was also the problem of fingerprints. There have been allegations made that fingerprints and other records have mysteriously disappeared from DOD files. There is no conspiracy to purge records. The Department of Defense does not maintain fingerprint records. The FBI is the sole agency with that responsibility. I request that this letter from FBI Director Sessions to Congressman Solarz explaining lost or purged fingerprint records be entered into the record.

[The letter referred to follows:]

U.S. DEPARTMENT OF JUSTICE,  
WASHINGTON, DC 20535,  
August 27, 1991.

HON. STEPHEN J. SOLARZ,  
Chairman, Subcommittee on Asian and Pacific Affairs,  
Committee on Foreign Affairs,  
House of Representatives,  
Washington, DC.

DEAR MR. CHAIRMAN: On July 31 and August 2, you conducted hearings concerning MIA's from the Vietnam War, in particular, the recently surfaced photograph that depicts three individuals that are purported to be MIA's. Carl W. Ford, Jr., Principal Deputy Assistant Secretary for International Security Affairs, Department of Defense [DOD], was the principal witness for the administration at the hearings. At the request of DOD, the FBI had been requested to conduct analyses on the photograph and documents associated with that document. Additionally, the FBI conducted other analyses in relation to the MIA's.

As you are aware, DOD requested the presence of FBI representatives in the event certain topics surfaced in the course of the hearing. We provided experts on fingerprints and photography. We believed that their presence was necessary so that an accurate and complete record would be established if questions arose concerning those issues. These issues were mentioned in the course of the hearing, but more information is available that will make the record complete. I am taking this opportunity to provide that information and comment on another issue that was raised at the hearings.

By letter from you to Mr. Ford dated July 26, 1991, you requested an analysis of "finger and palm prints that the Lundy and Robertson families have received and have associated with their missing relatives." (In conversations with staff, it has been determined that this was a joint request with Congressman Robert J. Lagomarsino.) Since the FBI is the repository for fingerprints for military personnel, DOD requested the prints for these individuals, in addition to the third person linked to the photograph, Lt. Comdr. Larry J. Stevens. A search of FBI fingerprint files did not disclose a record for these three individuals. There are many reasons why we may not

currently have those fingerprints and an explanation for the record may be beneficial.

The most logical reason for the absence of these prints may be the policy for purging files. In the case of military prints, if DOD reports an individual killed-in-action [KIA] or otherwise deceased, the print is placed in a special file for 7 years and then destroyed unless there is additional information furnished by the military. In testimony, Mr. Ford advised that the DOD had listed Maj. Albro L. Lundy, Jr., and Lieutenant Commander Stevens as KIA based on eye witnesses' accounts of each incident. Relevant herein is a list of 2,483 names furnished to the FBI by DOD in 1984. They were identified by DOD as being "Americans Unaccounted for in Southeast Asia." A search of our fingerprint files identified prints for 912 individuals from that list. The prints for the three individuals linked to the photograph were not among those with prints in file. All existing prints from that list are being maintained and are not subject to being purged.

Another explanation is that we never received fingerprints of those in question. But, it would perhaps be more than coincidental that the prints for three individuals linked to a single photograph would not have been submitted. This is particularly true given the policy of fingerprinting all military personnel. Unfortunately, due to the volume of civil prints alone, approximately 35 million individuals and 90 million cards, records of receipts are not maintained. In most instances, the only means to determine if there is a print on file is to check the index. The absence of an individual from the index only indicates the FBI never had a file. It could have been previously purged from the system, but, in most instances, there would be no record of the purge.

Fingerprints are frequently not capable of classification/retention due to their illegibility based on the quality of the inked prints that are submitted. When this occurs, the prints are sent back to the contributor with a request to obtain a legible fingerprint card for resubmission. It is not unusual to not receive a follow-up set of prints. As above, there would be no record if this occurred. As a point of reference, in the first three quarters of fiscal year 1991, the FBI Identification Division rejected over 790,000 fingerprint cards for this reason. Although historical figures are not available for the Vietnam War era, rejection rates for prints submitted by the military in early 1980's were about 15 percent.

In the course of the hearing there was testimony that the photograph had been submitted to a photographic expert to determine if the middle individual was identical to Major Lundy. According to the testimony of Major Lundy's son, 16 positive points of identification were made. It is the opinion of the FBI's photographic experts that due to the poor quality of the photograph such an identification process is not possible. Further, positive identifications from photographs are dependent on scars, marks, and other individually unique features. Additionally, the positive identification points that were recited by the witness are broad-based characteristics common in large segments of the population. This does not reject the possibility that an individual may "recognize" a particular person in a photograph, but it does reject the capability to make a positive identification through analysis, given the quality of the photograph and the absence of identifiably unique features.

One other issue raised at the hearing bears clarification. A Member raised the issue that the FBI had in its possession photographs of a possible MIA approximately 6 months before they were made available to DOD. As stated by the Member, these photographs were furnished to the FBI by a Congressman. However, no specific information was furnished the FBI that these photographs concerned a possible MIA. Even if they had been suspected to be MIA related, the FBI had no reason to believe that the photographs had not already been referred to DOD. Within a matter of a few days, these photographs were returned to the Congressman. I would also note that many communications between Congress and the FBI are considered to be privileged unless otherwise indicated. This is a privilege we do not take lightly, given the sensitivity of constituent and other matters that are referred regularly to the FBI. The FBI does not believe we acted improperly in this instance.

The FBI remains committed to assisting Congress and DOD in the resolution of the status of the MIA's. Submissions by DOD are being handled on a priority basis. Should you be in need of additional information as the FBI's role, please contact Charles E. Mandigo, Special Counsel, Congressional Affairs Office, telephone number 324-6028.

Sincerely yours,

WILLIAM S. SESSIONS,  
Director.

Mr. Carl W. Ford, Jr.,  
Principal Deputy Assistant Secretary for International Security Affairs,

Department of Defense,  
Room 4E813, The Pentagon,  
Washington, DC 20301-2000.

To prevent a recurrence of this problem in the future, I have tasked the service Secretaries to examine possible alternatives to establish a redundant, independent source for military fingerprints separate from the FBI records. I will report to the committee and to the families when we have implemented a solution to this problem.

There were also questions about the Minority staff report. I am not prepared today to go through the entire report. One, we haven't had enough time to go through it line by line yet, but let me just go through some of our concerns about it.

I would like to point out a couple of glaring examples of poor research and errors. On page 5 through 8 of the report, the staff states "in fact, only 591 U.S. POW's were repatriated by the North Vietnamese during Operation Homecoming, which is 12 percent of the figure of 5,000 U.S. POW's held by the North Vietnamese reported by the New York Times."

The original New York Times article, the primary source material appeared on the front page of the 6 March, 1973 issue. The number 5,000 appeared only once in the entire article quoting an American source who stated at a meeting of the Joint Military Commission the previous day North Vietnam had demanded the release of 5,000 communist prisoners held by Saigon.

This 5,000 number cited incorrectly in the report has been often quoted by POW activists and is used within the report to lend credence to the allegation that 85 percent of American prisoners of war were withheld by Hanoi after Operation Homecoming.

A second inaccuracy is found in the prologue to Part 2, page I. The report states, "In spite of 1,400 unresolved reports of first-hand live sightings, the Department of Defense remarkably still believes it has 'no credible evidence.' How does it dismiss these reports?"

In fact, there are numerous inaccuracies in just that simple statement. First, while there have been over 1,400 first-hand live sighting reports, only approximately 100 are unresolved. Second, live sighting reports have not been dismissed. In over 75 percent of the first-hand live sightings received, DIA analysts have been able to establish that the report is true.

These reports involve POW's who returned at Operation Homecoming or have been correlated to other Americans or westerners, such as missionaries or individuals stranded in South Vietnam when the communists took control. Almost 300 relate to Private Garwood, who returned from Vietnam in 1979.

There are numerous other factual inaccuracies throughout the report. To catalogue the inaccuracies would require a document of equal length and would be beyond the scope of my testimony here today. A more important issue—

THE CHAIRMAN. Can I interrupt you there for just a minute? I think this is something that I talked to you about a few months ago, and it was my understanding that it was going to be prepared, that just such a categorization—I think it is critical to have that.

Mr. FORD. We are in process of preparing it, sir.

The CHAIRMAN. I think the committee would welcome a page-for-page, line-for-line refutation and statement of accuracy. I think it is absolutely critical once and for all to resolve those kinds of things.

[The information referred to follows:]

The Minority Staff Report charges the Government with conspiracy and cover-up in its handling of the POW/MIA issue. The author's arguments, however, are grounded in speculation and cloaked in innuendo. Replete with factual errors, the Report relies on news articles and quotations taken out of context to prove its claims. The shoddy research and poorly supported reasoning reveals the authors' superficial grasp of the issue and make it appear as if they had formed their conclusions before undertaking an examination of the data.

The following examines selected passages of the Report relevant to the Second Indochina War and the Gulf War. Specific excerpts as well as general themes are addressed.

#### PROLOGUE TO PART I

*Report:* (Prologue to Part I, i) "On the record, the U.S. Government has professed to give [the issue] 'the highest national priority.' Off the record, this priority vanishes. Instead, other considerations emerge: Grand visions of a foreign policy of peace and reconciliation; desire for a new economic order of trade and investment; ideological imperatives to downplay the hostility of antagonistic systems; and the natural tendency of the bureaucracy to eliminate its workload by filing cases marked 'closed' instead of finding the people."

*Response:* If, as the above polemic states, the bureaucracy's goal is to mark cases "closed" and "eliminate its workload," then it has clearly failed. More than 18 years have passed since the conclusion of Operation Homecoming, and only 316 of 2,583 missing individuals have been accounted for. Executive branch initiatives to secure information on our missing servicemen from the Vietnam era span more than five administrations. No administration has permitted diplomatic policy considerations or bureaucratic ennui to interfere with its efforts to describe even one instance where DOD suggested that the normalization of economic relations should be accomplished at the expense of accounting for POW/MIA's. While the results of the search for MIA's have failed to meet expectations, primarily because the communist governments of Indochina have refused to extend their full cooperation, the perception that the U.S. Government might have something to gain by falling to act is spurious. The minority staffers of the Senate Foreign Relations Committee are not the first individuals outside the Executive Branch to examine the government's commitment. Over the years, conspiracy and cover-up charges concerning the Government's handling of the POW/MIA issue have been repeatedly investigated by the Congress and DOD and found to be without foundation. A congressional mechanism has been in place since 1975 to exercise oversight. DOD and DIA activities and efforts in this area have been vigorously monitored by the House Select Committee on POW/MIA's, the POW/MIA Task Force of the House Committee on Foreign Affairs, the Senate Veteran's Affairs Committee and by the Senate and House Select Committees on Intelligence.

The Department of Defense remains committed to achieving the fullest possible accounting. Assets devoted to the collection and development of intelligence data to resolve the issue have increased steadily over the years and all available means of intelligence collection are routinely exploited. The U.S. is currently engaged in joint efforts with the Indochinese governments to investigate loss incidents, interview eyewitnesses, and excavate crash and grave sites. Diplomatic initiatives, however, have failed, thus far, to elicit their full cooperation. Access to records as well as to areas identified in live sighting reports has been limited.

*Report:* (Prologue to Part I, ii, iii) The Minority Report claims that the U.S. Government is unable "to cope with the problems of accounting for the missing," and offers, as an example, the case of SPC Melissa Rathbun-Nealy, taken prisoner by Iraq during the Gulf War. The Report states that her status was "initially listed as 'unknown,' then changed to 'missing,' a status distinct from that of 'MIA,' reserved for personnel unaccounted for in noncombat circumstances. The Report notes that she and SPC David Lockett, the individual with whom she was captured, were never listed as MIA or POW despite the existence of an abundance of information indicating that they had been captured. The authors claim that the failure to categorize

them as such represented 'an important illustration of how DOD uses technical distinctions to avoid a finding of POW/MIA.'"

*Response:* The Minority Report's discussion of accountability during the Gulf War demonstrates the authors' fundamental misunderstanding of the difference between assigning a missing person a status as defined by the Missing Persons Act, and accounting for the individual in fact. The Missing Persons Act was written specifically to protect the financial interests of the missing servicemember and the next of kin. An individual's accountability is not addressed by the Act and only comes into play once someone is lost and the act is implemented.

Rathbun-Nealy's initial "unknown" status represented a category to which all missing personnel were assigned for an interim 10-14 day period to permit the commander of the individual's unit time to conduct a preliminary investigation. She was moved to "missing" and not "MIA" because hostile action had not yet commenced and, as a truck driver in a convoy, she was in a noncombatant role. Despite indications of her capture, she was not listed as a POW because the available evidence was not sufficiently compelling. The military services maintain strict requirements for confirming someone a POW not "to avoid" such a finding, but to protect the families from exposure to reasons for hope that are not absolutely verifiable. The underlying philosophy is to avoid error at all costs but to err on the side of caution if error is unavoidable. Meanwhile, the search to locate the individual in the enemy's prison system continues.

In Rathbun-Nealy's case, the Army Casualty Officer supplied information to her family which strongly indicated she had been captured. Although, the information was not considered by the Army to be sufficiently compelling to change her official status, the Army's determination did not diminish the commitment of DOD analysts to pursue all information relevant to her case on the assumption that she was alive and a POW.

#### PART I: THE SECOND INDOCHINA WAR

*Report:* (5-1, 4) Henry Kissinger's statement, in his book *Years of Upheaval*, that the U.S. "knew of at least eighty instances in which an American serviceman had been captured alive and had subsequently disappeared," is interpreted as proof that Kissinger believed at the time that these men were still alive.

*Response:* In making this statement in his book, Kissinger did not state that he believed the men were still alive. He simply commented on their unaccounted-for status. When their names did not appear on the list of prisoners returned after the Peace Agreement was signed, he asks, in the very next sentence following the one quoted in the Minority Report, "Why? Were they dead? How did they die? Were they missing? How was that possible after capture?" The Minority Report fails to note that these very cases are part of the 119 Vessey discrepancy cases, chosen to be investigated first because they demonstrated the most compelling evidence of men we believed survived their loss incident and for whom the Vietnamese should be able to account.

*Report:* (5-1) "However, news reports and other documentation stated that the U.S. Government left men—perhaps thousands of men—in the captivity of Communist forces in Southeast Asia."

*Response:* There is no credible evidence to suggest that the U.S. Government abandoned anyone who was a captive of Communist forces at the end of the Vietnam War. (See discussion of reference made to New York Times article below for source of reference to "thousands of men" above.)

*Report:* (5-2) "In fact, it was widely known that the Pathet Lao were holding many other U.S. POW's. On March 25 one news report stated: U.S. sources believe that a substantial number of the missing [in Laos]—perhaps as many as 100—still may be alive. The conclusions are based on inspections of crash sites by search teams and on intelligence reports."

*Response:* When the Paris Accords were signed, we had no evidence of live Americans being held in Laos. There have been numerous reports, from a variety of sources, suggesting that large numbers of Americans were being held by the Pathet Lao. During Operation Homecoming, nine Americans who had been captured in Laos were released by the Vietnamese. The Pathet Lao, however, never released any Americans who were listed as POW or MIA at the time the Accords were signed. One of the principle sources of the reports described above was Soth Petrasay, a Pathet Lao spokesman in Vientiane during the conflict. Souban Srithirath, Laos' Vice Foreign Minister, has stated that Mr. Petrasay's comments were sheer propaganda, made at a time when the Pathet Lao were trying to encourage their troops

and supporters. Petras, in a separate interview, confirmed that his statements were "wartime propaganda" intended to rally Lao support.

*Report:* (5-8, 10) An Associated Press dispatch, referencing a New York Times article, is quoted by the report in the following manner: "While the North Vietnamese did not list a number of prisoners they wanted freed, The New York Times reported from Saigon today that American sources set the demand at 5,000."

The report goes on to build a case on the number "5,000" quoted from the Times, stating that "only 591 U.S. POW's were repatriated by the North Vietnamese during Operation Homecoming, which is 12 percent of the figure of 5,000 U.S. POW's held by the North Vietnamese reported by the New York Times." The report's very next paragraph goes on to correlate the number "5,000" even further. It states that "the number of prisoners which The New York Times reported that the U.S. Government demanded from the North Vietnamese—5,000—correlates with the statement of a former employee of the U.S. Government [Jerry Mooney]. This former National Security Agency (NSA) employee said in a sworn affidavit that the North Vietnamese repatriated only 15% of the U.S. servicemen they held in captivity. In other words, according to this source, the North Vietnamese kept 85% of the American POW's who were alive after March 28, 1973."

(5-10) The report bases further analysis on the figure "5,000," stating that "the North Vietnamese—apparently—were waiting for the reparations that Kissinger had promised them, before the vast majority of American POW's reported by the New York Times were to be repatriated. Doubtless, they held the prisoners back as a human collateral. It should be noted that the 5,000 POW figure cited by the Times is slightly less than twice that of the U.S. official POW and MIA totals. However, it is likely that the 5,000 figure reflected the total number of individuals believed to be held by Communist forces in Southeast Asia at that time. This total would have included the total number of covert or Black Cowboy POW's and MIA's who were not factored into the official U.S. Government MIA and POW casualty figures for the entire Second Indochina War throughout Southeast Asia."

*Response:* The original New York Times article, from which the number "5,000" was taken, appeared on the front page of the 6 March 1973 issue. In that article the number "5,000" was mentioned only once, as a reference to a quote from an American source who states that at a meeting of the Joint Military Commission the previous day, North Vietnam had demanded the release of 5,000 Communist prisoners held by Saigon. Despite the authors' misinterpretation of the meaning of the New York Times' 5,000 figure, it, nevertheless, is consistently cited and incorporated analytically to support the Minority Report's key argument that thousands of American POW's were abandoned in Indochina.

*Report:* (5-9) "Some evidence suggests that a number of nonrepatriated Americans may have been turned over to Soviet control and subsequently transported to the Soviet Union. A former U.S. military serviceman, assigned to the NSA, provided the Minority Staff sworn affidavits that during the Vietnam War he 'tracked' a certain number of U.S. servicemen from their point of capture to their release to the Soviets for debriefings by both North Vietnamese and Laotian officials. This has not been corroborated, but information provided to the Minority Staff indicates that POW's may have been sent to the Soviet Union for interrogation and subsequent use of their special skills."

*Response:* Mr. Jerry Mooney, a former National Security Agency (NSA) analyst, has asserted over the years that the U.S. Government has or has had intelligence information that proves the existence of American prisoners of war left behind in Southeast Asia after the withdrawal of U.S. forces from Vietnam in 1973. Additionally, he has claimed that a portion of these men, those with special technical or intelligence knowledge, were transported to locations outside of Vietnam, specifically to the Soviet Union and China. Mr. Mooney's claims have been investigated and proven to be false (Details of the investigation are available for discussion in executive session.) Recent assertions from Soviet sources that an American POW from the Vietnam War was living in Kazakhstan and that Soviet officials interrogated American prisoners in Vietnam after 1973 are under investigation.

#### PROLOGUE TO PART II

*Report:* (Prologue to Part II, i) The position of the Executive Branch is that there is "no evidence" that living Americans exist in Southeast Asia, nor were any left after American prisoners were returned in 1973.

*Response:* The official position of the Executive Branch is as stated in the DOD POW/MIA Fact Book, dated July 1991:

"Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility." (Italic for emphasis)

*Report:* (Prologue to Part II, i) In discussing the 1,400 or so live sighting reports, the report claims that "the U.S. Government has not judged a single one of these thousands of reports to be credible." It also claims that the 1,400 reports are unresolved.

*Response:* Both statements are wrong, as 75 percent of the live sighting reports have been judged to be true. They are simply sightings of accounted for Americans (i.e. returned POW's), or of Amerasians, Eurasians, Westerners, Russians and East Europeans who are mistaken for Americans. A large number are of Bobby Garwood. Because live-sighting reports come into DIA on a daily basis, the number of unresolved continues to fluctuate. Currently, approximately 100 remain unresolved.

*Report:* (Prologue to Part II, i, ii) Garwood's "court martial as a collaborator and deserter solved two problems for DOD. By bringing up the charges DOD sought to redefine his case as a voluntary expatriate and therefore not technically a prisoner—and it enabled DOD evaluators to dismiss fully 200 of the live-sighting reports."

*Response:* All returnees, who had personal contact with Garwood while they were held captive in the South, agree that he was not a POW but a "collaborator." Private Garwood was tried by a General Court Martial and convicted of aiding the enemy and assaulting a fellow prisoner of war. His conviction was affirmed by the U.S. Navy Marine Corps Court of Military Review and by the Court of Military Appeals. The fact that he was tried by a military court for desertion and collaboration stemmed from the charges initiated by fellow prisoners of war and was not in any way motivated by an attempt on the part of the Defense Department to deny any claims he may have had to being a POW. The close to 300 live-sighting reports judged to be of Bobby Garwood have not been dismissed, only resolved. They have been correlated with Garwood because the information they contain clearly identifies him and no one else. (For further information on Garwood, see Garwood File enclosure.)

*Report:* (Prologue to Part II, ii) Files are not accessible to the families.

*Response:* Through the armed services' casualty officers, the DIA provides all relevant information to families in accordance with public law. The families receive all information that has been correlated to their missing member. The files maintained by the DIA, however, are classified documents because they contain information which identifies intelligence sources and methods. Before being released to the casualty officers, who in turn provide them to the next of kin, the documents are sanitized to remove sensitive information which may identify the intelligence source or reveal the manner in which the information was collected. The names of all associated individuals, including those of other MIA's, are also removed to protect their privacy and that of their families.

*Report:* (Prologue to Part II, iii) "Colonel Peck confirms that a 'cover-up' has been in progress."

*Response:* Col. Peck's allegations were examined by an internal DOD inquiry and were found to be without foundation. In testimony before the House Subcommittee on Asian and Pacific Affairs, he was unable to substantiate his claims. (See responses to inquiries 7, 8, and 10 in Committee letter requesting responses)

#### PART II: LIVE SIGHTINGS

*Report:* (6-1, 2) The U.S. Government's policy of dealing with the live-sighting reports is flawed. Weaknesses exist in methodology and procedures for collecting and analyzing information.

*Response:* DIA's efforts in examining reports of firsthand live sightings are predicated on the assumption that some Americans are still alive in Indochina. The urgency inherent in this assumption dictates that such reports receive the highest priority in intelligence analysis and collection resource allocation. Consistent with this determination, DIA's methodology emphasizes the fullest possible exploitation of live sighting reports. Reported information is rigorously compared with the aggregate of intelligence information available in DIA's data base, then developed and followed-up on as required, regardless of where it may lead.

All information is evaluated according to the plausibility, cohesiveness, and sufficiency of the data and all potential corroborative evidence. Upon receipt, live-sighting reports are examined to determine if the geographic location of the sighting, the time and circumstances of the sighting, and the details provided correlate to a known missing American. Related data is retrieved from DIA's extensive casualty, source, and camp files, and the information is compared with

the report. All files of losses or known incidents of capture or imprisonment in proximity to the location reported are isolated for possible correlation as are all files of sources who have previously reported sightings in the same area. A similar procedure is then employed to isolate the files of missing individuals whose time and/or location of loss generally relates to that given in the report.

Based on these findings, a preliminary determination is made regarding whether the descriptive details provided by the source correlate to any of the missing Americans believed to be likely candidates. If the information is judged to be possibly pertinent to a POW or MIA, it is actively pursued by all available means. Data gaps identified may require that the source be reinterviewed, or that further collection efforts be taken. The establishment of the POW-MIA office in Hanoi manned by U.S. technical personnel, including a DIA analyst having extensive knowledge of Vietnamese record-keeping systems, and a DIA live-sighting investigator, facilitates the live-sighting issue. The Government of Vietnam has permitted representatives of the U.S. Government to conduct targeted information research through direct access to official archival material, and has begun to grant limited access to reported live-sighting locations.

A live-sighting report is considered resolved when it has been determined that the evidence is clear and convincing that the individual described has been identified or when analysis indicates that the report is clearly a fabrication. Once these analytical judgments are reached, DIA's analysis is then subjected to the scrutiny of an interagency review panel before the report is considered resolved. This panel consists of representatives from CIA, State Department (INR), OASD/ISA, OJCS, and DAMI-PO. Upon concurrence by the review panel, the report remains in DIA's data base where it is available for review by analysts working independently on other live-sighting reports.

Reports in which questions of correlation or validity remain unsettled are considered unresolved and are subjected to additional analysis and collection efforts until a final determination can be made.

*Report:* (6-3, 4) DOD correlated a sighting report of the capture of an American pilot to returnee Capt. James Hickerson, USN, instead of LTJG Dooley, so as to consider the report resolved. The minority staff claims to possess a written statement, made by CAPT Hickerson, that contradicts many of the details of his shootdown that he provided in his debrief.

*Response:* On 22 October 1967, LTJG James E. Dooley was flying an A-4E aircraft which was hit by anti-aircraft fire following a strike mission in Haiphong. U.S. witnesses to the incident reported that LTJG Dooley's aircraft was streaming fuel and headed toward the Gulf of Tonkin, where it descended and crashed into the water just east of the Do Son Peninsula. There were no signs that LTJG Dooley ejected from the aircraft, no beepers were heard, and a search revealed no sign of survival.

The Senate Foreign Relations minority staff report claims that: a) DOD correlated a sighting report of the capture of an American pilot to returnee Capt. James Hickerson, USN, instead of LTJG Dooley, so as to consider the report resolved; b) "In 1973, a U.S. POW who had been repatriated said he saw Dooley's name written on the wall of a prison cell in Hanoi"; c) "Two Thai special forces' soldiers released from North Vietnamese custody in 1973 identified Dooley's photograph as a fellow inmate" and; d) A communist photo of captured U.S. pilots in Hanoi shows a partial profile of a person who "strongly resembles" LTJG Dooley.

a. The refugee report clearly describes the capture of CAPT Hickerson, whose own detailed POW debriefing account of his capture, given immediately following "Operation Homecoming," closely follows the source's reporting. The minority staff's "analysis" of the fore mentioned live-sighting report is a classic example of how raw reporting, without access to a data base of facts, can be misinterpreted. In this instance a Vietnamese refugee source interviewed by the Joint Casualty Resolution Center (JCRC) in December 1986, reported firsthand information on the capture of a U.S. pilot in what he believed was October or November 1968. The source described seeing a man in a parachute land on the beach and attempt to evade by swimming out into the water. The source says the Vietnamese shot at the swimmer to limit his movement, and local forces swam out to capture the man. He also says that the pilot began firing at the Vietnamese and attempted to talk on a hand-held radio, but was unable to do so due to waves. He goes on to report that the pilot wore a one-piece uniform with a long zipper in the front and that the POW was blindfolded and his arms bound behind his back before he was loaded into a sidecar. He adds that he was later put in an automobile and driven away.

Based solely upon the loss location, time of day and month, JCRC originally believed the report could relate to LTJG Dooley; however, when the facts of CAPT Hickerson's capture were later brought to their attention (JCRC did not have access

to his debrief at the time the original correlation was made) they reevaluated all reports from that area and rescinded their tentative correlation to LTJG Dooley, concluding that the source's information described CAPT Hickerson's circumstances of capture.

The minority staff says that CAPT Hickerson has provided a written statement of his capture, claiming "he could not have been swimming out to sea when he was captured," and refuting other points in the source's story. They say that "Hickerson was taken to prison riding on the back of a bicycle, not in a jeep as the fisherman described."

While DIA does not possess the alleged written statement from CAPT Hickerson to which the Senate staff refer, we do have his 1973 debriefing in which he details the events of his December 1967 capture. Upon returning to the U.S., CAPT Hickerson told debriefers ". . . (he) collapsed his parachute, he found himself face-to-face with about 100 civilian personnel. He immediately separated from the parachute and started running out into the shallow water, after going a short distance he detached his seat pack and commenced swimming seaward. About this time rifle shots started splashing in the water around him . . . . "At this point Hickerson saw he was about to be captured so he pulled out his survival radio and sent the message . . . to his wingman. He then stopped, put up his hands and surrendered to the DRV swimmers." In his debrief CAPT Hickerson goes on to describe how he was stripped of his clothing, blindfolded, his hands tied behind his back and how he was put on the fender of a motorcycle and taken to the fishing village. Later that day he was also moved in the sidecar of a motorcycle, during which time he was seen by crowds of people who threw rocks and sticks at him.

While there are slight differences in the source's account and CAPT Hickerson's as reported in his debrief, the refugee report clearly refers to the former POW. It is noteworthy that the source was only 13 years old when he observed the event, and 19 years passed between the time he saw CAPT Hickerson's capture and the time he reported it to U.S. authorities.

b. No returnee ever claimed to have seen LTJG Dooley's name on a prison wall. DIA is not aware of anyone claiming to have seen Dooley's name written on the wall of a prison cell. This story appears to stem from a returnee who reported that another POW had mentioned seeing Dooley's name on a wall; however, the POW to which the story was attributed never mentioned Dooley in any manner in his debriefing or later interviews.

c. The Thai POW's did not identify Dooley's photograph as a fellow inmate with any certainty. When shown a pre-loss photo of LTJG Dooley, they were uncertain, saying only that they saw a similar face in 1968 at a prison known as the "Zoo." Based upon other information they furnished, it is clear that they saw another individual who subsequently died in captivity, but who bore a physical resemblance to the preloss photograph of LTJG Dooley they were shown. There is no information that points to LTJG Dooley's capture or to his being imprisoned at the "Zoo" or any other prison.

d. LTJG Dooley is not depicted in any post-capture photographs. With one exception, every POW photograph from the war has been identified. The one remaining unidentified photo is clearly not the missing Naval aviator. DIA possesses no post-capture photographs that can be attributed to LTJG Dooley.

## PART II: "BLACK OPERATIONS"

*Report:* (7-1) The names of all individuals unaccounted for have not been made public. Personnel lost in covert or "black" operations are declared KIA and are not included.

*Response:* No one is missing from the public list, and there is no secret list. The authors of the report are under the illusion that the U.S. Government considers a man accounted for if a presumptive finding of death has been made. In fact all the MIA's were presumed dead by the early 1980's, with the exception of COL Charles Shelton, USAF, who remains listed as a POW for symbolic reasons. A presumption of death, however, in no way changes the Government's obligation to account for those missing. The Senate staff members appear to have confused legal, administrative procedures with DIA investigatory methodology—two approaches having totally unrelated purposes.

## PART II: ACCOUNTABILITY

*Report:* (8-1) The means of arriving at accountability is questionable.

*Response:* The U.S. Government's goal of fullest possible accounting is achieved by resolving individual cases. A case is resolved when either an individual or his remains are returned or when a convincing explanation of why neither is possible can be formulated.

Within the U.S. Government's goal of fullest possible accounting, General Vessey's specific goal is to illuminate the POW issue by utilizing a number of discrepancy cases.

During the Vessey process, we have collected sufficient intelligence to confirm the fate of 56 individuals: 22 have been accounted for through the return of remains; 34 are known to have died but have not yet been accounted for.

Joint investigation of an incident proceeds on the assumption that the man is alive. The case is investigated until the man is located and returned alive or until evidence confirms that he did not survive. Once death is confirmed, the investigation/negotiation continues until his remains are returned or until it is determined that there is no likelihood of remains recovery.

In the course of the investigations witnesses are interviewed, crashsites are visited, aircraft wreckage is studied, and excavations are mounted.

DIA's primary role in the joint investigation process is to collate and assess information derived from U.S. and Vietnamese files and from the investigations themselves.

Data gaps are identified, some of which Vietnam is requested to fill through research of wartime records, provision of additional witnesses, or site surveys and excavations.

All information is evaluated according to the plausibility, cohesiveness, and sufficiency of the data, amount and type of corroborative evidence, and credibility of the source.

To confirm an individual's fate an analyst assesses whether the evidence available firmly identifies the individual involved and whether it proves that death did or did not occur. If death is indicated, an analyst must assess the prospect for recovery of remains by determining the reliability of evidence revealing the location of death and by taking into account the possibility that the individual's remains may have already been recovered.

Clear and convincing evidence must be obtained before any judgement is rendered regarding the death of an American or a decision made that remains are not likely to be recoverable. The process is a rigorous one. DOD believes every effort to obtain information must be exhausted before a determination can be made.

*Report:* (8-4) Dr. Michael Charney is cited for his charges that CILHI has misidentified and deliberately lied about the identification of remains.

*Response:* A Professor Emeritus at the University of Colorado, the report cites Dr. Charney as a forensic expert critical of CILHI's methodology. He has never visited CILHI. He is the same Dr. Charney who claimed to have scientifically determined the photo, now known to be of a Lao tribesman, to be that of Navy Lt Daniel Borah. Dr. Charney's photo identification methodology is based on the computerized superimposition of "edge" images where a known image is superimposed on the image in question and the two photos' various "edges" analyzed for overlap. According to a photo analysis expert from Sandia National Laboratories, the integrity of "edge" images remains questionable since the "definition of an 'edge' in a digital image is somewhat subjective." The Sandia expert concludes that a definitive identification cannot be made using this technique alone.

## PART II: THE FRENCH EXPERIENCE

*Report:* (9-1,2,3,4) The French experience in Vietnam is a precedent for U.S. experience.

*Response:* In 1954, 6,900 persons, of whom 2,200 were native French, were carried as missing from French expeditionary forces. These were not prisoners but rather men lost under uncertain conditions. All native French prisoners were returned by the end of October 1954. A tiny number of non-French and non-Vietnamese remained in North Vietnam but not against their will. Of the Vietnamese serving in French forces who were carried as missing, some had changed sides prior to the end of the war. These indigenous Vietnamese decided to settle in the North. According to the French Government, the Geneva Accords, ending the war, were implemented, and no one remained behind against his will.

## EPILOGUE

*Report:* (10-1,2,3,4,5) The report's authors claim their conclusions parallel those of Col. Peck.

*Response:* (See response to Col. Peck's charges of cover-up, Prologue to Part II, iii and responses to inquiries 7, 8, and 10 in Committee letter requesting responses to the Select Committee's inquiries.)

Mr. FORD. A more important issue that this committee should address of Mr. Usry is why he and other staff members of the Senate Foreign Relations Committee staff have withheld from the Department of Defense information relevant to the investigations of the Stevens case and the Borah case. Not only has Mr. Usry withheld information that would have assisted the Department of Defense in more expeditiously investigating these cases, but he has stood by while Senate staff members directed sources not to provide their information to members of my staff, the DIA, or others within the Department of Defense investigating these cases.

Mr. Chairman, for example, I hope that you will question Mr. Usry about how long he had the Borah information before July 1991. When the Department of Defense finally received the information, we resolved the case in less than 2 months.

The CHAIRMAN. In point of fact, the family doesn't think you resolved it, is that accurate?

Mr. FORD. I'm not sure that that's the case. Let me go through this next part of my testimony, because I think that there were also allegations made by Judge Gayden and also by Jack Bailey that I would like to address myself to.

I unfortunately was unable to either be here or watch on C-SPAN the testimony of Judge Gayden and Jack Bailey, and I also unfortunately, or fortunately, did not read the transcripts until yesterday when I was preparing for this testimony. I am glad that I didn't. I was so outraged—

The CHAIRMAN. Let me just interrupt you for one second if I can. We want to try to keep this hearing going so we don't have an interruption. Senator McCain will chair while I go and vote, and let me just say for the record, Senator Smith was not here at the outset simply because it is his amendment on the floor right now and we are voting on it, and I think he'll be back shortly. So if you could keep going, we will try to keep running through.

Mr. FORD. I was mentioning that I was glad that I didn't finally get around to reading those until yesterday, because I was so outraged that I'm sure it would have affected my whole week.

The Borah and Carr families have been the losers as a result of the allegations made by a number of individuals before this committee. Family confidence in their Government has been further eroded by the unsubstantiated and specious claims of Government conspiracy. Mr. Sheetz will later discuss the Carr case in detail. However, I would like to spend a moment on the Borah case and the allegations made by Judge Gayden before this committee.

Judge Gayden's allegation that the Department of Defense would knowingly provide to the family, the Congress, and the American people altered photographs of the meeting between our investigator, Bill Gadoury, and the individual is outrageous.

Even more disturbing is the fact that Judge Gayden, an officer of the court, would allege that he obtained a photo analysis of the photos of the meeting and then assert that DOD photos are frauds. This committee cannot stand by and let these gross distortions of fact go unnoticed. If Judge Gayden's photo experts believe the DOD photos are a fraud, he should produce their reports or their testimony or an affidavit or other suitable evidence.

Our investigators, with the help of the Lao, found the individual photographed in Laos and identified as Lieutenant Borah. The individual is not Lieutenant Borah. The Borah family has been convinced by Judge Gayden's bailiff, Khambang, that the individual is Lieutenant Borah, and Khambang has accompanied the two Borah sons to Laos. Khambang's blood relative in Thailand passed the roll of film containing the Borah photos to Khambang in the United States.

Khambang has a long history of providing POW-related materials from as early as 1985, and none—not one of these leads has ever proven valid. I have a fact sheet on Khambang that I would request be entered into the record. The Judge Gayden-Khambang connection needs to be thoroughly investigated. I hope that this committee will undertake that task.

If I might, I would also like to add some of my own personal involvement in this particular case. Judge Gayden made much of the fact that we have put Lieutenant Borah in jeopardy by having his photograph appear on Laotian TV. I would simply note that the first time I saw the photograph was on NBC, and that after having seen the photograph and noticing the remarkable resemblance between the photographs of Lieutenant Borah and this photograph that was on NBC, we tried to get hold of the photograph.

There was a period of weeks when it was in almost every newspaper in the United States, almost every television station, probably throughout the world. We couldn't get a hold of it. Until Senator Smith interceded we were unable to get the information. Once we had the information, we were able, using the photograph and working with the Laotians, to find this individual that was in the photograph.

The only question about putting people in jeopardy was a long period of time in which this information was withheld from the people that our Government has tasked the job with checking out all of these leads. The notion that Bill Gadoury, who appeared before you, would allow himself to be inserted in a photograph that had been doctored, or that he had doctored a photograph, I just find totally outrageous that anybody would make such a claim.

He was here before you. You had an opportunity to meet him. The fact is that he was under oath, and that all we have done is tried to do our job, and when we do our job, then some other story comes up, and guess who seems to be behind much of all of these allegations, Mr. Khambang.

Mr. Khambang is someone who was involved also in Mr. Usry's secret trip in August. He had reported that he had information about the Stevens case, and Robertson, Lundy—particularly Stevens—and that there was information that if they went to Southeast Asia, that he would be able to provide our researchers with information.

This was communicated to the Secretary of Defense. He agreed to allow a plane to be diverted to take this mission. I know this for a fact, because it happened to be diverted away from me. I didn't know it at the time, but I was in Hawaii with the Under Secretary of Defense at a meeting and we happened to have the only aircraft that was unmarked to be sent into Southeast Asia, only to find out that it had been redirected. We also supplied by request individuals who were polygraph investigators.

Mr. Khambang hit Bangkok and was told go find your sources and bring them in. After much delay, and explaining why he was having difficulties, he finally brought in one individual. Mr. Usry and the team of investigators questioned him. They polygraphed him, and they concluded that he was lying.

When during the interviews, as I understand it has been told to me, the source that Khambang brought in indicated that he had provided this famous map of various people located in Vietnam that were being held prisoner on an island, he was asked a very simple question. Well, could you draw us again that map? When he could not draw the map or barely draw at all, they asked the obvious question, well, who did draw it?

Well, guess who drew it? The same people that are providing Khambang with the Borah photograph information, and at the time in August we had not located the Lao hill tribesman. We did not directly make the connection that here were two cases in which Khambang had clearly been involved, one in which his source failed to polygraph, and the second in which the photograph had obviously been taken of the wrong man and had been given to the families as possibly being Lieutenant Borah.

Now, it takes a lot of our time and a lot of our energy, and it certainly is frustrating to me, but all of that pales in comparison to what this puts the Borah family through. The fact is that they have been led to believe not only that their son was still alive, and all that that trauma involved, but when it was proved to be false, fabricated, they now are being told, no, no, no, that's not true, your Government has altered the photograph, all of this coming from a guy who was clearly involved in scams.

Now, I don't think that—that anyone here, or certainly anyone in the Pentagon, can feel very comfortable with the notion, beat up on us, call us names, but the fact is that the people that really get hurt by this are the families who have these people coming around preying on their uncertainties and their concerns about their loved ones, and it ought to stop, and that's one reason we think that this committee is one of the best ideas going, because hopefully we will get to the bottom of this.

I would ask Mr. Usry as a challenge, if he is so interested in investigating cover-ups, if he is so interested in investigating us, fine. Do it. Do your best. But why doesn't he spend some of his talent and some of his time investigating what are clearly egregious incidents of preying on these poor families, and as far as I'm concerned, we've got to do something. I don't have all the answers, but I know we have got to do something.

Now, let me talk about Mr. Bailey. Mr. Bailey, along with two Congressmen, requested to see high officials in the U.S. Government and Secretary Cheney agreed to see Jack, accompanied by