

[The prepared statement and exhibits of Mr. Usry may be found on pps. 53-105 of the appendix.]

**STATEMENT OF TRACY USRY, STAFF MEMBER, SENATOR HELMS**

Mr. USRY. Mr. Chairman, members of the committee, let me again thank you for this opportunity to address you today. I will address your questions from last week in the order they were asked, citing the page and line number of the transcript of last weeks' hearings which correspond to each request to us, and then I will prepare or provide the appropriate answer.

Question 1, Senator Kerry: "But in fact, it is true, is it not, that nine Americans were turned over to the U.S. in 1973 from Laos who were nominally Pathet Lao prisoners? Those were as repatriated from Laos."

Mr. Chairman, I offer for the record a copy of a document from the Defense Intelligence Agency dated 7 December, 1977, addressed to Capt. Raymond A. Vohden, U.S. Navy, Principal Advisor Office of POW/MIA Affairs, Office of the Assistant Secretary of Defense, and the subject is Pathet Lao knowledge on U.S. prisoners, and basically the correspondence provides a summation of information held by DIA regarding the degree of knowledgeability possessed by the Pathet Lao on U.S. personnel unaccounted for in Laos.

The CHAIRMAN. Where is the document?

Mr. USRY. It is enclosure A to your copy of the report.

The CHAIRMAN. Where would that be? Can you help me out?

Mr. USRY. In the back, sir.

The CHAIRMAN. It is the first document, enclosure A?

Mr. USRY. Yes, sir. Should I continue?

The CHAIRMAN. Yes. Go ahead.

Mr. USRY. The nine U.S. personnel who had been captured in Laos and who were released in Hanoi during Operation Homecoming were all captured by North Vietnamese forces operating in Laos and moved to North Vietnam for detention.

The CHAIRMAN. That is sort of the same thing I was saying, is it not?

Mr. USRY. I'm not disagreeing with you, sir. I'm just providing the documentation we used to state what we did in the report.

The CHAIRMAN. But what you had said was that none were turned over.

Mr. USRY. Excuse me?

The CHAIRMAN. The reason I had asked the question is I thought you had said in your report that none were turned over.

Mr. USRY. No, sir. What we said was that the nine people that were released during Operation Homecoming were not in the hands of the Pathet Lao but in fact had been taken by the North Vietnamese and released to—captured by the North Vietnamese and transported to Hanoi and released by the North Vietnamese during Operation Homecoming.

There was nothing in our report that would indicate that the Pathet Lao themselves had ever released any American POW's that they had captured. So those nine people that are referenced routinely were in fact, according to the document that we read, captured by the North Vietnamese, transported to Hanoi at some

point in time, and then eventually released during Operation Homecoming by the North Vietnamese.

Senator McCAIN. The only point is, they were officially released by the Pathet Lao at the Homecoming. They were given to the Pathet Lao, even though the witness is correct when he states they were captured by the Vietnamese. They were carefully and categorically placed as releasees by the Pathet Lao.

The CHAIRMAN. Go ahead.

Mr. USRY. Question 2, Senator McCain: "So your allegation that the two Thai special forces identified Dooley's photograph as a fellow inmate is false?"

Mr. Chairman, I offer for the record a declassified sanitized U.S. Air Force message date and time group 052635 Zulu March 1973 from 13th Air Force Clark Air Base, Philippines to AIG7819. This is a Homecoming Air Force message, special report 007, subject, debriefing.

The message relates to the debriefing of two Thai military returnees by U.S. personnel. The returnees identified North Vietnamese personnel who dealt with POW's. The identifications were made by picking out photographs from the DIA publication, North Vietnamese Personnel Associated With U.S. POW's. The Thai identified 13 North Vietnamese who dealt with American prisoners of war as guards, interrogators, or those who were involved with the torture of U.S. prisoners.

The second portion of the document references the two Thai personnel selecting photographs of approximately 300 U.S. personnel with whom they were imprisoned. The photographs were selected from Volume 1 of the DIA pre-capture photographs of missing in action in Southeast Asia. The photographs identified, according to the message, were of personnel all listed as returnees during Operation Homecoming.

In Section 3 of the report it states that the Thais also identified personnel from the photograph volume provided by DIA who were not listed on the list of returnees. They are as follows: Charles E. Shelton, Edwin B. Templin—

The CHAIRMAN. We can read those.

Mr. USRY. And, of course, James Dooley.

Question 3—

Senator REID. Mr. Chairman, I am sorry. Explain to me, I guess—and I don't mean this to be facetious, but so what? I mean, tell me what you are saying here.

Mr. USRY. Well, what I'm doing, sir, is replying to the questions that were asked.

Senator REID. I understand that, but what is your reply. Just tell me.

Mr. USRY. Well, in essence the question was whether or not the information we had concerning Dooley that we referenced in our report was available, or was it just a false accusation on my part, and all I was doing now is presenting that documentation in which we used to formulate the position that we took.

Senator McCAIN. Do you think it would have been fair to mention the fact that it was in a list of many other names, none of whom have ever been reported, or who have been found or returned? Do you think that would have been a more complete pic-

ture of the situation? Because obviously the Thais went through hundreds of pictures and picked out, what, a dozen there, none of whom have ever been accounted for. Do you think that would have been more appropriate and a fair presentation of the facts?

Mr. USRY. I think what was appropriate was the position that we put out initially, Senator, which was there was some concern for the accuracy of the intelligence analysis concerning the whole Dooley and Hickerson issue, and the specific question or statement made to me last week is that the information I was providing was false, and all I'm simply trying to do is present that information that is available, or that was available at the time we drafted the report that we did.

The CHAIRMAN. Let me just say, you're saying they picked out a group of people among whom was Dooley, is that accurate?

Mr. USRY. Yes, sir, that is my understanding from reading the document.

The CHAIRMAN. The document, again, is where?

Mr. USRY. That would be enclosure B in the back of my statement that you have.

The CHAIRMAN. I don't understand. Do I have all of document B?

Mr. USRY. I'm going to look and see exactly what was provided to you right now.

Senator REID. Document B has three pages—enclosure B.

The CHAIRMAN. OK, I have a document B.

Senator REID. It has three pages.

Mr. USRY. On the second page of enclosure B is a list of names.

The CHAIRMAN. OK, I am with you. I have got a list of names, all right. Where does it say that the Thais identified anybody on that list?

Mr. USRY. If you go back to the previous section, and I will read it verbatim to you—

The CHAIRMAN. Well, I can read it. At least, I think I can read. I am just trying to find—

Mr. USRY. On the second page, on section 2, it starts with SNF. During this debriefing the two returnees were also shown Volume 1, and in there it indicates that they picked out the listed personnel as also individuals they had seen, and these personnel were not reflected on the returnee list on Operation Homecoming.

The CHAIRMAN. I see. Paragraph 2, during the debriefing of two returnees, and those returnees are?

Mr. USRY. Those were Thai special forces personnel.

The CHAIRMAN. OK. I just want to understand it.

So it says they were cooperative and enthusiastic in establishing a ready—or a reliability by identifying nearly 300 personnel who were on a list of returnees from the DIA photo album.

Senator REID. Maybe that word isn't, reliability. What is that word?

The CHAIRMAN. A ready ability by identifying nearly 300—the following personnel were identified by photos and do not appear on the list, and that was Dooley. So in other words—OK, fair enough.

Senator REID. Apparently, somebody saw a bunch of prisoners or pictures, and some of these people in the pictures supposedly didn't come home, is that the story?

The CHAIRMAN. That's interesting. So these folks were picked out as having—they recognized them, who they were, but that they hadn't come back on the list of returnees in Operation Homecoming.

Mr. USRY. I would basically state both you and I are making the same assumption. This is the assumption we drew from the documents.

The CHAIRMAN. OK.

Mr. USRY. Question 3, Senator McCain: A U.S. POW who had been repatriated said he saw Dooley's name written on the wall of a prison cell in Hanoi. Who was that POW? Let me go on. So his allegations, basically, Mr. Chairman, has been relayed to him with no basis of fact.

Again, what facts do you have to back up your allegation that a U.S. POW had been repatriated who said he saw Dooley's name written on the wall of a prison cell in Hanoi, and under enclosure 3 there is an electrical message or a copy of that which puts forth the information that we related. Enclosure C.

Senator MCCAIN. Do you not think, Mr. Usry, again, as with the previous statement, it would have been more appropriate for you to report that he said he either read it on the wall or heard the name? Wouldn't that have been more appropriate in your report?

Mr. USRY. No, Senator, I don't necessarily agree with that statement.

Senator MCCAIN. Thank you.

The CHAIRMAN. Where does it say that?

Mr. USRY. I'm going to read that to you.

The CHAIRMAN. He either saw the name on the wall or was told about the name.

Mr. USRY. Now, what I would like to make interesting—

The CHAIRMAN. Can I ask you something? Let me just follow up, because I don't want Senator McCain to be alone in sort of questioning that. I mean, my reaction is, that's pretty significant, if you're going to say something was seen on a wall, but his memory was that somebody might have mentioned it to him. I'm not saying it puts everything in doubt here. It's just a question of how you come at this.

Mr. USRY. Well, I would like to reference our basic report again to see exactly what the wording was, and I will pull a copy if you will just wait a moment. I believe that was Section 5.

[Pause.]

Mr. USRY. That is Section 6.

Senator MCCAIN. It says he saw Dooley's name on the prison wall in Hanoi, period, 6-3, the second paragraph.

Mr. USRY. I'm sorry, paragraph what?

Senator MCCAIN. The second paragraph from the bottom on page 6-3.

The CHAIRMAN. Do you think that has an impact whether he heard the name from another person or saw it on a wall? I mean, isn't there a fundamental distinction in fact there?

Mr. USRY. No, I don't believe necessarily there is. I honestly believe that what we're doing here right now is basically splitting atoms. May I continue for a moment?

Senator McCain. While we are here, could I go down one paragraph while we're on the same subject. In the next paragraph, it says in April 1989 former POW Hickerson: and therefore he could not have been swimming out to sea when he was captured.

I talked to Captain Hickerson last night and he was swimming out to sea, Mr. Usry, and I understand that is also in his debriefing. So there's not nitpicking here. Your statement is he could not have been swimming out to sea when he was captured. He landed on land, he ran into the water and was swimming, and then turned around and came back. That is his words, and I understand that that's part of his debriefing when he came out. I hope you will correct that in future reports.

Mr. USRY. Well, Senator McCain, if you look at what was provided to us by the family members, and there are enclosures in my statement that concern that where Commander Hickerson—or, I'm sorry, Captain Hickerson landed and was basically on the end of more or less a peninsula, and when he went swimming, he went swimming back toward the land area, not actually out to sea. Anyway, this is the information we worked on.

Senator McCain. You say he could not have been swimming. He did go swimming.

Mr. USRY. I will grant you that, and I will ask you this question. Is—if—the issue whether he went swimming the important issue, or is the issue that the accuracy of the analysis does not match what happened to him by his own words in a letter that he provided to a family member?

Senator McCain. I think it's very important that the JCRC later after review indeed said that it was not the case that the refugee was confused in the shoot-down between Hickerson and Dooley. Did you know that?

Mr. USRY. I don't understand what you're saying, actually.

Senator McCain. After further evaluation, the analysis of the refugee's report by JCRC, after their initial finding that the refugee had been confused with Captain Hickerson's shoot-down, the JCRC later issued a reevaluation saying that they did not believe that he was confusing it with Captain Hickerson's shoot-down and capture. Did you know that?

Mr. USRY. I think we're talking about the same documents that we have, but what I don't understand is are you saying—and I'm not playing—

Senator McCain. What I'm saying is the initial analysis, we're saying this refugee had confused Mr. Hickerson, that it might be Dooley. Later they thought it was Hickerson.

Mr. USRY. So the refugee—

Senator McCain. The refugee was even a year off, Mr. Usry. You don't highlight that. He has it in 1968. I mean, he thought it happened a year later.

Mr. USRY. So what are you telling me? Are you telling me the final decision by JCRC is that shoot-down does not apply to Commander Hickerson?

Senator McCain. No. I'm saying that they originally said that it was Dooley, and then they reevaluated it and said that it was probably not. It's my understanding that there was a broad spectrum of information that they have to go by.

Mr. USRY. I agree with you, but what I'm trying to point out is when they made the final evaluation and said what they had said initially was that it was Dooley, or could have possibly been Dooley.

However, their final decision or determination was that it was Hickerson is what we take exception to, and we base that exception on what was provided to the family members and as well as what Commander Hickerson—or, I'm sorry, Captain Hickerson provided in a letter to the family members, and that's why we're saying that there is a difference.

The CHAIRMAN. But you see, the reason it's important, Mr. Usry—and I want to absolutely assure you you are not being singled out here, but you've got very specific stuff you're putting in front of the committee, and if somebody is asserting that it is not in fact, fact, and that it is specific, we have got to sort out, because it bears on the particular case interpretation, and I accept, I'm impressed by the Thai observation and that the Thai makes a statement, and that's good documentation.

The problem is here in the report, which is what a lot of people have been going on lately, you really do have a couple of statements there that vary from what somebody who is looking at this neutrally or something might say.

I mean, if I read that they either saw his name written on a wall of the cell or heard it from someone else, I'm going to have less weight attached to that particular case analysis, because, or hearing it from somebody else means it's 50-50 or less that he saw it on a wall.

You have asserted that he saw it on the wall, and I read it to the family, he saw it on the wall. I mean, that was part of my judgment that it was a strong point. But in fact, that's not so.

Likewise, swimming out to sea. When I read this and it said, he could not have been swimming out to sea when he was captured, I have no notion that he might have been swimming elsewhere. I just have a sense that he wasn't swimming out to sea, he was elsewhere, and in fact your report sort of infers that when he was shot down he was in a different locale sort of altogether.

In his statement, Hickerson pointed out he landed on the inside of the peninsula and therefore couldn't have been swimming out to sea. I mean, do you see what we're saying? It leaves you questioning whether you really have facts here or you have tidbits of evidence that might, with further investigation, lead you to be able to draw the conclusion you've drawn but don't yet allow us to. That's the issue.

Senator McCain. And Mr. Chairman, could I just add one other thing. Again, would it be more appropriate in a statement of a report to say that the Thais identified this man as having been seen along with 10 or 11—I have not counted the other names—none of whom we have ever been able to account for?

I think that that puts it in a kind of a context the Thais were looking at volumes and volumes of pictures, and so I just think that it might be a clearer picture if it was mentioned that they identified him along with about 10 or 11 others, none of whom, unfortunately, tragically, we have ever heard from again. But please respond, Mr. Usry.

Mr. USRY. I don't really know if I have a response. I think what we're discussing here, especially in this last instance that you brought up, is a style of writing. If you take exception to the style of writing that is in this report, there's really very little that I can do to answer that. This was a final report that was approved, and that is what was published.

Senator McCAIN. I'm sorry, I wasn't talking about a style of writing, Mr. Usry, but if that's the conclusion you draw, I think you've answered the question.

Senator REID. The question I have, though, are you talking about style of writing, your writing? Is that what you're talking about?

Mr. USRY. This is a cumulative report worked on by several persons.

Senator REID. Let's talk about style of writing here on page 18.

Mr. USRY. Of what?

Senator REID. Of your statement.

Mr. USRY. Just a minute.

Senator REID. And that is on this organized crime business. Is there any—how are we going to find out about this organized crime figure? I mean, one of my prior lives I spent a lot of time dealing with organized crime, and I know a little bit about it. Now, who is this organized crime person?

Mr. USRY. I would be more than willing to discuss that in a closed session, if you like. I've no objection to that. I think that would be best addressed at that time.

Senator McCAIN. Why is that necessary?

Mr. USRY. Because as we indicated these were problem areas that we were not able to finish investigating. It, however, came up during the time frame we were conducting our inquiry, and because of that mentioning these people—and I really have no problem with the known organized crime figure, because this person has been linked with organized crime, but in discussing that, then we're going to get into the member of the White House National Security Council and a high-ranking member of the POW family—POW family organization, and I think it really would be best for all considered to discuss that in a closed session.

Senator McCAIN. If we do not—though if we do not talk about it in open session, then anyone who is a member of the White House National Security Council staff is now under suspicion, and any prominent and high-ranking member of the POW family organization is now under a cloud of suspicion.

Would it not be more fair to identify the document and identify these people rather than make—I mean, if I were a member, a high-ranking member of a POW family organization or a member of the National Security Council, I think I would want to get this resolved publicly.

Mr. USRY. Well, I will defer to the chairman at the time, and I believe that would be Senator Smith. I'm more than willing to provide that information in closed session and let you make the decision as to whether or not you want to discuss it openly, unless you tell me I have to discuss it openly, and then I will.

Senator McCAIN. I do not say you have to do anything, I just think it is fair.

Senator KASSEBAUM. Well, this was a question I wanted to pursue. I came in late, so I did not know whether we were going through this front to back, but by this inference and these conversations I guess I am trying to understand why organized crime would be involved. Is there a drug connection here somewhere, do you think, or what is the implication of all of this?

Mr. USRY. Senator, we have no idea why they're involved. We only know the individual that maintained the diaries and what he had done in another issue, as far as what may be the reason that they're involved, but again, we were not able to look into this totally simply because the assets were not available. That is why we listed it as a problem area that we had not finished looking at, and I don't really know whether it's drugs or anything else, honestly, but there is information that exists that shows exactly what I had indicated in my statement.

Senator KASSEBAUM. Well, I am sure that at some point we will take a look at it simply because I think once this kind of statement is made publicly, then everybody does try and second-guess either who is involved or why, and I find it really very hard to have these sort of things on television with, sort of, an unclear focus on how we are going to handle it, or what is out there.

Senator REID. Mr. Chairman, if the gentlelady would yield, I can say that if we do do this in closed session, I am going to make this public anyway.

The CHAIRMAN. Well, let me ask a question.

Senator REID. Senator McCain, because this is in relation to a question that you posed, if we do have this in closed session I am going to make this public anyway, because we cannot have the State Department, the White House National Security Council, and one of these POW family organizations being part of organized crime. I think it would be to everyone's best interests if it were made public now.

The CHAIRMAN. Let me just ask a question, if I can, before I try to make a judgment on that. A "known organized crime figure," by whose judgment is that determination made?

Mr. USRY. That was information provided to us by personnel from the Department of Justice as well as the individual who provided the information to us initially, and I might add that all of that information is presently available in the archives of your subcommittee, Senator.

The CHAIRMAN. I am familiar with that, but I want to know—you see, we did not make it public.

Mr. USRY. No, sir, I understand that.

The CHAIRMAN. So that is one reason that my mind has gone clickety here is that there is a reason why we did not, and therefore I am a little reluctant here now to do this. I want to ask, is that as a result of investigative work that was done by Jack Blum?

Mr. USRY. Yes, sir.

The CHAIRMAN. And that is a memo to the file that Mr. Blum made, is that what you have taken this from?

Mr. USRY. I guess you would call it a memo to file, yes, sir. I mean, we saw excerpts.

The CHAIRMAN. I understand, but it was not part of any final report that my subcommittee issued?

Mr. USRY. No, sir.

The CHAIRMAN. So for whatever reasons we chose, that we did not have enough information, or it wasn't relevant, or for some reason, it wasn't included in the report.

Mr. USRY. I would imagine so.

The CHAIRMAN. The known organized crime figure is so designated by the Justice Department?

Mr. USRY. That's the information that I was provided when I asked about the name.

The CHAIRMAN. Well, look—

Mr. USRY. And I'm just going again by what we were told, and that is why we put it in as a problem area that we were not able to pursue.

The CHAIRMAN. It seems to me, so that the committee is not put in the position of doing injury to some member of the administration who met with somebody who might not be, in fact, an organized crime figure, and then their name is dragged into this and the person's name is, or that it isn't relevant somehow to this particular inquiry, I would really like to see the committee look at that particular file, without doubting what Mr. Usry is saying, but make a sensible judgment about it.

This inquiry doesn't end here today. There's no reason that we have to rush to put people's names in the spotlight if they don't belong there, and I'd like to see the committee be cautious about that, and so I'd rather wait, if you don't mind, but I agree in principle with what the Senator from Nevada is saying, which is that if it is relevant, and if there is some reason that the meetings took place and they had something to do with what Mr. Usry is saying, obviously it ought to be public at that point.

But why don't we make a judgment on that, if the Senator is willing to. I don't want to cut the Senator off at all, but I think it would be wise to do that.

Senator SMITH. I would concur with that. I think it is better to err on the side of caution.

The CHAIRMAN. And then we can proceed. I think this is your inquiry at this point in time. I do not have any questions now.

Senator REID. We interrupted Mr. Usry.

The CHAIRMAN. Mr. Usry, you were going through, I believe, your presentation point by point. Is that accurate?

Mr. USRY. Yes, sir.

The CHAIRMAN. And the Senators are going to take liberties as we go on, just so that it is all clear, so if you would pick up where you left off, that would be fine. I am going to let Senator Smith Chair here.

Mr. USRY. I'm on Question 4, Senator McCain: "I see, and finally a communist propaganda photograph of captured U.S. pilots in Hanoi, dated after Dooley was shot down, shows a partial profile of a person that strongly resembles Dooley. Do you have knowledge of that further, and yet the DIA and no Government agency has that photograph, according to them?"

Mr. Chairman, I offer for the record the following, and again, that is an attachment or an enclosure to my statement. It is the next enclosure.

Senator SMITH [presiding]. Is that D?

Mr. USRY. Yes, that would be enclosure D. What I offer is a DOD Vietnam information form dated September 17, 1970, showing that Mr. Henry E. Dooley and wife identified photograph number 46, shown to them by DOD personnel as possibly being their son, Lt. James Dooley; a second document entitled, photo comparison analysis results of a Christmas 1969 photo dated 1 February, 1971, reflecting a comparison of two pre-capture photographs of Lieutenant Dooley with the same photo identified as Christmas 1969 film number USN number 46, the results of which were inconclusive, unable to judge.

Senator MCCAIN. So would it not, again, have been helpful that if you had put down in your report that the results of the analysis of the photo were inconclusive?

Mr. USRY. I don't believe I said that the results of the photo were conclusive, just that there was a questioned photograph.

The question that was put to me was that—or the statement that was put to me was that the Government, the DIA, nor any other Government agency, had that photograph, and what I'm submitting is that photograph originated with the Government.

Senator MCCAIN. And that photograph was inconclusive, and so therefore they don't know whether that photograph was of Mr. Dooley or not, so how could they carry it as being of Mr. Dooley?

Mr. USRY. Senator, I was addressing the question you asked me.

Senator MCCAIN. About the picture, which is supposedly—which some people believe might have been Mr. Dooley. After analysis by DIA it was ruled as inconclusive, isn't that correct?

Mr. USRY. Which to me would mean that there it either is or isn't. There's really no way to tell.

Senator MCCAIN. So if it wasn't, or it either is or isn't, then they can't attribute it as being of Mr. Dooley, since it was inconclusive. Please proceed.

Mr. USRY. I am told that the DIA also maintains a complete casualty file of each individual missing. If that is, in fact, true, then the position that that photograph did not come from either DIA or any other Government agency is not an accurate position, and that, again, more than demonstrates part of the problem that exists concerning the POW issue—that there are inaccuracies from the Government.

Now, even more so. The Dooley family was shown the photograph in the latter part of 1970. There was no analysis requested by the Department of the Navy until February 1971, which is over 4 months after the initial viewing. It is our position that certainly is not what we would call an expedited concern, and also as far as we're concerned shows a lack of compassion for the families, or it certainly did at that time.

Question 6, Senator McCain: "Like your trip to Thailand that you just took. Tell me about your trip, would you, Mr. Usry?"

Mr. Chairman, members of the committee, during the latter part of July of this year Congressman Clement arranged for one of his constituents to provide to myself and staff of Senator Grassley what Congressman Clement's constituent felt was compelling information concerning live Americans being held in Southeast Asia.

Judge Hamilton Gayden provided documentary and physical as well as photographic evidence depicting what he thought were live

American POW's being held in Southeast Asia. The most compelling evidence was that of a photograph of a caucasian male and oriental female which according to Judge Gayden was Lt. Comdr. Larry J. Stevens. Stevens was declared MIA during the war in Southeast Asia.

Since the Senate Foreign Relations Committee and Senator Grassley's staff had already initiated some photographic comparison in the case of Capt. Donald Carr based on photographs submitted by Mr. Jack Bailey, we felt that this evidence could also be analyzed in a similar way.

This information was discussed with the Minority staff and between July 30 and August 2, 1991 I traveled to Fort Collins, CO, to provide Dr. Michael Charney, a forensic anthropologist at Colorado State University with the questioned photograph as well as pre-loss photographs of Lieutenant Commander Stevens.

Dr. Charney, utilizing a procedure called computer superimposition, determined that the pre-loss photographs of Stevens matched the forensic profile of the questioned photograph provided by Judge Gayden. The computer superimposition process creates a computer-enhanced image of the face in question and the image of the pre-loss photographs. The images were then overlaid, or superimposed upon each other.

According to Dr. Charney, they aligned. Therefore, he determined the two individuals in the two photographs were the same person. According to Dr. Patrick Fitzhorn, a professor of mechanical engineering at Colorado State University who created the computer images of Carr and Stevens, these images were exact to 1/100th of an inch. Based upon this identification, on the 2nd of August I provided a briefing to Senators Helms and Grassley as well as to another Member of Congress.

Through the efforts of this other Member, a briefing for the Secretary of Defense was set for 5:30 p.m. on August 5 at the Pentagon. At 5:30 on August 5, myself and another Senate staff member and a House staff member were present at the briefing I provided to Secretary Cheney and two of his staff.

At this time, I would like to provide the same briefing that I did for Secretary Cheney.

Senator McCAIN. I think the first two charts are self-explanatory. Could I ask that chart 3—the defense witnesses say that Mr. Charney analyzed the photograph of Lieutenant Borah the same as he did the others, is that correct?

Mr. USRY. At the time we provided the briefing to Secretary Cheney, the analysis of Lieutenant Borah and the questioned photograph had not been completed.

Senator McCAIN. Has it been completed?

Mr. USRY. Yes, it has.

Senator McCAIN. He said that it is the same.

Mr. USRY. He later rescinded that and said he was incorrect.

Senator McCAIN. Well then, he rescinded it.

Mr. USRY. Yes, he did.

Senator McCAIN. After it became known that the photographs were probably fake?

Mr. USRY. No, not at all.

Senator McCAIN. And you did, of course, take into consideration when you presented this evidence the view of the—according to the Department of Defense people, the view of Sandia, the view of the FBI and the view of others, that Mr. Charney's work was not acceptable as evidence in their view.

Mr. USRY. At the particular point in time, Senator, that we provided this briefing, that other information was either not done, or if it was done, it certainly had not been made available to us.

Senator McCAIN. Well, do you have any opinion of the view of the FBI and Sandia and others about—since now you know that they believe that his methodology is not credible, at least that is the words of the Department of Defense, does that affect your opinions at all?

Mr. USRY. I agree totally with the Defense Department position that the photograph of Lieutenant Borah, or the alleged photograph of Lieutenant Borah, is not Lieutenant Borah, which was my position from the beginning, when I first dealt with the families.

Senator McCAIN. Now I would like you to answer my question. Does it change your view of the validity of Dr. Charney's conclusions due to the opinion that has been voiced by the DIA as reflecting the views of the FBI, Sandia, and others?

Mr. USRY. Not totally, no, sir. May I continue with my briefing?

Senator McCAIN. Please do so.

Mr. USRY. Chart 1, pre-loss photograph of Capt. Donald Carr, as well as a photograph provided by Mr. Jack Bailey which he indicates was taken in Laos and believes to be Donald Carr. Also on that particular page is another photograph showing what is purported to be the cage or area that Donald Carr is held in.

Senator McCAIN. Mr. Usry, I believe we are now going into our sixth hour. I am not sure that we really need for this intensive a review of what you presented to Secretary Cheney. I asked you to tell us about your trip. I think maybe that's a better response, if you just told us about your trip and got through the rest of this.

Mr. USRY. That would be fine, Senator. We traveled to Thailand. The team that we had requested be put together was in fact put together. The source was located after 3 days, I believe, and was ultimately polygraphed by a Department of Defense polygraphers. There were two there, so that everything would be finished at the particular point in time as the polygraph examination was completed.

Once the polygraph examination was completed, it was determined that basically the individual had no valid information and was lying about everything with the exception of him being Laotian and having two children. At that particular point in time, we departed the following day, came back, and that was the end of the trip.

Senator McCAIN. Thank you.

Mr. USRY. I would also like to add that the information that was provided to us, as well as the briefing that was provided to Secretary Cheney, was such that everybody was in agreement that the evidence as it was presented at that time was compelling enough to act upon and therefore it was, in fact, acted upon.

Do we want to continue with the discussion of Commander Hickerson, or have we pretty well resolved that?

Senator McCAIN. I am certainly satisfied.

The CHAIRMAN. Let me just ask whether DOD or DIA folks had any questions or comments raised by the answer. Have they had a chance to read it?

Mr. SHEETZ. I have a fact sheet on the Dooley-Hickerson case that I would be pleased to make available at the appropriate time. [The information referred to follows:]

Attached is a Fact Sheet on the Dooley-Hickerson case based upon the Senate Foreign Relations minority staff report.

#### THE CASE OF LTJG JAMES E. DOOLEY, USN

##### BACKGROUND

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. Witnesses 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 thorough search revealed no sign of survival.

##### CLAIMS MADE IN THE MINORITY STAFF REPORT

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.

##### FACTS

- The refugee report clearly describes the capture of CAPT Hickerson, whose own debriefing account of his capture closely follows the source's reporting.
- No returnee ever claimed to have seen LTJG Dooley's name on a prison wall.
- The Thai POW's did not identify Dooley's photograph as a fellow inmate.
- LTJG Dooley is not depicted in any post-capture photographs.

##### ANALYSIS OF CLAIMS

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) 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 the returnee's 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.

As to the other points raised by the minority staff, 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.

When shown a photo of LTJG Dooley, the two Thai soldiers released from Hanoi in 1973 were uncertain, saying 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.

The minority staff also allude to a communist photograph of a profiled POW who resembles LTJG Dooley. We have no clue as to which photo they are referring. With one exception, every POW photograph from the war has been identified, and the one remaining unidentified photo is clearly not the missing Naval aviator. The plain facts are that DIA possesses no post-capture photographs that even remotely can be attributed to LTJG Dooley.

Senator SMITH. You in your travels, Mr. Usry, you were looking at both photographs, correct, both cases—both Carr, and who was the other one, Stevens?

Mr. USRY. No, sir, that is not correct.

Senator SMITH. I mean, Borah.

Mr. USRY. No. The only reason we went to Thailand was to deal with the Stevens photograph. The information that came to us concerning Stevens came to us from Judge Hamilton Gayden. The information that came to us concerning Borah also came from Hamilton Gayden, but since we had no firm identification at that time, it was felt to deal with that which looked most promising.

The photographs of Carr were provided by Colonel Bailey. However, Colonel Bailey was not forthcoming with any information concerning where Carr might be, and so we did not go to Thailand with any intention of determining anything about Carr. We provided the briefing to Secretary Cheney with the Carr photographs to show him the process. Our whole intent was to deal strictly with Stevens.

Senator SMITH. What is Charney's opinion of the Carr photographs?

Mr. USRY. According to Dr. Charney the photographs are of the same person.

Senator SMITH. And Mr. Ford indicated, I forget the exact language that was used, but compelling resemblance, but you had not ruled that out in this particular photograph and that that is a match, is that correct?

Mr. SHEETZ. That is right.

Mr. USRY. Would we like to continue. I would like to continue with those areas that I pointed out in my initial statement, that were areas that we were not able to proceed to because of asset problems. The first one which were attempts by the administration to infiltrate private activists groups, I believe the testimony of Mr. Sampley to this committee last week supports our position. However, I am offering additional documentation to support that position. This documentation will also support our next problem area list.

Two, illegal surveillance and investigation.

The CHAIRMAN. What page are you on?

Mr. USRY. 14.

The CHAIRMAN. Now you say, and I am just reading your testimony on page 14, it says this live sighting report is definitely not that of Hickerson, as the Defense Department indicates. Correct. That is page 14 of your statement?

Mr. USRY. Yes sir. That is also what Captain Hickerson says in his letter and in his statement to me.

The CHAIRMAN. I understand. Can I ask who is responsible for the evaluation of that? Is that you Mr. Sheetz?

Mr. SHEETZ. That is my office.

The CHAIRMAN. Can you come up, do you mind. I am just trying to understand this. It inevitably puts both of you on the spot a little bit and I apologize for that, but I am truly trying to understand this, so the committee can really grapple with this, I mean what we have got here. And I just read it and I have a statement from JCRC to Commander naval military personnel, SOCOM, Special Operations Command. And that is an evaluation which was for NSC from Mr. Childress in January 1987 of the Dooley incident.

The next page, here on page 13, let me go back one page before that, excuse me. Go back before that report that has the evaluation. You had the Hickerson letter, To Whom It May Concern, my name is Capt. James Hickerson, USN, so forth and then he says, I do not believe the captured American pilot subject to the report was me. There are too many discrepancies between the JCR report and my capture.

(1) I was not shot down on 22 December—I was shot down on December—I think he means I was shot down—he says I was not, but I think he means, I was shot down on 22 December, not October or November. (2) My parachute was all white, not red, white and blue. (3) If I had landed 50 meters from an air field I would have been aware of it. (4) I swam no more than 50 yards, not 200 meters. (5) I did not attempt to use my pistol. (6) There were no waves. (7) I was transported away on the back of the bicycle, not in a side car and I was never in an automobile. (8) I was wearing marine fatigues, two piece, not a one-piece flight suit. (9) There was a solid, approximately 800-foot, overcast in the area, making it unlikely that five or six jets plus a helicopter would have been flying under an overcast that close to Do Son.

Despite the fact that the location and date of the described capture was approximately mine, considering the above, I do not believe that the captured pilot reported in JCRC report was me. Very respectfully, J.R. Hickerson, Captain, USN.

Now, has he ever changed that testimony? Are you aware of that?

Mr. SHEETZ. I have not seen this letter before. We've been working with his official debrief and that was done right after he came home when his memory was fresh. And that is the source material that has been available to us.

Senator McCAIN. Mr. Chairman, could I just add a little bit to this. I did talk to him last night. He is a friend of mine, and he said he was asked various questions. Was your parachute red, white, and blue. He said, no, et cetera. The fact is that the refugee cites this incident as being in 1968 and both Dooley and Hickerson were shot down in 1967. So I think it is a little bit hard and I believe that the refugee's reporting was some 19 years after the alleged incident.

The CHAIRMAN. This is what I am trying to get at.

Mr. SHEETZ. The refugee was 13 years old at the time of the incident.

Senator McCAIN. 13 years old at the time of the incident?

The CHAIRMAN. Well, the refugee, I am less concerned about. I am just trying to get to the letter.

Senator McCAIN. This is based on a refugee report. He was 13 years old at the time he made the report, 19 years later. So I think it is very understandable that there might be some problem.

The CHAIRMAN. Was this letter drafted by Captain Hickerson?

Senator McCAIN. It was solicited.

Mr. USRY. I believe it was solicited by the individual it was addressed to.

Senator McCAIN. By a family member.

Mr. USRY. I would like to comment, if I may, on Senator McCain's point. I think it is well taken. This is some 19 years later and this was our concern, that the individual was confused to a great degree. Yet it was finally determined to be Captain Hickerson, when it could just as easily have been someone else.

And that is our point. We are not necessarily saying, that this is, or that what the refugee saw was, in fact, a shoot down of Dooley. What we are saying is that what the refugee saw may not have been a shoot down of Hickerson.

The CHAIRMAN. Hang on one second, Mr. Usry. These folks know how many shoot downs there were at Do Son within that period of time. I mean, we know how many aircraft we lost. We know when a pilot went down. So it is either Dooley or Hickerson, I presume. Do you have another pilot that it might be?

Mr. USRY. I believe at that point in time there were four lost in that area from the documentation I reviewed. And they were able to determine in two of those instances, those referred to, there were two crashes in which there, and again, I am recalling from memory there were no bodies recovered or it was assumed that the pilot had, in fact, crashed because there were no parachutes seen.

Senator McCAIN. Was this 1968 or 1967, because the refugee said it took place in 1968?

Mr. USRY. Again, I would have to refer specifically to the document which I would be more than willing to do. I just don't have that particular document in my hand. But the point I am trying to make is, that I understand, there are some inconsistencies, as Senator McCain has pointed out.

The position we are trying to make is that, with those inconsistencies, it was still attributed the shoot down finally, final analysis by JCRC or the DIA, was that it was Hickerson. Our position is that that analysis was not correct and it could have been Lieutenant Dooley because that is still an unresolved issue.

Senator MCCAIN. In fact in your report you state that the description of events more closely resembles the capture of Hickerson.

Mr. USRY. That is based upon the preliminary findings of the JCRC in which they state other than the timeframe in which the shoot down was described by the source it closely resembles that of Dooley.

The CHAIRMAN. Now what do you say to that, Mr. Sheetz?

Mr. SHEETZ. Well, I would like to read a very short piece of text here, that is an extract from his debriefing report. I will give it to you in basically what are Hickerson's words. Upon returning to the United States, Captain 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 a message to his wingman.

He then stopped, put up his hands and surrendered to the Vietnamese swimmers. In his debrief Captain Hickerson goes on to describe how he was stripped of his clothing, blindfolded, his hands tied behind his back. How he was put on the fender of a motorcycle and taken to a 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."

The CHAIRMAN. That is his own words. His own recollection right after he came back?

Mr. SHEETZ. That's correct.

The CHAIRMAN. Now, what is there about the Dooley record that makes it similar from DIA's perspective. Originally DIA thought it was Dooley's shoot down?

Mr. SHEETZ. JCRC.

The CHAIRMAN. What was it that made them come to that conclusion?

Mr. SHEETZ. Based solely on the loss, location, time of day and month. JCRC believed the report could relate to Lieutenant Dooley. However, when the facts of Captain Hickerson's capture were later brought to their attention, they re-evaluated all the reports from that area, rescinded their tentative correlation to Dooley, concluding the source of the information described Captain Hickerson's circumstances of capture.

The CHAIRMAN. Now Mr. Usry, let me ask you, do you not think there are sufficient parallels between Mr. Hickerson's own account and a refugee of 13 years' ago account, that it would be improbable that another pilot had almost the exact same experience from shoot down into the water, capture, bicycle, so forth, bicycle slash sidecar; I mean is there not a probability of fact here that has to enter into this?

Mr. USRY. I believe with the probability factor that it could have been Hickerson, it could equally make it Dooley, I do believe.

The CHAIRMAN. What makes you say that?

Mr. USRY. Because when Captain Hickerson indicates to us, or to the family members, at the time he was asked, that he was not placed in a sidecar, he was not transported across an airport or an airfield, he was not put in a car, but in fact was taken a prisoner on a bicycle. That is an extreme difference. And because of that.

The CHAIRMAN. Well Captain Hickerson's own words were just read to you. That is his own debrief. This was Captain Hickerson's own de-brief.

Mr. USRY. So then do we make the assumption that in 1989 he made a mistake and again on the 6th of March, 1990, when I spoke to him that he again made a mistake. I think the easiest way to resolve this particular issue concerning Captain Hickerson would be to ask him, exactly what he remembers now. If, in fact, we are incorrect, then we are incorrect, but if in fact we are not incorrect, then the question is still there.

The CHAIRMAN. Let me ask you this. Did—I do not see Captain Hickerson's signature on this letter.

Mr. USRY. I have it on the bottom in mine. It says, **Very Respectfully**, J.M. Hickerson, Captain USN, Retired, then it has **J.M. Hickerson** signed on it. You are looking at the **text of my statement**. If you look under enclosure F you will find an actual copy of the letter, with his signature.

Senator MCCAIN. Let me just point out Mr. Usry, that I think, frankly, Mr. Chairman, we are spending way too much time on this. We have got a lot of other areas to cover but the reason why we debrief immediately upon release, immediately before we go home, before we see families, you should know, this, Mr. Usry, is so that they can get the freshest facts that they possibly can about our experience in prison.

Now I am not saying that Mr. Hickerson is not telling the truth. In fact, I am convinced, I know absolutely that he is saying whatever is to the best of his recollection, but I would have a strong tendency as he would to rely upon his initial debrief back in 1973, rather than a recollection nearly 20 years later. I think that is the only point.

The CHAIRMAN. Well it is something we ought to try to nail down. Let us move on. We will try to reconcile it as we go along here. Does DIA have any questions about whether or not it might be Dooley today?

Mr. SHEETZ. No. We are confident that it is Hickerson.

The CHAIRMAN. Thank you.

Senator MCCAIN. From what I see, Mr. Chairman, I am not sure.

Mr. USRY. No. 2. **Illegal surveillance and investigation of individual activists of this issue** by the Department of Defense. Mr. Chair-

man, I offer for the record several pieces of correspondence either originating from Mr. John R. Mead or addressed to him. The correspondence from Mr. Mead, in all instances, is addressed to various individuals within the U.S. Government to include the Attorney General of the United States, the Public Integrity Section of the Department of Justice, the Counsel to the President, as well as the Internal Revenue Service.

The correspondence to Mr. Mead is from various Government agencies indicating that they have received this correspondence and are acting upon it. Mr. Mead's correspondence addresses his concern with the administration (1) utilizing private organizations to spy on him, (2) conducting character assassination on him, and (3) the Defense Department conducting surveillance of him. He specifically identifies, at that time, Mr. Richard Childress of the National Security Council, as well as individuals affiliated with the Center for POW MIA Accountability Incorporated.

I would also like to introduce for the record a memorandum prepared by Dr. Harvey Andrews, a former member of Senator Grassley's staff, dated September 11, 1989. The memorandum addresses, Dr. Andrews has reviewed the file concerning Mr. Mead's allegations. I wish to also point out that Dr. Andrews is a retired defense criminal investigative service special agent with over 30 years of criminal investigative experience.

[See p. 48 of the appendix.]

Senator McCAIN. Excuse me, Mr. Usry, when were these letters written to Attorney General, Public Integrity Section, Department of Justice, et cetera and Counsel to the President and IRS?

Mr. USRY. They started in May 1984, Senator.

The CHAIRMAN. Where is that in your report?

Mr. USRY. That is enclosure I.

The CHAIRMAN. No, your report originally.

Mr. USRY. No, sir, what we are addressing at this particular point in time, are those issues in my statement of last week, that we were not able to look into due to the non-availability of assets.

Senator McCAIN. Mr. Usry, have there been any investigations conducted concerning these instances that Mr. Mead refers to?

Mr. USRY. Yes, that is what I was going to address now Senator.

Senator McCAIN. What has been result?

Mr. USRY. The resolution was, as far as we are concerned, incomplete simply because it was not referred to the proper agency. The Department of Defense did not deny that they had, in fact, conducted their surveillance. However, they said nothing illegal had occurred. The Civil Rights Violations were never referred to the appropriate agency for determination to begin with and that is what I would like to read to you.

Senator McCAIN. Since 1984 they have not been—

Mr. USRY. That is my, our understanding. May I read the document. On August 28, 1989, the Office of Public Integrity, Department of Justice was asked to produce its file on the investigation of a complaint filed by John R. Mead. Reference a local surveillance by DIA, et cetera, Mr. Jack Keeny produced a three-page declaration of prosecution based upon Mead's complaints stating that this paper summarized our enquiry.

Mr. Keeny would not allow the paper to leave this office. Upon review the declination paper was found to be a superficial enquiry of the complaint by Mead which was conducted by Defense Department's Oversight Office. DIA, through the Oversight enquiry never denied a surveillance of Mead but stated it had done nothing illegal. The portion of the complaint dealing with the Civil Rights Violation was not referred to the Federal Bureau of Investigation or was their any evidence that any other potential criminal violations in Mead's complaint were ever investigated by the FBI.

The paper was a self-serving document that cleared DIA of any wrongdoing. Mr. Keeny was asked to provide the full file on this matter and he said he would have to take it up with some unidentified office. Subsequently Mr. Keeny called and said the complete file would have to be withheld because of the Third Agency Rule and so after that time, to my knowledge, there has been no further pursual of Mr. Mead's allegations.

Senator McCAIN. And one of his allegations is that Mr. Childress was associated with an organization called the Center for POW/MIA Accountability, Inc., a supposed tax-exempt organization and they and individuals associated with the Center have engaged in attempted blackmail and extortion. After receiving approval from Mr. Childress for their travel, that is the allegation, here, that I read.

Mr. USRY. Those originated from Mr. Mead, Senator.

Senator McCAIN. The obviously very serious part of his allegation is that Mr. Childress, who was then a member of the National Security Council directed the Center for POW/MIA Accountability, Inc., and individuals to engage in blackmail and extortion of Mr. Mead, is that correct?

Mr. USRY. As Mr. Mead put it, yes. That is one of several documents that he offers indicating what he felt were improprieties or illegalities.

Senator McCAIN. Do you know anything about this Center for POW/MIA Accountability, Inc.?

Mr. USRY. I know very little about them, Senator. I do believe that, that is the same organization or corporation that Mr. Sample also referenced that had hired him, but I am not sure on that. I believe it is the same one.

The CHAIRMAN. What is the gravamen of your allegation regarding this?

Mr. USRY. Simply that it was not proceeded to its logical conclusion. It is my understanding that Civil Rights Violations are the principle responsibility of the Federal Bureau of Investigation.

The CHAIRMAN. You are not vouching for the authenticity or validity thereof?

Mr. USRY. No, sir.

The CHAIRMAN. You are just saying it was not investigated?

Mr. USRY. That is correct.

The CHAIRMAN. That should be easy enough to ascertain.

Senator McCAIN. Do any of the DOD witnesses here know anything about the Center for POW/MIA Accountability, Inc.?

Mr. SHEETZ. I do not, but there is something else I would like to say. I do not have any knowledge of that organization, but if I could I would like to point out that DIA is a foreign intelligence

organization and we do not do domestic surveillance. If indeed there were any surveillance of Mr. Mead, I can tell you categorically it would not have been done by DIA.

I do not know where this notion of unlawful surveillance by DIA came from, but we are not authorized by our charter to do enforcement surveillance or any of that kind of work in the United States, except under extremely limited context and I have seen nothing here that would lead me to believe that this would be one of those type cases.

Senator McCAIN. Mr. Usry, were you aware that DIA does not surveil Americans, anyone domestically?

Mr. USRY. I am aware that the DIA has no charter to do so, yes, Senator.

Senator McCAIN. But you believe they did?

Mr. USRY. I have no belief one way or the other.

Senator McCAIN. You say in your statement there was illegal surveillance and investigation of individual activists of this issue by the Department of Defense?

Mr. USRY. I believe I also state those are problem areas we were not able to look into due to restriction of assets and that those were areas that were left unresolved.

The CHAIRMAN. What page is that on?

Senator McCAIN. Page 14 is the illegal surveillance, the Center for POW/MIA Accountability Inc., and also there is allegations about Mr. Armitage.

The CHAIRMAN. Within your original report to the committee, the subcommittee report, the Minority report, what page is that on?

Mr. USRY. Senator, again, I believe that what we are discussing right now are those seven issues that are referenced.

The CHAIRMAN. Just deriving out of your statement?

Mr. USRY. Yes sir.

The CHAIRMAN. Not out of the report?

Mr. USRY. No sir.

The CHAIRMAN. Where you alleged in your opening you were unable to complete?

Mr. USRY. Yes sir.

The CHAIRMAN. Because of—I think I recall that. I do not have a copy. I seem to recall that I read it in the context that you said they were, I suppose it depends on how you read it. All right.

Why do you not proceed? I think what we want to try to do here—and I have read through the others—I think they are pretty self explanatory, with perhaps one or two questions that might arise. Well, that was the illegal surveillance. That was the last one; is that accurate?

Mr. USRY. That was the last one we addressed, yes, sir.

The CHAIRMAN. Are there any of the other areas that Senators want to survey and then ask questions about, rather than go through each and every one? If you have questions on them, otherwise they can stand as their own explanation.

Senator BROWN. Mr. Chairman, I do not believe you have covered this in depth, but I was looking on page 20, item No. 3. Certain U.S. Government officials who testified before the House Congressional Hearings lied. Documentation which I will provide for

the record in the form of personal correspondence from various personnel employed clearly showed this duplicity. Who were the Government officials?

Mr. USRY. What we have is personal correspondence between former and present employees of CIL-HI, in which they indicate that some of the statements they made, during, I believe it was a House Hearings a few years ago, were not, in fact, correct, and that they were purposefully misrepresented or misstated.

Senator BROWN. I am sorry, the question I asked was, who were the people?

Mr. USRY. If you will allow me to look in my files here, I will be more than happy to provide it, or if you would submit it for the record I will be more than happy to give you the names. Why do we not just go through the files here.

Senator BROWN. My understanding of the purpose of this was for you to present the documentation for the statements that have been made.

Mr. USRY. That is correct. And so would you like to take a 5-minute break while I go through those.

The CHAIRMAN. Do you have the personal correspondence here.

Mr. USRY. Yes, sir, I do.

The CHAIRMAN. Why do you not pull that out. That would be helpful. And let me just ask you, while you are doing that. Did you read the foreign relations committee file, the file with respect to the so-called organized crime figure?

Mr. USRY. No.

The CHAIRMAN. You did not read the file itself?

Mr. USRY. No, sir. You mean what was provided to us or what may be in there in total?

The CHAIRMAN. Well what was provided to you.

Mr. USRY. An abstract of—what we were looked at was an abstract of the notations on various date diaries by one of the individuals.

The CHAIRMAN. In writing? You saw that?

Mr. USRY. I saw it. It was basically a computer print out.

The CHAIRMAN. But you did not see the file itself.

Mr. USRY. No sir.

The CHAIRMAN. And the abstract was provided you specifically by whom?

Mr. USRY. You had mentioned his name earlier.

The CHAIRMAN. By Jack Blum.

Mr. USRY. Yes.

The CHAIRMAN. He gave you the abstract?

Mr. USRY. He let us view it.

[Pause.]

Mr. USRY. Let me refer to your question, Senator Brown. I have some of it here right now. I am still going to have to search for all of it, but what this is, it is a synopsis of correspondence between various personnel that in fact were involved in the operation of CIL-HI and there is a 17 March 1987 letter by Mark Frankel, to Mark Frankel, from Dr. Sam Dunlap, who at the time was employed at CIL-HI. Actually, he was employed at CIL-HI from 2 January, 1986 to 8 August, 1986.

By March 1986 I learned from Dr. Norman J. Sauer of Michigan State University and Dr. William R. Maples, the State Museum, that most of the Pot Set Laos cases, identified in June 1985 were fraudulent and that his assistant, Ms. Marla Mahoney had told Drs. Gail, Maples, and Charney, in February 1986, New Orleans American Academy of Forensic Sciences meeting that skeletal identifications appeared more believable than they really were.

15 May 1986 she told Dr. John K. Lundy, at CIL-HI, same information. Maples informed Dr. Sauer that a former CIL-HI employee had told him that the Commander of CIL-HI changed identification reports on a regular basis. Alice Curley, personal friend of Mr. Furooey, since 1950's and has consulted for the Army off and on for years. And then it goes on and on, so one of the people that did, in fact, lie during the hearings was Ms. Mahoney, when she was asked certain questions during the hearing and I also have transcripts of that hearing that I am more than willing to provide to the committee.

Senator BROWN. You quoted a letter from Dr. Dunlap. The question I asked was, who was it?

Mr. USRY. Marla Mahoney, she was an employee at CIL-HI at the time. She testified at the hearings.

Senator BROWN. If you are willing to, Mr. Chairman, what would be helpful to me to have are the names of all the U.S. Government officials that lied.

Mr. USRY. Could I give that to you on the record or do you want me to do that right this moment?

Senator BROWN. Well I think the Chairman has some other things he would like to go through but what I would like you to do if you would submit for the record, one, the names of everyone who lied and two, the dates on which they testified, and the page reference within the transcript and four, the quote which they gave that is not accurate and five, the documentation that shows that what they said was incorrect. I think that would give us the specifics we need to evaluate that. Is that satisfactory, Mr. Chairman.

The CHAIRMAN. Absolutely Senator. I think that is a good suggestion and a good way to proceed. Do other Senators have other specific areas of enquiry?

Senator GRASSLEY. Are we at the end of this testimony?

The CHAIRMAN. What I am trying to do, Senator, is speed the process up a little bit because some of this is self-explanatory it stands on its face. But Senators have a specific question about one of these areas, I want every Senator to have an opportunity to ask and then if the administration wants to respond to any particular assertions in any of these areas, they will have an opportunity to do so.

Senator GRASSLEY. I think I had better ask, at this point, a couple of questions, not quite as specific as what you wanted, but I would like to have, Mr. Usry explain as he sees it what was the purpose behind the Senate Foreign Relations Committee Minority Staff Report?

Mr. USRY. The purpose of the report was to put forth that information that we had developed that showed there is a problem. And that there is a concern on the part of the public, specifically those families, that their best interests have not been served. Also, to

create that which was necessary in a public forum to cause this committee to actually be chartered and that was basically the reason behind this. There were formulation meetings, if you will, some time ago attended by various staff personnel of some of the people here on this committee and at that particular point in time we provided them with information we had concerning our enquiry.

It was after the publication, I believe, of our first report and that would ultimately might be the end result, part of which would certainly be that there was no way, certainly with the assets that we had, that we could cover this problem in total. It just was not possible. So what we tried to do was bring out that which we found to be questionable so that this committee would eventually formed, and in fact, that is what has occurred.

That was the purpose behind the report, knowing that there was no way that people that were involved in the formulation and writing of this report were the right people or enough people or the right kind of people in every instance to look at this problem from beginning to end. So what hoped would occur, or in fact did, and that was the reason for this report.

Senator GRASSLEY. On a more specific point, in regard to something that Mr. De Statte said in response to an earlier question about Peter Cressman. I would like to have you tell me any commentary on that, or any information you have on it.

Mr. USRY. Prior to my opening my statement I provided to the Chairman of the committee a document concerning Peter Cressman and his shoot down. What is interesting is that Peter Cressman was, in fact, shot down over Laos, after the U.S., I believe, signed the Peace Treaty with North Vietnam and in the documentation that I have presented, and I am by no means an expert on the Peter Cressman shoot down, I only go with what was provided to me, there are partial Intelligence Reports that indicate that shortly after the shoot down there were Americans seen as prisoners within 65 kilometers, I believe it was, of where that plane crashed.

It would also indicate to me, based upon what was provided to the family members, and again, that is who we are working with, that the question you asked earlier, whether or not we were aware, or had broken the code of either the Vietnamese or the Laotians, either the Vietnamese or the Laotians were transmitting in open text and normal language, or the code was broken because there are copies of the text of radio messages in which they discuss four pilots, four criminals which Americans were routinely referred to in Laos and would lead one to believe that the possibility from what was presented to us by the family members, that some people may have actually survived the Cressman, that Baron 52 was the call sign of the particular plane, may have survived that plane crash.

Again, I am no expert on that, but I offer and provided the committee everything we had concerning that particular shoot down.

The CHAIRMAN. Let me just ask, Mr. Sheetz, maybe you could come back up for a second, or the appropriate person, maybe Mr. De Statte. And you have already been sworn Mr. De Statte. Let me just ask you now. Picking up a bit on where we were earlier today,

do you have definitive evidence that what he is saying is not accurate, that everybody in that aircraft was killed?

Mr. DE STATTE. Yes sir.

The CHAIRMAN. Definitive, conclusive?

Mr. DE STATTE. That is the way I would characterize it.

The CHAIRMAN. Is it necessary to share it with the committee now or just submit it?

Mr. DE STATTE. Sir, it is relatively brief.

The CHAIRMAN. Why don't you share it with us.

Mr. DE STATTE. The aircraft was an EC-47Q. It is usually referred to by the call sign for the aircraft, which is Baron 52. It had eight crew members. It was lost over Laos in February of 1973. And I might add, the mother of one of the co-pilots is a personal friend of mine, and I used to work with his father. And so I know something about this. Four days later a search team inspected the records and located the remains of four of the eight?

The CHAIRMAN. Whose search team?

Mr. DE STATTE. U.S. One of the members of that search team was, in fact, a personal friend and had worked with some of the people, the crew in the back of the aircraft. Two of the remains were in the pilot and co-pilot position, the third was in the engineer's compartment. The team was able to recover a portion of this body which was identified as the other co-pilot. The fourth body they found was near the engineer's compartment.

Normally, in this type of aircraft there are two positions immediately behind the engineer's compartment. One of these two positions would have been occupied by S. Sgt. Todd Melton. The other by either Sergeant Matejov or Sergeant Cressman. Due to the physical and time constraints and hostile forces in the area, the team was not able to lift the fuselage to search for additional remains.

The search team also found what appeared to be anti-aircraft artillery shrapnel holes in part of the wreckage. They found no evidence that the crew were preparing to bail out when the plane crashed, and it did not appear that the aircraft attempted a controlled landing or a controlled crash-landing. Disposition of the wreckage and other features of the crash site, for example, the absence of skid marks, indicated the aircraft had plunged in nearly vertically to earth, bounced once and landed upside down and burned.

Although operating outside the range of ground radar stations during most of its mission, Baron 52 had frequent contact with other aircraft in the area. For example, the commander made routine half-hourly contacts with, and reported all unusual occurrences to Moonbeam, an airborne command control center which is another aircraft in the area. They also had radio contact with specter 20 and a HC-130 gunship working in the same area.

Electronics warfare crew members, these are the people in the back of that aircraft, also used separate communications equipment to maintain contact with another EC-47, Baron 62, flying in the same general area. The last reported position of Baron 52 was 8 to 10 minutes flying time from the crash site.

Following a review of facts associated with the crash the commander, Eighth Tactical Fighter Wing, in coordination with the commander, 56 Special Operations Wing, they were the command-

ers of the flying crew and the electronics crew respectively, recommended that the status of the crew members be changed to "killed in action."

The next of kin were informed of this status change, and the facts supporting the decisions, in a series of letters dated between 4 February and 17 February, 1973, which summarized the events of Baron 52's last mission and the evidence obtained by the search team. The commander added that in view of the capabilities of the radio communications equipment, Baron 52's frequent contact with other aircraft and the extensive training of the crew, in case of emergency at least one of the crew would have instinctively used the radios unless the aircraft crashed as a result of some catastrophic incident, that immediately and completely incapacitated the crew members.

Having reviewed the available facts, the field commanders reported that they believed, quote, there was no reasonable doubt that all the members of crew of Baron 52 were killed in the crash, close quote.

Now as for the Intelligence information that Mr. Usry referred to. Although the observations of the search team and other facts constituted what the field commander believed to be compelling evidence that none of the crew members survived, four sets of Intelligence Reports, portions of which were declassified for release to the next of kin, led others to speculate that four electronics specialists could have survived. Two of the documents were dated 5 February, 1973 and another 17 February 1973, 12 days later, and the fourth, 2 May 1973. I might add that I believe Mr. Mooney, who has testified before your committee, claims to have written that particular document.

Through longstanding misinterpretations of these sanitized documents, an erroneous impression of survivors, was preserved. Yet in fact, the four reports do not relate to the loss of the EC-47.

(1) The initial 5 February report originated in the area of Vinh, North Vietnam, about 240 miles by road, north of the EC-47Q crash site. In that report, which was issued as an unevaluated spot report as soon as the information was acquired, a North Vietnamese unit near Vinh said it was holding four prisoners who were not further identified.

(2) The later 5 February report based on and issued after a review of the information in the earlier 5 February report provides no additional insights into the origin or the identity of the prisoners. Now I might add for clarity, both of those documents refer to the same initial report, so these are not two separate reports. They are simply two pieces of intelligence information. The two reports based on the same item of intelligence.

(3) The 17 February document is a report by an enemy unit of the alleged downing of an aircraft in the area immediately south of demilitarized zone which separated North and South Vietnam, and as such does not relate to the EC-47 or its crew.

(4) The 2 May report is yet another analyst interpretation of the 5 February reporting and is neither new information nor a new report. DIA's review of the evidence shows that the analyst who prepared the 2 May report made a number of arbitrary and erroneous assumptions, and speculative assertions all in an attempt to

infer that the 5 February information originated from a location much closer to the EC-47 crash site and that some of the crew survived.

The 2 May report therefore actually provided no more conclusive information than did the original 5 February report. However, the unwarranted personal speculation tends to draw attention away from this fact. In conclusion it should be emphasized that the four documents cited above were never conclusively correlated to crew members of the Baron 52.

The documents initially were entered into the files of the crew members only because the information was acquired shortly after Baron 52 became missing and it was anticipated that future reporting might permit the DIA analyst to make a definitive correlation to the Baron 52 incident.

No such reporting was ever received. It is further emphasized that following the loss of Baron 52 none of its crew members were ever seen alive and there is no intelligence whatsoever which would indicate any of the crew survived the incident of loss.

The CHAIRMAN. I appreciate that, that is helpful. Mr. Usry, what do you say to that?

Mr. USRY. Mr. Chairman, as I stated previously, one, I do not profess to be an expert on the Cressman shoot down. I simply offered to you what we had on Cressman and asked that you review it and compare it with what DIA has just provided you or what they will provide to you at a later time. There is a very good argument made here, in the report, from what I can see, but again, this is not something we spent a lot of time on. It was in the documents I brought with me today. And when I heard it being discussed by you, I provided it for you.

The CHAIRMAN. I appreciate that. Let me ask you, Mr. De Statte, very quickly, this plane had destructive mechanisms in it, did it not self destruct so it would not fall into enemy hands?

Mr. DE STATTE. Sir, I am not aware of that.

The CHAIRMAN. Did not our electronic capable aircraft have that kind of destructive capacity?

Mr. DE STATTE. I do not know the answer to that question. I can find out.

The CHAIRMAN. I would be confident it did.

Mr. DE STATTE. I just do not know that for certain.

The CHAIRMAN. Well, assuming it did, what was left, I mean why was there so much left of it? Was the electronic equipment in fact intact when the crew visited it. Did they make a determination.

Mr. DE STATTE. They did not go inside the fuselage, as I recall.

The CHAIRMAN. Well, how did they find the remains they found?

Mr. DE STATTE. Looking in from the outside.

The CHAIRMAN. Only looking in from outside? Now is it possible somebody could have bailed out before the crash?

Mr. DE STATTE. I am working from a summary here, not the total record, but no, it is not possible. This aircraft . . . I know the aircraft, it is particularly tight and configured in a way, it is very difficult to move and when you are in your position you were kind of there.

The CHAIRMAN. But I gathered there were a couple of slots from which you could bail relatively easily, is that incorrect? Do any of

the military folks here have data on that? Well, we will look into that. Let us not get bogged down with the details now. We have got a presentation on both sides, it is interesting and we will evaluate it. Do any Senators have further questions?

Senator SMITH. Mr. Usry, can you tell me the rationale or the reason for doing the report? Why did you do this report. This is obviously very comprehensive and as you have seen, controversial, but why did you take this task on. For what purpose? Did someone direct you to do it? Whatever information you could provide the committee in that regard?

Mr. USRY. In November 1984, while I was still in the service. As a criminal investigator I was assigned to Korea and shortly before the end of the year I was given an investigation which I foolishly thought would only take 6 weeks.

Basically what it was, it was a series of allegations levied by a major then in the service by the name of Mark Smith and his name has come up repeatedly in here. And the allegations ranged from things such as utilizing these special forces detachment in Korea as a transshipment point for high-dollar value items that they could escape Customs and then give to high-ranking Korean officials; two, the failure on the part of the U.S. Government to act on information concerning live POW's.

Well, I investigated that from 1984 basically to March 1986 and what I found during that time frame was that in every instance where Major Smith, at the time had indicated that he knew something, as a fact, it was in fact a fact and there was credibility to his allegation. When he said he had heard something, and he did not really know whether it was factual or not, that is what he reported. Also, during that time frame of course I felt like I was the messenger or bearer of bad tidings and as I have felt here on occasion, it was more-or-less, let us shoot the messenger.

What I would do is I would come back to the United States and provide briefings to the Pentagon concerning the allegations that Major Smith had made, and in many instances, substantiated, that there were problems with high-ranking Korean officials at that point in time.

There seemed to be little or no interest to substantiate that or to report that; the interests seemed to be at the time to discredit Major Smith and I was asked repeatedly did I find anything that might indicate that Major Smith had done anything wrong and the allegations ranged from cross-border operations into Laos, dealing with guns or smuggling guns and gold throughout Southeast Asia, to bouncing a check.

And again, no real concern as to the allegations and substantiated criminal conduct that Major Smith had reported so when it all boiled down the big issue left was whether or not Major Smith had reported to a general officer information that Major Smith felt was valid information concerning live Americans as POW's.

My charter was never to determine the validity of that information, just whether it had been acted on. And I reached an impasse, where basically it was one person's word against the other and when I briefed my senior officials concerning what had been a routine way to determine who was telling the truth, or at least offered the opportunity, for either one to undergo a polygraph examina-

tion, there was no problem at all offering Mark Smith a polygraph examination, but I was not to offer the general a polygraph examination. Keeping in mind that that is a routine procedure that one would do in this type of investigation.

At the end there was some deliberation as to how this report would finally be written as well as what offenses would be reflected on the part of each individual who I identified as conducting or committing a criminal offence. The final decision was to list Major Smith as an individual who had uttered a worthless check, when the circumstances of which were very honest and there was every reason as to why he did what he did.

There was no interest at all to determining the validity of the POW information or anything else and then, of course, the particular investigation was classified.

At that particular point in time I saw that there was a real feeling amongst the people that I dealt, within the Pentagon, as well as the other commands that I transcended through my investigation, that nobody wanted to touch the POW issue and they were more intent on shooting the messenger.

Now, I will be the first to admit that Maj. Mark Smith is an extremely controversial individual and I know for a fact that he has invited a Senator out to the parking lot when the Senator referred to him or alluded to the fact that he might be lying. But what I saw at that particular point in time was a man who had provided a list of allegations to which I had substantiated and there was no argument about that; and there was more importance in discrediting him than there was in reporting and acting upon the particular allegations that he substantiated.

Based on that, it, I guess, more or less, picked up my curiosity as to whether or not there is something valid to the POW issue so in 1989, when I was contacted by the Staff Personnel of Senator Grassley and asked if I would come over and brief Senator Grassley, on the result of the Mark Smith investigation, because some people referred to that as a bench mark in this issue, I said I was more than willing and explained to them the process they needed to go through in order for me, at the time, being in the military, to come over and brief a congressional Member.

Well, some 30 days later I was still over at my headquarters and I had not provided the briefing. I had been over to the Department of Defense, I am sorry, the Pentagon IG office to discuss the issue and the questions as to what I thought the Senator might be interested in and I laid out that information for both the Colonel and Lieutenant Colonel that I spoke to at the time and they told me that I would be made available to the Senator at such time as we had an opportunity to look at the report and then determine what the Senator wanted to ask me about and I said, fine.

The next thing was when Senator Grassley came and got me and I provided to him within a 3- or 4-day period of time, a briefing as to what had occurred in the Mark Smith investigation and at that time he asked me if I would like to continue looking at the POW issue.

Naturally, as an investigator, this is quite an interesting issue, based upon my previous dealings with the system concerning the

POW issue, I felt it was something that at least needed to be looked at and that is how I got initially involved in this issue.

What I saw was a definite act to shoot the messenger concerning the issue of POW's and other embarrassing issues for the Defense Department and as Senator Kassebaum asked me last week, have I ever seen the government lie, I saw more lying on the part of the government in cover-up, at least in the Defense Government area that I dealt with, concerning the Mark Smith investigation than I had seen in some time.

I still feel to this date. I feel that that man, as controversial as he is, certainly was not given the benefit of an opportunity, in one instance, to be promoted like anyone else, because of this investigation; certainly was not given the benefit or the opportunity to provide the training to younger soldiers that he was capable of providing, as was pointed out by his superiors. And, on the part of the Defense Department, again, that I dealt with, too scurry and bury this rather than to deal with it as they should. I would be more than willing to discuss that particular issue at any time.

Senator SMITH. I have just a quick follow-up point. Is there, in your opinion, is there a line of demarkation in terms of where you feel people have not followed through or malfeasance, or whatever terms you want to apply. Is there a demarkation point where this does not go on any more? Or do you feel it has gone all the way through, from the days of the Vietnam War to today?

As a final follow-up point, there is that we have had a lot of testimony from individuals, lately, in the hearings, who appear to be very cooperative and who have indicated a willingness to be cooperative, so are you seeing the same thing, say post-1988 and 1989 that you saw, not in terms of contemporary time but in terms of your investigation say in 1973, 1974, 1975?

Mr. USRY. I am confident that the administration that has been represented here, which is the Defense Department and I think the State Department, really wants to do the right thing. I do not necessarily believe they want to do the right thing because that is where their heart is.

I believe that they want to do the right thing now because it is a public issue and there is a committee here that is going to look at them and perform oversight to ensure that they are going to do the right thing.

As an investigator, I would also have to say that the point of departure probably is, the date of these hearings. That would be the safe bet, from an investigative approach, and anything that is before these hearings needs to be looked at to determine whether, in fact, the right thing in every instance has been done, as I said last week, and I hope I have made clear, and, if not, I will try it this time.

I do not believe that everything the Defense Department did was wrong. I believe, in many instances they did good work, but in those instances when they were wrong, we are dealing with human life, or the possibility of a human life, and for whatever reason, those need to be looked at. Whether it was just through an evolution of learning, on how to deal with POW issues, or how to deal with the analysis of information, or because it was an embarrassment, and I do not really have an answer one way or the other,

regardless of the reason, the point of departure if I were looking at this would be the day these hearings started and everything before that should be reviewed.

The CHAIRMAN. Thank you very much.

Senator BROWN. Just one quick question. On pages 5 to 8 of your reports you reference the fact that a report in the New York Times, that there were 5,000 POW's held by the North Vietnamese. In testimony earlier today, by Mr. Ford—

Mr. USRY. Senator, I think I can save you time. We were incorrect. There is no two ways about that. There was a misquote. It has been corrected and that is in the new edition of the report. However, I would like to offer that. We still do not feel that it changes the content of the point we are trying to make, but it is an error. I will not argue that.

Senator BROWN. I appreciate you setting that straight. Thank you Mr. Chairman.

Senator KASSEBAUM. Mr. Chairman, I would just like to offer a comment. It is not particularly pertinent except to speak for the fact that you were an investigator for the Republican side, or the Minority side of the Foreign Relations Committee. This was not something undertaken by—and I am a Republican Member of the Foreign Relations Committee—all of the minority side of the Foreign Relations Committee.

Mr. USRY. Agreed.

Senator KASSEBAUM. I just wanted that for the record.

The CHAIRMAN. The Minority of the Minority, Report. Senator McCain?

Senator MCCAIN. Thank you. It has been pointed out to Mr. Usry that your statements in your first report, in spite of 1,400 unresolved reports of first-hand live sightings, the Department of Defense remarkably still believes it has, quote no credible evidence, unquote. How does it dismiss these reports? Was it not important for you again?

Mr. USRY. It was a typo. I agree.

Senator MCCAIN. Was it not important to mention that 75 percent of those were live sightings of people who were alive at the time, then later came home, so there were not 1,400 unresolved reports of first-hand live sightings. There was only 25 percent. of 1,400 reports of first-hand live sightings that were unresolved, is that not correct?

Mr. USRY. Senator, I take no exception to what you are saying, again. This is the way we wrote the report. It was reviewed and this was the determination as to the way it would be published. I think it is very easy to look at something in retrospect and Monday morning quarterback it and say, it should have gone this way. I am certainly not going to argue with that point. I am simply stating that this is what was the final product at the time and it stands as it is.

I would also say that it was not 1,400 unresolved. It was 1,400 resolved, and that is a typo. That has also been corrected. However, the point of fact we are trying to make is that there are 1,400 reports and all I am asking anybody to do and all I have ever asked anybody to do since the day I started on this is go, look at the intelligence yourself, look at the conclusions, reached by an analyst,

and then read the raw intelligence that they used to derive their conclusions.

See for yourself whether I am totally incorrect and if I am, I will freely admit so. Or, what I am saying is, in fact, correct, which is, there are bad analysis.

Senator MCCAIN. Please do not suffer under the impression that I am alleging that you are incorrect in any way. I am just pointing out that a statement that says there are 1,400 unresolved reports of first-hand live sightings is far, far different and frankly, I think, a typo is not the description of it, where 75 percent of these live sighting reports were true and verified, but they happened to be individuals who were there at the time and have since come home.

Let me move on to the Borah pictures. When did you first obtain the pictures that were alleged to be Lieutenant Borah?

Mr. USRY. July 13 or 14 I believe. It would have been the weekend of the National Alliance and National League of Families Convention here in Washington, DC.

Senator MCCAIN. What year?

Mr. USRY. This year.

Senator MCCAIN. That is the first time you have ever had copies of the Borah pictures?

Mr. USRY. Yes, sir, to my knowledge.

Senator MCCAIN. The Department of Defense seems to think you had them since 1989. Do you know why they would think that?

Mr. USRY. No I do not. And if they would like to tell me I would be more than interested in hearing. I received the photographs, to the best of my recollection, from the family members themselves, when they were attending the National League of Families Convention on the weekend of July 12, I believe, was what it was.

Senator MCCAIN. Did anybody else on the staff have these pictures that you know of prior to July 1991?

Mr. USRY. As far as I am aware, there was no-one else on our staff that had those. In fact, when I saw the photographs that were provided to me by the family members, I indicated to them at this time, or at that time, it was my belief that that was not their son or brother, but in fact a Laotian. However, I also indicated I was by no means an expert and we would try to get it analyzed.

Senator MCCAIN. Maybe somebody here from the Defense Department can clarify, why they believe. Can you, Mr. Sheetz—why you believed the information was—can you clarify from the microphone, so that we can have it on the record.

Mr. SHEETZ. I think from the interview of Mr. Ahroa, we know the pictures were taken some time in 1990, early in 1990. All the Defense Department knows is the first time they came to our knowledge was when they were shown on nationwide TV. Jack Bailey indicated to us, in an aside, in our debriefing with him in August of this year, that he had turned over copies of the Carr pictures to the Senate, approximately a year previously.

Senator MCCAIN. That was an incorrect statement on the part of Mr. Bailey. Was that an incorrect statement on the part of Mr. Bailey, to your knowledge, Mr. Usry?

Mr. USRY. I do not know. I know I did not come into possession of any of the Carr photos at that particular point in time. In fact the

first time I was even aware of Carr photos is when I saw a telecopied copy of the Carr photos in Senator Grassley's office.

Senator McCAIN. I am speaking of Borah photos.

Mr. USRY. I believed you asked me about Carr photos.

Senator McCAIN. I am sorry, but you know of no-one else who had, besides those family members who gave you that picture, you know of no-one that works on the Hill that had copies of those pictures, before you did in July 1991.

Mr. USRY. It is my understanding that those photographs were sent to the FBI some months before for analysis by another member on the Hill. But again, that is secondary information. I am not aware, personally, of that occurring. That is just information I have heard.

Senator McCAIN. Thank you. I hope we can clear that up because obviously you share my view that we want any information to be brought to the proper authorities; any and all authorities that can act on any information that we have both government and nongovernment, as rapidly as possible and clearly we would want to bring any information we had to the Department of Defense and the DIA, I am sure you agree with that. Before your trip, and I guess the basis of your trip, please correct me if I am wrong, was primarily based on information that was brought forward by Khambang, correct?

Mr. USRY. It is our understanding, the information was funneled or channeled through Khambang to the Judge. I would also like to add that, and this was in fact discussed with Secretary of Defense that we were not comfortable, totally, with the information, but due to the limited amount of time in which the sources or alleged sources could stay in Thailand, since they were Laotian we were more or less forced to act in the time frame, that we did. I mean under ideal circumstances certainly there would have been a different situation, but because this was more or less put upon us at the last minute we felt that it was compelling enough that we had to act.

Senator McCAIN. Thank you, thank you very much, Mr. Chairman.

Senator SMITH. Mr. Chairman, I think I can help clarify that for Senator McCain. And I do not know whether other contacts were made to other Senators or Congressmen by Mr. Gayden, but I did receive, he came, and Mr. Gayden came to my office and I am trying to remember whether I was in the Senate or the House at the time, but I believe it was the Senate. And I would stand corrected if that is not accurate, but I believe it was around the time that I took office, which would have been in December 1990 or January 1991, and he indicated that he had a photograph of somebody that alleged to be Borah and refused to provide that photograph to me, but indicated that, he showed it to me. Subsequently, a number of weeks or months later, he did bring Mr. Gayden did bring those photos in, at which time I provided them to General Vessey, in my office, so that would just clarify what happened as far as my involvement with those photographs.

The CHAIRMAN. Mr. Usry, if no other members have questions, let me summarize before I ask the administration if they have any further word and before the close today. Let me ask them first of

all if they do, Mr. Ford, do you have anything that you want to respond to? You do not and Mr. Sheetz? No.

Mr. Usry, let me say this to you. You have sat here and appropriately sort of taken some heat, I think, and questions and people saying, is this a fact, is that a fact, and in effect have had to say, well that was a mistake or this was not, on some items, which makes you like DOD, DIA, and a lot of other folks who are here, it makes all of us in the same boat, in a sense. We are all capable of that. I think it has been helpful. My personal opinion is, it has been very helpful because it sets a standard, if you will, for how this committee is going to have to proceed for whatever we put out in a report. But I want the record to show that I believe your intentions here are of the highest order. I think you want this issue resolved and I think you are absolutely concerned, legitimately, about having this resolved and I think your motivations are appropriate to want to get answers where you ought to get them and while, I and others, might have some differences with you as to how some material was presented, I do not think any of us would doubt your sincerity and your commitment and the extraordinary time you have put in to try and help us resolve it.

It does underscore the committee's responsibility to do this responsibly and carefully, without injury to people who are working hard in the field, who do not bear culpability for things that took place 15 years ago, or 20 years ago, which they did not decide, and which they did not do and it is important to try and separate that as we go along here.

Part of the effort that I view this committee charged with is to try to show that Congress can do something well, rationally and reasonably and that we can have a good work product and government does not have to mess things up but rather it can shed light and restore credibility. And so, we have helped scratch the surface of that today.

We are going to have to go through your report and you are going to have to help us go through the report to separate not all of it in public like we did today but to separate what stands up and what does not and what stands up we are going to go after and we are going to look at. So when ultimately we do it we are going to have to deal with your report and the prior reports. Now, I take it that you are prepared as you said you were last week, to turn all the material over to the Committee and work with the staff and you will be working with the staff in an effort to help us sort that out, am I correct?

Mr. USRY. Absolutely.

The CHAIRMAN. And I also take it Mr. Ford, the administration is prepared to get back to us on the request I made with respect to the declassification process at issue?

Mr. FORD. That is correct.

The CHAIRMAN. And third, you are prepared to set in motion this new relationship with the families. So that we can all work to guarantee their getting the information that they desire.

Mr. FORD. That is correct. Mr. Chairman.

The CHAIRMAN. I thank you for that. I think that is a very important first outgrowth of the committee's effort if you will, I think it is going to be very important to helping resolve this.

We will be meeting as a closed committee on Wednesday of next week to hear from CIA, NSC and DIA and meanwhile the committee will be fanning out in a number of directions, talking with people and seeking information. I think we crossed an important divide, if you will, in the course of the last 4 days' hearings, not consecutive days, but in these hearings. And I just want to summarize this before we proceed to the last witness, but I think that Secretary Ford and Secretary Cheney and others have basically acknowledged, not basically but have acknowledged, that it appears as though some folks were left behind and that is what this is all about.

There are various degrees of evidence about that, not the least of which is somebody like Bill Bell asserting it, as well as others who have asserted it, some not before this committee. I want to again emphasize that this committee is not seeking to become a forum for finger pointing. If the Soviet Union can make an announcement about huge numbers of people being killed by their troops during the war then others can acknowledge things that happened, surely 20 years later, we can make some admissions of error and move on.

I would be much happier if this process enables people to do that. So that we can understand the truth and clear the air and move on, rather than get caught in some exercise of flagellation about that past. I think we have heard a considerable amount in these first 3 days, and I appreciate Senator Grassley's comments on the floor last night. I am glad he has found these first few days valuable. I think we have had a good beginning. Let me thank you, Mr. Usry, now if you could make those materials available and begin to help us catalogue them and so forth, we need to get to work through that and I appreciate your testimony.

Mr. USRY. Senator, can I give you one more document?

The CHAIRMAN. Sure.

Mr. USRY. You had asked the Department of Defense, and I am certainly not trying to usurp them again. That is certainly one of the things that I had. It is just basically a number-crunching of casualties from between January 1961 and December 2, 1973, and its origin is the Department of Defense, Office of the Assistant Secretary of Defense Comptroller Direct for Information Operations and is dated December 5, 1973.

[See p. 932 of the appendix.]

The CHAIRMAN. That will be very helpful to us and that is part of the record and that will be very helpful because part of what will be submitted next week or so will be our own numbers-crunching of DIA and others in an effort to really ascertain once and for all what the chart is on this and we will factor that in.

Mr. USRY. What I wanted to point out in this and again, I am sure that the numbers have changed because of information that has been provided since 1973, but as of the December 2, 1973, still carried in a technical status of captured or interned were 59 people, and I believe that that is something that does need to be explained as I am sure that it can be again. This was faxed to me, and I said that I would get it in and I would assume that the document is a valid document which is easily checked but it is certainly is a starting point.

The CHAIRMAN. We have a number of other documents that bear on this and we will be working on those.

Senator McCAIN. As you know, Mr. Usry, those were people that we had photographs, communication with, and clear evidence that they were alive, at least at the time of their capture, and in some cases they were resolved because we knew what had happened to them and others have never been resolved, so I think we are aware of that and that is why we have started through this process, as flawed as it may have been from time to time. Thank you.

The CHAIRMAN. We have one final panelist, this will be a very very brief presentation, but one that is important also and I would ask Mary Backley, the director of operations for the National League of POW/MIA families if she would come forward, please. Thank you, Mr. Usry.

Mr. USRY. Thank you.

#### STATEMENT OF MARY BACKLEY, DIRECTOR OF OPERATIONS, NATIONAL LEAGUE OF FAMILIES, WASHINGTON, DC

Ms. BACKLEY. Mr. Chairman, I realize it has been a very long day and I will be as brief as I possibly can. Prior to beginning I must say, and thank the committee for their desire and their persistence in terms of declassification of the road map which I heard earlier today, that is something that our League Board has unanimously approved and would like to see, declassification of the road map. We believe that a great deal of confusion will be cleared up if that document were to be made public and so I thank the committee for that.

Mr. Chairman, and members of the select committee. Thank you for the opportunity to provide an official response to Patricia O'Grady's accusations against the National League of Families during her testimony before this committee on November 7. The League fully supports the committee's insistence on substantiation of all assertions and requests the committee's consent to examine Ms. O'Grady's purported documentation, if received.

Since Ms. O'Grady neglected to provide any specific examples to support her allegations, it is difficult to decipher the basis for her claims. However, I will address each accusation individually, clarifying League positions and policies as adopted by the annually elected board and/or membership.

According to Ms. O'Grady the National League of Families does not represent the interests of the men.

Founded in 1970, the National League of Families is the only national organization comprised solely of close relatives of Americans still prisoner, missing and unaccounted for in Southeast Asia, as well as Vietnam POW's, returned POW's.

As stipulated in the Articles of Incorporation, previously submitted to the committee, the League's threefold objective has been and is first, the return of all prisoners; second, the fullest possible accounting for the missing; and third, repatriation of remains of those who died while serving our nation in Southeast Asia. This threefold objective recognizes as it has since our founding, the relationship between the live prisoner issue and ending uncertainty. In keeping with these objectives, the League has strongly advocated

and supported increased U.S. Government efforts which have thus far resulted in the return of over 300 Americans to their families and to their homeland.

It is our position that Americans are still held in Indochina. Therefore, the League continues to press for their return. At the same time, the fullest possible accounting is crucial to achieving answers for the families and directly impacts on the live prisoner issue. The two tracks must be pursued simultaneously.

The return of any and all live Americans is our highest objective, and the League cannot and will not discriminate when it comes to obtaining answers. We accept and appreciate all information provided by the Indochinese Governments. Though critics have expressed their differences with the League, even Ms. O'Grady does not disagree with the League on this point.

According to Ms. O'Grady, there is a deliberate plan within the League to undermine the issue and thwart efforts to return live prisoners. Mrs. Griffiths has extensive investment and personal interest with the U.S. Government.

I believe that these three accusations in particular represent the core of misinformation which has circulated from time to time over the past 5 years about the League and its leadership, including the board of directors and executive director. The League's objectives have been and remain crystal clear. Strategies to achieve our goals have changed dramatically through the League's history depending upon the level of U.S. Government attention and commitment, or lack thereof, with which the families have had to deal.

For the first time, we have recently looked at our accomplishments since 1982. As you can see and confirm, the League is responsible for many of the changes in U.S. Government policy on the POW/MIA issue, particularly concerning live prisoners of war. As the only nongovernment, active participant in the official POW/MIA Interagency Group, Mrs. Griffiths, as the families designated representative, is not only in a position to help develop POW/MIA policy and constantly monitor implementation, but brings family member concerns to the policy-formulating body.

The League will only maintain its position on the IAG as long as we feel it is productive; this is a view shared by the vast majority of the families in the League. Should the families blindly trust that the abandonment policy of the 1970's will not again become the policy of the 1990's? If U.S. policy potentially endangers resolution of the issue, Mrs. Griffiths is in a position to criticize and work internally to rectify problems to ensure that the best interests of those still missing, the families and the issue are protected.

While League criticisms do not appear on the front pages of The Washington Times, Spot Light, Stars and Stripes, National Tribune, or in some veterans' publications, it is inaccurate to assume that there is always agreement between the League and the U.S. Government. There is disagreement, often at times; however, there is also the ability to work together to resolve differences. Publicity of disagreements, as we have seen, is in Hanoi's interest, not ours, unless U.S. policy and priorities were dropped.

As for the allegation concerning Mrs. Griffiths' personal interest and extensive investment with the U.S. Government, I am compelled to agree with Ms. O'Grady that as a family member, with

her own brother still missing in Vietnam, Mrs. Griffiths does have a personal interest, as do the other 2,270 families.

Ms. O'Grady's inference is false by the fact that Mrs. Griffiths requested that her name not be considered to serve in a senior DOD post in the 1985, 1986 time frame. In fact, Mrs. Griffiths has served for 13 years as executive director of the League, acting on behalf of all the families, per the policies and positions adopted by the membership and board of directors, not her own.

According to Ms. O'Grady, Mrs. Griffiths chooses members of the board of directors to her liking and rigs elections of the board of directors. Mrs. Griffiths goes beyond approach; she deliberately blocks the democratic process and refused board member access to the League's family member list.

The League's balloting process for board election and resolution consideration by the membership is approved by the board of directors and implemented by the staff, under my personal supervision and control. Mrs. Griffiths has never assisted or participated in the ballot distribution, collection and tabulation process, which I will outline as follows:

In order to be a member of the League, thus eligible to vote or serve on the board, criteria as set forth in the bylaws must be met and a signed application must be on file.

Ballots are individually numbered and distributed to all eligible League members. The ballots are then inserted in the envelope and mailed to all eligible family members.

A self-addressed, pre-posted return envelope is enclosed with the ballots to ensure that ballots are returned to a contracted certified public accounting firm, not sent to the League office. Any ballots received in the League office are immediately forwarded to the accounting firm which inputs each ballot number into their computer to ensure ballots are not duplicated.

Upon completion of tabulation, a letter certifying the results is forwarded to the League office.

Prior to the spring of 1986, the League enjoyed the voluntary services of a division in The American Legion, to receive, tabulate and certify all League balloting. The time and effort devoted to tabulating incoming ballots were provided to the League on a voluntary basis.

In the spring 1986, three board members who were seeking re-election questioned the integrity of the process performed by The American Legion. As a result, a CPA firm was and has since been contracted to receive, tabulate and certify all balloting by the League membership, including on policy questions.

It should be noted that a process which was performed with accuracy and at no charge for many years now costs the League a substantial amount of money per contracted tabulation. In addition, questions on the validity of the balloting process performed by The American Legion were initiated by those who were subsequently defeated by the membership to serve on the board.

As for access to the League membership list, a poll of the entire membership was conducted in 1986 regarding continuation of League policy to hold in confidence the names and addresses of League members. By over two-thirds majority, the voting members

elected to retain this policy which was reaffirmed in September of this year by the elected board of directors.

According to Ms. O'Grady, Mrs. Griffiths controls the flow of information to the families and participates with the U.S. Government in the concealment of information from the families.

As stipulated in documents previously submitted the League, to include Mrs. Griffiths, has consistently pressed for complete disclosure of information to the primary next-of-kin. In 1982, per the League's recommendation, the Reagan Administration adopted a policy of full disclosure to the primary next-of-kin of all information which pertains, or may pertain, to their missing relative. In 1988, Senator Smith, as a Member of the House of Representatives, submitted an amendment to the Intelligence Authorization Act which codified this policy into law. Obviously, the League was and is in full support of this policy and appreciated Senator Smith's actions on the families behalf. It is up to appropriate U.S. Government agencies to fully implement this policy in a timely manner. That is their job, as dictated by law, not the League's and certainly not Mrs. Griffiths' responsibility.

Five, Mrs. Griffiths' definition of resolution is different than that of the families.

According to Ms. O'Grady, on a number of occasions, to include in all national media, print, radio and television, Mrs. Griffiths has publicly stated her personal belief that Americans are still alive in Indochina, most recently last Wednesday she stated the same before this committee. In addition, Mrs. Griffiths has repeatedly stated that she is in complete agreement with the threefold objective of the League. This threefold objective was formulated by the families when the League was incorporated and remains the same today.

Ms. O'Grady has insinuated that Mrs. Griffiths' self-interest supersedes the recovery of live Americans.

To be quite honest, Mr. Chairman, I was very taken aback by this slanderous allegation. I believe the issue of self-interest was appropriately addressed earlier, as well as Mrs. Griffiths' position regarding live Americans.

However, I would like to conclude my testimony with personal thoughts based upon over 8 years' experience of working with her. While my tenure with the League has been one of amazement and frustration for various reasons, it has also been one of admiration for the incredible dedication, persistence and perseverance exhibited by Mrs. Griffiths despite some very unpleasant circumstances based on orchestrated attempts to discredit the National League of Families.

I have worked closely with Mrs. Griffiths for 6 of my 8 years. All allegations I have thus far either heard or read concerning her or her performance as executive director are false. In her position as executive director, she is not looking for accolades and she is not looking to be liked. She is trying to do her job and press all responsible avenues to obtain answers for the families.

There has never been such a more critical time on the issue than now. In a sad irony, it is somewhat reminiscent of the war. Domestic divisiveness clearly influenced our Nation's view of the Vietnam war. Unfortunately, that divisiveness has returned. Serious coop-

eration from the governments of Indochina could resolve this issue and opportunities to obtain that cooperation are available, with unified support behind them.

Deliberate attacks against any individual, circulation of rumor rather than fact, and calculated condemnation of the League's leadership and executive director based on lies have once again created mistrust, which in my view could shortly destroy the issue. Though much remains to be done, the League and its membership should be extremely proud of the accomplishments thus far achieved due to its persistence.

I believe that when this issue is resolved, it will be due to the steadfast determination of this organization to press forward, rather than backward. Thank you, Mr. Chairman, and Members of the committee, I look forward to any questions you may have.

[The prepared statement of Ms. Backley follows:]

PREPARED STATEMENT OF MARY BACKLEY

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6) *Mrs. Griffiths' self-interest supersedes the recovery of live Americans.*

To be quite honest, I was very taken back by this slanderous allegation. I believe the issue of self-interest was appropriately addressed earlier, as well as Mrs. Griffiths' position regarding live Americans. However, I would like to conclude my testimony with personal thoughts based upon over 8 years experience of working with her. While my tenure with the League has been one of amazement and frustration for various reasons, it has also been one of admiration for the incredible dedication, persistence and perseverance exhibited by Mrs. Griffiths despite some very unpleasant circumstances based on orchestrated attempts to discredit the National League of Families. I have worked closely with Mrs. Griffiths for 6 of my 8 years. All allegations I have thus far either heard or read concerning her or her performance as executive director are false. In her position as executive director, she is not looking for accolades and she is not looking to be liked. She is trying to do her job and press all responsible avenues to obtain answers for the families.

There has never been such a more critical time on the issue than now. In a sad irony, it is somewhat reminiscent of the war. Domestic divisiveness clearly influenced our nation's view of the Vietnam war. Unfortunately, that divisiveness has returned. Serious cooperation from the Governments of Indochina could resolve this issue, and opportunities to obtain that cooperation are available, with unified support behind them. Deliberate attacks against any individual, circulation of rumor rather than fact, and calculated condemnation of the League's leadership and executive director based on lies have once again created mistrust, which in my view, could shortly destroy the issue. Though much remains to be done, the League and its membership should be extremely proud of the accomplishments thus far achieved due to its persistence. I believe that when this issue is resolved, it will be due to the steadfast determination of this organization to press forward, rather than backward.

Thank you. I look forward to your questions.

The CHAIRMAN. Thank you very much, Ms. Backley. I do not have any questions. I am going to make one statement and then I will turn to Senator Smith. I am sorry for any hard feelings or sense of abuse that any member of the League or anyone has felt in this process. But as you know, and as everybody knows and is coming to know, there are tensions around this issue and there are deeply-felt opinions.

This committee's job is not, one of the jobs we are not going to assume and I think we have assumed most of the jobs that have come to us in the course of the last days, but one of the jobs we are not going to assume is a resolution of the internal politics of the League.

I wanted to obviously afford you and Mrs. Griffiths particularly, whom I respect and who I have worked with, any opportunity to respond as we thought it was appropriate to afford people who have criticisms the opportunity to voice those criticisms. They are part of the dynamics of this issue. And they are very much a part of the attitudes and the conditions and people's feelings and suspicions.

What you have really articulated here, what the whole League dispute articulates and the reason I think it is very important in understanding this issue, is the degree to which there is a division which has even entered among the families and that is, in its own way, a very sad commentary on the whole process. It underscores why it is so important for us to get the League so that it feels like one again, so that we get the Senate and the various administrative departments working together as one on this and so that we are resolving it and not carping at each other.

Ms. BACKLEY. I understand, Senator.

The CHAIRMAN. I think your points are well taken and I think it was appropriate for you to come here and set the record straight on that.

Ms. BACKLEY. I agree, Senator, and it is not so much a matter of feeling as though the League took abuse or Mrs. Griffiths took abuse, there were statements that were simply inaccurate and false and wrong. And it is with regards to divisions, they do occur, they occur almost in any organization. Not everybody is going to agree. The organization, I think has, as I stated, has brought about a tremendous amount of change with regards to how this issue is addressed.

The organization also now consists of the highest membership it has ever consisted in its history and there are disagreements, yes. However, we also agree on everything, in terms of the important aspects of the issue. We believe there are Americans alive in Southeast Asia and we, as family and organization, want to expedite all efforts to get them back, whether it be alive and dead, or dead.

And that is what I wanted to obviously clear up today and I think the organization has taken some very unjustifiable criticisms based upon personal views.

However, I think, yes, you could use the organization as an example, unsubstantiated allegations have been made not only on us but on the issue as a whole, in Government efforts as well as private efforts and it is something that we are firmly behind, is documentation, and I am extremely encouraged by your continued reference to that. I think that it is very important.

The CHAIRMAN. Well, I think you have done what you set out to do today and I think you are been a good spokesperson for it. I also think the League deserves enormous credit and respect for the remarkable way in which it has moved the issue, moved the Depart-

ments that are dealing with it and really stood up for what it believes and for what has to happen here.

My request to you is that, as we go along here, this committee will need the League's help and the committee will need you to help apply to this whole thing, a standard of reasonableness as we look at documentation and as we do open up the process, that it not be the parent to further dissension and conspiracy, but rather it becomes the parent to, you know, a resolution of the process.

Ms. BACKLEY. Absolutely. We want to help in whatever way we can.

The CHAIRMAN. And we look forward to working with you on that.

Senator Smith.

The CHAIRMAN. Senator Smith.

Senator SMITH. Thank you, Mr. Chairman, and thank you, Mrs. Backley.

I said in my opening statement when we began hearings that I thought it would be in the best interest of all that we try to work together—whatever the past has been, that we try to work together and hold the same harness, and try to get the answers that we are all seeking.

I think we all admit that we have all made mistakes in that regard in the past, for whatever reasons, and I think we have heard witnesses say, and the senators say from the top, from the Secretary of Defense on down, that the goal here is to try to work together to resolve this.

And in that spirit, I just want to point out a couple of things that I think might be helpful. And I would offer them just as that.

Jeff Donahue has stated, and has written—and these are his words—that dissenting opinion has no forum within the League. Members are forbidden access to the membership roster of the League mailing list. Questions at the annual meeting are severely limited, and no press is allowed during the general session of the annual meeting.

And I agree with Senator Kerry. I am not here to debate the internal workings of the League. They are none of my business, and I do not want to do that. And I am not trying to embarrass you by bringing that up.

What I am trying to say is that I think if those accusations are true, or they are even perceived to be true, it is not a good image for the League. As Senator Kerry has already stated there are many, many differences of opinion in the Senate, as well.

And I found that out this morning when I got beat 80 to 20 on an amendment. But I think there is room for that. The question is, is that accurate—that in your opinion, I mean are those points that I made accurate?

Ms. BACKLEY. Well, I do not believe they are accurate, Senator. I clarified the position with regard to the membership list. Confidentiality of the membership list was originally voted on in 1986, I believe. Ms. O'Grady's husband, Mr. Parsons, was even a member of the board of directors who made that motion to have that confidential. It has been repeatedly reaffirmed by the board throughout the history of the organization.

And as I pointed out in 1986, the families were polled on the League's position with regards to withholding or maintaining confidentially on the list. And 2/3rds majority of the voting members voted to maintain that. So it is the membership, the family's position that they want that maintained, in our confidence.

With regards to no press at the annual meeting, I understand, and I appreciate the opportunity that you are giving me to clarify that. Because my big problem, to be quite honest with you, Senator, is why do these begin? I do not understand, if that is the way families feel, they have an elected board of directors that they can write to.

Now I am extremely encouraged by the fact that over the past few months we have been getting letters in—not a great number—but the families have a right to write to their elected officials. As your constituents write to you, family members can write to their elected officials.

And the League board does sit down and they do discuss. That is their job. They have to. If they did not, I would be outraged as a family member. But they do. And there is a process in place.

Senator SMITH. There is, well, obviously as there is in any organization, there is a—there is deviciveness. That is not a criticism. We are going to have that.

Ms. BACKLEY. Absolutely.

Senator SMITH. I think though some of it relates to—if you go back, and I think there is enough documentation on this to say what I am saying is not controversial—if you go back to some of the memorandums, the Haldeman memorandum, for example. When you go all the way back into the Nixon years, during the war the League—when the League was beginning to organize—POW families were becoming a bit of a nuisance to the conduct of the war to use the, not my words, but the words of those who are running the Government as you saw.

So they had to deal with that. And I think evolving from that, and I think some of the criticisms—this is just my personal opinion, having talked to people on both sides—when the League director moves into the inter-agency group and you begin to get the perception that they are part of the, quote unquote "Government" not that the Government is working toward a different end—that is not the point.

But because of that past, where there was an attempt to use the family members to the benefit of the conduct of the war, which is obviously the case as we saw in the documents, there comes that criticism that why is your League director a part of the inter-agency group? Is she, in fact, part of the Government or does she represent the League?

And I think even when she testified, when Mrs. Griffiths testified here, I felt—as I believe Senator Kerry said—that her remarks were more Government-oriented than they were family oriented.

So I think that is the reason why some of these comments, these criticisms come about. And let me—and I will give you a chance to respond. I just want to say, from my own, personal experience over the past 6 or 8 years that I have been in the Congress, 7 years, there have been three things that I have been involved with, three times that I have been involved with. One was what you mentioned, the

1988 codification of information to the families; another one was the forerunner to that was H.R. 2260, which was a little bit more controversial, because I think it was misinterpreted, which involved publicizing information.

And the last one, of course, was this select committee. In all three cases, I personally, through either personal through a conversation or through a staff person, asked to address the League, or to have somebody from my staff address the League to discuss those issues.

And the one that—the 1988 codification was kind of a last—it was a result of 2260. It was a last-minute decision, almost made on the Floor, so we did not have much chance to address that. But 2260 and the select committee, which was my bill, I was denied the opportunity to—or any of my staff—to address the League on those issues in asking for their support.

From a personal perspective, personal perspective, the League can do what it wants. I am not a member of the League. I felt that that was wrong. I think that you ought to be open-minded enough to be able to accept the comments on legislation which I feel was an attempt to try to help resolve the issue.

So, you know, I bring it up only to say that I think all of us could make some changes. And if you would like to respond to it, please do.

Ms. BACKLEY. Well, the decision with regards to addressing the board, so to speak, I know during July, this past July, I believe your staff assistant, Dino Carluccio was outside of one of our board meeting doors in which it was brought up that you did want to address the board. The board was going to—the chairman of the board was going to draft and send you a letter inviting you to address the next session of the board about this Senate select committee.

What happened before the board convened or met in September is that this was established, it passed. So it was really a moot point to send a letter inviting you to address the board on the merits of the Senate select committee when it was already formed.

Senator SMITH. But you were opposed to the select committee, your board, correct?

Ms. BACKLEY. Absolutely, the last year's board was—

Senator SMITH. Can you give me a reason why you are opposed?

Ms. BACKLEY. Well, I can give you several. One, in particular, is diversion of assets, resources which the League had fought—and the families—for an incredible amount of time to get the number of assets and resources focused on the issue. We were not sure the charter and direction that the committee was going to take. It was very unclear. And we were afraid that it was going to turn into another conspiracy and cover-up, just focused on that.

We also, obviously, Senator Smith, have experienced select committees in the past. And frankly, it devastated the issue and almost destroyed the issue. And we have referred to them or they have been referred to earlier by the committee, and that was the House committee, as well as the Woodcock Commission. Both committees were forced to make a conclusion. They were temporary, and they concluded that no Americans were alive in Southeast Asia.

Senator SMITH. And they were both wrong.

Ms. BACKLEY. Absolutely, and thank you—but the ironic part about it is that the House select committee also concluded that there was little to no chance of further accountability of Americans.

Well, the organization obviously did not sit down for that. We kept on pressing. And ironically, over 230 Americans have been accounted for since the committee issued that statement.

So there is—obviously there is experience from past that led us and obviously caused us great concern. We did not want to see that committee, or this committee to take that direction.

The CHAIRMAN. And now you are filled with admiration and confidence about this committee's ability to come to resolution. [Laughter.]

Senator SMITH. I just want to say in conclusion, I appreciate your candor. And hopefully we can work together and put the past behind us.

And just from a personal standpoint, I think a lot can be done to involve some of those who, quote "have been dissentors" unquote in the process. And I think it would be profitable for all.

Ms. BACKLEY. I know the board looks forward to working with the committee in whatever capacity they can—as does Mrs. Griffiths. Again, she fully concurs with your statement in your opening remarks, Senator, as I think everybody does.

The CHAIRMAN. We have been here a long time, folks. We got here at 8:30 this morning for the committee session. And with the exception of a vote we have not left here. And so this has been a long day.

I appreciate very much your testimony. The committee now has a significant amount of work cut out for it. We will proceed, in the next weeks to have a hearing if the committee feels it has sufficient reason to have a public hearing. But a great deal of our work in the next weeks will be depositions and interrogatories and private work, and data work and so forth.

And so we will make an announcement when we will next have a public session. I want to assure all those who follow the work of this committee on a day-to-day basis—and there are many—and I want to ensure all people who are sort of interested in the public aspect of this inquiry that the fact that we are not having a public hearing does not mean we are hiding anything, nor does it mean that we are not doing anything. It means we are going to proceed to do our homework.

And there clearly will be public sessions as we proceed down here. And all data that we can conceivably make available to the public—with the exception of compromising national security as a judgment made by 12 U.S. Senators—will be made public as we proceed.

So on that note, I thank my colleague, the Vice Chairman, for his help in these early days, and cooperation. And we have a good, solid working relationship with a lot of entities going here.

And we will stand adjourned until further notice.

Mrs. BACKLEY. Thank you.

[Whereupon, at 4:15 p.m. the committee adjourned.]