

Such as they are, our current efforts in the political field, plus the 'stand-by' alternatives developed by the military, represent the full range of possible additional efforts to recover personnel now in custody of foreign powers. On one hand, we are bound at present by the President's 'peaceful means' decree. The military courses of action apparently cannot be taken unilaterally, and we are possessed of some rather 'reluctant' allies in this respect. The problem becomes a philosophical one. If we are "at war," cold, hot or otherwise, casualties and losses must be expected and perhaps we must learn to live with this type of thing. If we are in for fifty years of peripheral 'fire fights' we may be forced to adopt a rather cynical attitude on this for political course of action something like General Erskine outlined which would (1) instill in the soldier a much more effective 'don't get captured' attitude, and (2) we should also push to get the military commander more discretionary authority to retaliate, fast and hard against these Communist tactics.<sup>12</sup>

Reports of the fate of these Americans continued to come to the attention of the United States government. One such report, a Foreign Service Dispatch (cable) by Air Pouch dated March 23, 1954, sent from the U.S. diplomatic post in Hong Kong to the State Department in Washington, sheds some light on the fate of hundreds of U.S. POWs captured during the Korean War. The report reads:

American POWs reported en route to Siberia

A recently arrived Greek refugee from Manchuria has reported seeing several hundred American prisoners of war being transferred from Chinese trains to Russian trains at Manchouli near the border of Manchuria and Siberia. The POWs were seen late in 1951 and in the spring of 1952 by the informant and a Russian friend of his. The informant was interrogated on two occasions by the Assistant Air Liaison Officer and the Consulate General agrees with his evaluation of the information as probably true and the evaluation of the source as unknown reliability. The full text of the initial Air Liaison Office report follows:

First report dated March 16, 1954, from Air Liaison Office, Hong Kong, to USAF, Washington, G2.

This office has interviewed refugee source who states that he observed hundreds of prisoners of war in American uniforms being sent into Siberia in late 1951 and 1952. Observations were made at Manchouli (Lupin), 49 degrees 50'-117 degrees 30' Manchuria Road Map, AMSL 201 First Edition, on USSR-Manchurian border. Source observed POWs on railway station platform loading into trains for movement into Siberia. In railway restaurant source closely observed three POWs who were under guard and were conversing in English. POWs wore sleeve insignia which indicated POWs were Air Force noncommissioned officers. Source states that there were a great number of Negroes among POW shipments and also states that at no time later were any POWs observed returning from Siberia. Source does not wish to be identified for fear of reprisals against friends in Manchuria, however is willing to cooperate in answering further questions and will be available Hong Kong for questioning for the next four days.

Upon receipt of this information, USAF, Washington, requested elaboration of the following points:

<sup>12</sup> Report, classified Confidential, prepared by the Defense Advisory Committee on Prisoners of War, Study Group III, "Recovery of Unrepatriated Prisoners of War," a document presented by the Office of Special Operations, Office of the Secretary of Defense, written by James J. Kelleher, Report No. CPOW/3 D-1, June 8, 1955.

1. Description of uniforms or clothing worn by POWs including ornaments.
2. Physical condition of POWs.
3. Nationality of guards.
4. Specific dates of observations.
5. Destination in Siberia.
6. Presence of Russians in uniform or civilian clothing accompanying movement of POWs.
7. Complete description of three POWs specifically mentioned.

The Air Liaison Office complied by submitting the telegram quoted below.

FROM USAIRLO SGN LACKEY. CITE C 4. REUR 53737 following answers submitted to seven questions.

(1) POWs wore OD outer clothing described as not heavy inasmuch as weather considered early spring. Source identified from pictures service jacket, field, M1943. No belongings except canteen. No ornaments observed.

(2) Condition appeared good, no wounded all ambulatory.

(3) Station divided into two sections with tracks on each side of loading platform. On Chinese side POWs accompanied by Chinese guards. POWs passed through gate bisecting platform to Russian train manned and operated by Russians. Russian trainmen wore dark blue or black tunic with silver colored shoulder boards. Source says this regular train uniform but he knows the trainmen are military wearing regular train uniforms.

(4) Interrogation with aid of more fluent interpreter reveals source first observed POWs in railroad station in spring 1951. Second observation was outside city of Manchouli about three months later with POW train headed towards station where he observed POW transfer. Source was impressed with second observation because of large number of Negroes among POWs. Source states job was numbering railroad cars at Manchouli every time subsequent POW shipments passed through Manchouli. Source says these shipments were reported often and occurred when United Nation forces in Korea were on the offensive.

(5) Unknown.

(6) Only Russian accompanying POWs were those who manned train.

(7) Three POWs observed in station restaurant appeared to be 30 or 35. Source identified Air Force non-commissioned officer sleeve insignia of Staff Sergeant rank, stated that several inches above insignia there was a propeller but says that all three did not have propeller. Three POWs accompanied by Chinese guard. POWs appeared thin but in good health and spirits, were being given what source described as good food. POWs were talking in English but did not converse with guard. Further information as to number of POWs observed source states that first observation filled a seven passenger car train and second observation about the same. Source continues to emphasize the number of Negro troops, which evidently impressed him because he had seen so few Negroes before.

...Comment Reporting Officer: Source is very careful not to exaggerate information and is positive of identification of American POWs. In view of information contained in Charity Interrogation Report No. 619 dated 5 February 54, Reporting Officer gives above information rating of F-2. Source departing Hong Kong today by ship. Future address on file this office.'

In this connection the Department's attention is called to Charity Interrogation Report No.

619, forwarded to the Department under cover of a letter dated March 1, 1954, to Mr. A. Sabin Chase, DRF. Section 6 of this report states, "On another occasion source saw several coaches full of Europeans who were taken to USSR. They were not Russians. Source passed the coaches several times and heard them talk in a language unknown to him."<sup>13</sup>

### ***"PRISONERS IN PEACE AND REFORM CAMPS WILL NOT BE EXCHANGED"***

The report from Hong Kong was specifically discussed in Major General Young's April 29, 1954 memorandum to Assistant Secretary of the Army, Hugh Milton, II. Young, responding to Milton's request to "consolidate information on prisoners of war which may remain in Communist hands," states that the Hong Kong report

corroborates previous indications UNC POWs might have been shipped to Siberia during Korean hostilities....reports have now come [to the] attention [of the] U.S. Government which support earlier indications that American prisoners of war from Korea had been transported into Soviet Union and are now in Soviet custody. Request fullest possible information these POWs and their repatriation earliest possible time.<sup>14</sup>

One CIA intelligence report, which had an information date as of October 1950 - February 1951, confirmed that hundreds of Negro troops were held by the North Koreans. The CIA report stated:

1. One Republic of Korea soldier who was captured by the Communists on 29 October 1950 was sent to a war prison camp at Pyoktong (125-26, 40-36) in North Pyongan. This camp in early November had about 1,000 American war prisoners, of whom about 700 were negroes, approximately 1,500 ROK prisoners, and about 300 civilian employees of the United Nations forces.<sup>15</sup>

A different three page CIA intelligence report, on Prisoner of War Camps in North Korea and China, with information dated January-May, 1952, described the Chinese Communist system of camps for U.N. POWs.

#### War Prisoner Administrative Office and Camp Classification

1. In May 1952 the War Prisoner Administrative Office (Chan Fu Kuan Li Ch'u) (2069/0199/4619/3810/5710) in Pyongyang, under Colonel No-man-ch'i-fu (6179/7024/1148/1133), an intelligence officer attached to the general headquarters of the Soviet Far Eastern Military District, controlled

<sup>13</sup> Cable, Foreign Service Dispatch "From: AMCONGEN, Hong Kong, To: The Department of State, Washington, by Air Pouch, signed Julian F. Harrington, American Consul General, cc: Taipei, Moscow, London, Paris, No. 1716," March 23, 1954.

<sup>14</sup> Memorandum, classified Secret, "To: Hugh Milton, the Assistant Secretary of the Army, (M&RF) Subject: United States Personnel Unaccounted for by Communist Forces, From: Major General Robert N. Young, Assistant Chief of Staff, G-1," April 29, 1954.

<sup>15</sup> Report, CIA, No. S0 6582, Country: Korea/China; Date of Info: October 1950 - February 1951.

prisoner of war camps in Manchuria and North Korea. The office, formerly in Mukden, employed 30 persons, several of whom were English-speaking Soviets. LIN Mai (2651/6701) and NAM IL (0589/2480) were deputy chairmen of the office.

2. The office had developed three types of prisoner-of-war camps. Camps termed 'peace camps,' detaining persons who exhibited pro-Communist leanings, were characterized by considerate treatment of the prisoners and the staging within the camps of Communist rallies and meetings. The largest peace camp, which held two thousand prisoners, was at Chungchun. Peace camps were also at K'aiyuan Ksien (124-05, 42-36) and Pench'i (123-43, 41-20).

3. Reform camps, all of which were in Manchuria, detained anti-Communist prisoners possessing certain technical skills. Emphasis at these camps was on reindoctrination of the prisoners.

4. Normal prisoner-of-war camps, all of which were in North Korea, detained prisoners whom the Communists will exchange. Prisoners in peace and reform camps will not be exchanged.

5. Officials of North Korean prisoner of war camps sent reports on individual prisoners to the War Prisoner Administrative Office. Cooperative prisoners were being transferred to peace camps. ROK [Republic of Korea] officers were being shot; ROK army soldiers were being reindoctrinated and assimilated into the North Korean army.

...13. On 6 January four hundred United States prisoners, including three hundred negroes, were being detained in two buildings at Naiao Nan Kuan Chaih, at the southeast corner of the intersection, in Mukden. One building, used as the police headquarters in Naiao Nan Kuan during the Japanese occupation, was a two-story concrete structure, 30 meters long and 20 meters wide. The other building, one story high and constructed of gray brick, was behind the two-story building. Both buildings had tile roofs. All prisoners held here, with the exception of three second lieutenants, were enlisted personnel. The prisoners, dressed in Chinese Communist army uniforms, with a red arm band on the left arm, were not required to work. Two hours of indoctrination were conducted daily by staff members of the Northeast Army Command. Prisoners were permitted to play basketball in the courtyard. The attempt of three white prisoners to escape caused the withdrawal of permission for white prisoners to walk alone through streets in the vicinity of the camp. Two Chinese Communist soldiers guarded groups of white prisoners when such groups left the buildings. Negroes, however, could move outside the compound area freely and individually. Rice, noodles, and one vegetable were served daily to the prisoners in groups of 10 to 15 men. One platoon of Chinese Communist soldiers guarded the compound.<sup>16</sup>

### **"...DEVOID OF ANY FOUNDATION WHATSOEVER..."**

In an attempt to resolve the unrepatriated U.S. POW problem from the Korean war, by diplomacy, the United States officially communicated with the Soviet government on May 5, 1954. The official U.S. request to the Soviet Union stated:

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Union of the Soviet Socialist Republics and has the honor to request the Ministry's assistance in the following matter.

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<sup>16</sup> Report, CIA, "Subject: Prisoners-of-War Camps in North Korea and China," No. SO 91634, July 17, 1952.

The United States government has recently received reports which support earlier indications that American prisoners of war who had seen action in Korea have been transported to the Union of Soviet Socialist Republics and that they are now in Soviet custody. The United States Government desires to receive urgently all information available to the Soviet Government concerning these American personnel and to arrange their repatriation at the earliest possible time.<sup>17</sup>

On May 12, 1954, the Soviet Union replied:

In connection with the note of the Embassy of the United States of America, received by the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics on May 5, 1954, the Ministry has the honor to state the following:

The United States assertion contained in the indicated note that American prisoners of war who participated in military actions in Korea have allegedly been transferred to the Soviet Union and at the present time are being kept under Soviet guard is devoid of any foundation whatsoever and is clearly far-fetched, since there are not and have not been any such persons in the Soviet Union.<sup>18</sup>

The Soviet response predicates denial of access to the men on its refusal to characterize the U.S. personnel as "prisoners of war." In fact, the Soviets made it a practice to refuse to acknowledge the U.S. citizenship of the U.S. soldiers; as a result--from the Soviet's standpoint-- the Soviet denial is accurate.

Nor was this lesson ever learned. According to a April 15, 1991 press advisory issued by the United States Department of State, the United States once again requested that the Soviets "provide us with any additional information on any other U.S. citizens who may have been detained as a result of World War II, the Korean conflict or the Vietnam War,"<sup>19</sup> a request that repeated the mistake of asking for information only about U.S. citizens that the State Department made 37 years earlier.

The State Department also made a point of including in its recent press advisory the government's usual statement that "in the interest of following every credible lead in providing families of U.S. service members with information about their loved ones."<sup>20</sup> Furthermore, according to the press advisory, the State Department specifically asked the Soviets only about "two U.S. planes shot down in the early 1950s,"<sup>21</sup> and did not ask the Soviets any specific questions about any non-repatriated POWs from World War II, the Korean War, and the Vietnam War. It seems apparent that if the Department of State had expected to get solid information from the Soviet government, then the State Department would have sent a much more comprehensive and appropriately phrased request.

The sincerity of the State Department's declared intention to follow "every credible lead in

<sup>17</sup> See diplomatic note.

<sup>18</sup> U.S. State Department press release 249, May 13, 1954.

<sup>19</sup> See United States Department of State press advisory, Office of the Assistant Secretary/Spokesman, "USSR: Allegations of U.S. POWs in the USSR," April 15, 1991.

<sup>20</sup> ibid.

<sup>21</sup> ibid.

providing families of U.S. service members with information about their loved ones" is, therefore, suspect. One U.S. government document dated January 21, 1980, a memorandum from Michael Oksenberg to Zbigniew Brzezinski, the National Security Advisor under President Carter, reveals the cynical view and attitude of at least one U.S. government official with regard to the non-repatriation issue,

a letter from you is important to indicate that you take recent refugee reports of sighting of live Americans 'seriously.' This is simply good politics; DIA and State are playing this game, and you should not be the whistle blower. The idea is to say that the President [Carter] is determined to pursue any lead concerning possible live MIAs.<sup>21</sup>

### **"...POWs WHO MIGHT STILL BE IN COMMUNIST CUSTODY..."**

The executive branch's disinformation tactics against concerned mothers and fathers extended to Congressmen and Senators. One case is found in a December 21, 1953 letter sent to the Secretary of State from Senate Majority Leader Lyndon B. Johnson with regard to a constituent letter from Mr. Paul Bath of Marshall, Texas, who wrote Senator Johnson about a *U.S. News and World Report* article titled "Where are 944 Missing GI's?"

The first reaction of the Secretary of State's office was to call Johnson and dispose of the matter by phone. However, as a written reply was requested, Thruston B. Morton, the Assistant Secretary of State for Congressional Relations, was tasked to reply. The evolution of the text of Morton's letter to Johnson--which took four rewrites to complete--definitively illustrates the ambivalence with which the United States government has approached the non-repatriation issue. The four drafts still exist today, and they illustrate how the State Department artfully sought to mislead the most powerful leader in Congress at the time.

The first draft of the State Department's response contained the following text:

On September 9, the United Nations Command presented to the Communist representatives on the Military Armistice Commission a list of approximately 3,404 Allied personnel, including 944 Americans, about whom there was evidence that they had at one time or another been in Communist custody. The kinds of evidence from which this list was drawn included letters written home by prisoners, prisoners of war interrogations, interrogations of returnees, and Communist radio broadcasts. The United Nations Command asked the Communist side for a complete accounting of these personnel.

On September 21, the Communists made a reply relative to the list of names presented to them by the United Nations Command on September 9, in which they stated that many of the men on the list had never been captured at all, while others had already been repatriated.<sup>22</sup>

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<sup>21</sup> Memorandum, National Security Council, "To: Zbigniew Brzezinski, From: Michael Oksenberg," January 21, 1980.

<sup>22</sup> Letter, first draft "To: Senator Johnson, From: Assistant Secretary of State for Congressional Relations, Thruston B. Morton," file number SEV 611.61241/12-2153.

This entire section was crossed out by Morton, but a persistent foreign service officer sent Morton back the second draft, with the section quoted above unchanged, as well as a new sentence at the end of the introductory paragraph which read:

He [Mr. Paul Bath of Marshall, Texas] can be assured that efforts are being made to obtain the release of all our men in Communist custody and may be interested in having the following information about this matter.<sup>24</sup>

The second draft also contained a new page which followed the paragraphs used in the first draft. The second page of the second draft read:

General Clark, in a letter of September 24 [1954, two and a half weeks after Operation BIG SWITCH ended] to the Communist side, stated that he considered their reply [that the 944 U.S. men were never captured or had been repatriated] wholly unacceptable, and pointed out that by signing the armistice agreement the Communists had undertaken a solemn obligation to repatriate directly or to hand over to the custody of the Neutral Nations Repatriation Commission all of the captured persons held by them at the time the armistice was signed. He pointed out that this obligation was binding upon them and applied to all United Nations Command persons regardless of where captured or held in custody. I am enclosing a copy of General Clark's letter of September 24 which you may wish to send to your constituent.

On November 21, the United Nations Command provided the Communist side with a revision of its original list of unaccounted for Allied personnel which it had presented to the Communists on September 9. The revised list contained a total of 3,400 names, and the figure for United States prisoners of war unaccounted for was increased by eight to a total of 952.

On November 21, the United Nations Command protested in the Military Armistice Commission to the Communists that they had still failed to give a satisfactory reply concerning the list of unaccounted for United Nations Command personnel, and pointed out that additional evidence provided by three Korean prisoners of war who recently defected to the United Nations side corroborated the United Nations Command statements that the Communists were withholding prisoners of war. The United Nations Command demanded that the Communists "hand over to the custody of the Custodian Forces of India all those prisoners that your side still retains."

Ambassador Arthur Dean has also referred to this problem in the course of his negotiations with the Communists at Panmunjom.

Your constituent may be assured that it continues to be our determined purpose to obtain the return of all personnel in Communist custody and the United Nations Command will make every effort to accomplish the objective.<sup>25</sup>

Assistant Secretary Morton rejected all the proposed changes in the second draft by crossing them out. The third draft of the letter to Johnson was so disagreeable to Morton that he typed out two sentences and attached it to the draft and crossed out all others that related to the State Department's reply. As a result, the final letter read:

<sup>24</sup> Letter, second draft "To: Senator Johnson, From: Assistant Secretary of State for Congressional Relations, Thruston B. Morton," file number SEV 611.61241/12-2153.

<sup>25</sup> ibid.

My dear Senator Johnson:

I refer to your letter of December 21, acknowledged by telephone on December 30, with which you enclose a letter from Mr. Paul Bath of Marshall, Texas concerning an article in the December 18 issue of *U.S. News and World Report*. It is believed that Mr. Bath refers to the article "Where are 944 Missing GI's?" on page 27 of this publication.

I am enclosing copies of a statement recounting the efforts being made to secure the return of American prisoners of war who might still be in Communist custody which I believe will be of assistance to you in replying to your constituent. As the statement points out, it continues to be our determined purpose to obtain the return of all personnel in Communist custody and we will do everything possible to accomplish this objective. [emphasis added]

With regard to questions as to whether there are military personnel or other United States citizens in the custody of the Soviet Government, a few of the prisoners-of-war of other nationalities recently released by the Soviet Government have made reports alleging that American citizens are imprisoned in the Soviet Union. All of these reports are being investigated by this Department with the cooperation of other agencies of the Government.

You are probably aware that representations which the United States Government recently made to the Soviet Government resulted in the release in Berlin on December 29 of Homer H. Cox and Leland Towers, two Americans reported by returning [German] prisoner-of-war as being in Soviet custody. The Department will investigate, as it has done in the past, every report indicating that American citizens are held in the custody of foreign governments.

Sincerely Yours,

For the Secretary of State,

Thruston B. Morton<sup>24</sup>

It is noteworthy that Morton's letter contained no specific or accurate information, as contrasted with the three rejected drafts which had such information. The rhetoric of the State Department could not go beyond the word "might" to describe the possibility of U.S. soldiers being held by Communist forces. On the one hand, the State Department was taking credit for having released two Americans from the Soviet gulag and for investigating "every report indicating that American citizens are held in the custody of foreign governments," but on the other it was dismissing any real possibility that there could be more POWs in Communist prisons.

### **"THEY...WOULD HOLD ME LIKE THEY HAD DONE THESE OTHER GUYS"**

The People's Republic of China, as noted earlier, released a Canadian Squadron Leader thirteen months after the last U.N. POW was repatriated by the Communist forces. In 1973, Chinese Communists released two American POWs who had been captured during the Korean

<sup>24</sup> Letter, final "To: Senator Johnson, From: Assistant Secretary of State for Congressional Relations, Thruston B. Morton", file number SEV 611.61241/12-2153, January 20, 1954.

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## T H E   K O R E A N   W A R

War, along with a pilot, Philip Smith, who was shot down over the Gulf of Tonkin during the Vietnam war. During Smith's seven years in solitary confinement in a PRC jail, he had been shown the two U.S. POWs from the Korean War whom the Chinese Communists were still holding. Smith said the Chinese told him:

they wouldn't release me, and would hold me like they'd done to these other guys until I recanted.<sup>27</sup>

Most Americans would find it incomprehensible that the Chinese would hold U.S. POWs from the Korean War, and release them two decades later; yet, to the Chinese Communists, this policy had some rationale.

At the conclusion of operation BIG SWITCH, the United States Government failed to pursue vigorously credible reports and left U.S. citizens, held against their will, in custody of the North Koreans, the mainland Chinese, and the USSR. Whether any of these men are still alive is --tragically--unclear.

The fate of the more than 8,000 men listed as MIA who were administratively found to be "presumed dead" is a mystery. No rebuttal was ever made to General Van Fleet, who stated in the fall of 1953 his belief that a large percentage of the 8,000 American soldiers listed as missing in Korea were alive.<sup>28</sup> "A large percentage" translates into thousands of U.S. soldiers who were never repatriated by the Communist forces after the Korean war.

Seven years after operation BIG SWITCH, one Foreign Service Dispatch to the State Department in Washington contained the names of two U.S. Korean POWs working in a Soviet phosphorus mine.<sup>29</sup> The cable, recently "sanitized" by the United States government, originally contained the names of the two U.S. POWs, but the names were blacked out in the sanitized version. According to the United States government, the names were blacked out to protect the abandoned POWs' "privacy." It is absurd that the U.S. government, having abandoned soldiers to a life of slave labor and forced captivity, is attempting to protect the same abandoned soldiers' "privacy."<sup>30</sup>

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<sup>27</sup> "ExPOWs Recall Psychological Terror, Coercion," *The Free Press Enterprise*, January 22, 1991.

<sup>28</sup> "8,000 Missing, Van Fleet Says," *The New York Times*, August 8, 1953.

<sup>29</sup> Cable, "From: the American Embassy in Brussels, To: the State Department in Washington," September 8, 1960.

<sup>30</sup> "Men Who Never Returned," Editorial, *The Washington Times*, March 13, 1991.

# THE SECOND INDOCHINA WAR

The war widely known as the Vietnam War was the second war fought by Communist forces in Vietnam and in Southeast Asia. The Vietnamese forces, after defeating the French, fought the Second Indochina war against the United States and U.S.-backed forces. In the final analysis, however, this war was a political and moral defeat for the United States.

As a result, the United States was forced at the Paris Peace Conference to negotiate its withdrawal from Southeast Asia from a weak military and political position. Internal divisions in the United States and mounting political pressure to extricate the nation from the war, exacerbated this weak negotiating position. As a result, the United States, as in World War I, World War II, and the Korean War, found itself, once again, unable to guarantee the repatriation of all U.S. POWs and listed MIAs could be actually alive and held captive.

The United States chief negotiator, Henry Kissinger, admitted as much in his book, Years of Upheaval, published in 1982. Kissinger wrote:

Equally frustrating were our discussions of the American soldiers and airmen who were prisoners of war or missing in action. We knew of at least eighty instances in which an American serviceman had been captured alive and had subsequently disappeared. The evidence consisted of either voice communications from the ground in advance of capture or photographs and names published by the Communists.<sup>1</sup>

Operation HOMECOMING, the name given to the last repatriation of U.S. POWs by the North Vietnamese began February 12, 1973, and ended March 29, 1973. A grand total of 591 United States servicemen were repatriated.

However, news reports and other documentation stated that the United States Government left men--perhaps thousands of men--in the captivity of Communist forces in Southeast Asia.

On January 27, 1973, an agreement to end the war and restore peace in Vietnam was signed in Paris, France. Signatories to this agreement were the United States, North Vietnam, South Vietnam, and the South Vietnamese Provisional Revolutionary Government (PRG). This agreement consisted of a preamble, and nine chapters, covering 23 Articles and four protocols.

<sup>1</sup> Henry Kissinger, Years of Upheaval, (Boston: Little, Brown and Company, 1982) pp.33-34.

In Chapter VII, Articles 21 and 22 outlined the future relationship between the United States and the Republic of North Vietnam. These read in part,

Article 21: ...In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to post-war reconstruction of the Democratic Republic of Vietnam and throughout Indo-China.

Article 22: The ending of the war, the restoration of peace in Vietnam, and the strict implementation of this agreement will create conditions for establishing a new, equal and mutually beneficial relationship between the United States and the Democratic Republic of Vietnam on the basis of respect for each others independence and sovereignty, and non-interference in each others internal affairs. At the same time, this will ensure stable peace in Vietnam and contribute to the preservation of lasting peace in Indo-China and South East Asia.

The Paris accord stated that the return of prisoners of war, would be carried out simultaneously with and completed not later than the same day as the troop withdrawal.

**"THERE ARE NO MORE PRISONERS IN SOUTHEAST ASIA."**

The United States did not receive the list of Americans POWs the whom North Vietnamese admitted they were holding in captivity until after the peace accords were signed. Significantly, the list included only nine Americans captured in Laos. While these men were captured in Laos, nor were they held by the Pathet Lao, but were handed over to the North Vietnamese after their capture.

In fact, it was widely known that the Pathet Lao were holding many other U.S. POWs. On March 25, one news report stated :

U.S. sources believe that a substantial number of the missing [in Laos]—perhaps as many as 100—still may be alive. The conclusions are based on inspections of crash sites by search teams and on intelligence reports.<sup>2</sup>

The absence of names on the U.S. POW list handed over by the North Vietnamese of Americans captured in Laos and held by the Pathet Lao was one of the great blunders of the Paris Peace Accord negotiations and caused great confusion and emotional duress among family members of missing and captured personnel.

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<sup>2</sup> United Press International dispatch, Vientiane, Laos, March 25, 1973.

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## THE SECOND INDOCHINA WAR

One news report stated, three days after the accords were signed:

The North Vietnamese have failed to furnish the United States with a list of American fighting men taken prisoner in Laos, Pentagon officials and an organization of POW families said Sunday....Mrs. Phyllis Galanti, board of chairman of the National League of Families of American Prisoners and Missing in Southeast Asia told a reporter there are no Laos names on lists provided to U.S. authorities in Paris Saturday after the Vietnam cease-fire agreement was formally signed. Everything we have been told had led us to believe there would be a list, said Mrs. Galanti....Pentagon spokesman Jerry W. Friedheim said it is true that no Laos list was provided...We do expect to receive a list Friedheim said.<sup>3</sup>

In fact, the United States government never received such a list. Two weeks later, one news report carried the United States government explanation for the absence of names of American POWs held by Pathet Lao. The report quoted State Department officials who stated

they believe that the list of nine persons submitted by North Vietnam was incomplete and that there are more Americans held by Laotian Communists.<sup>4</sup>

In other words, the U.S. governments explanation for the lack of names of U.S. POWs held in Laos was that the North Vietnamese and the Laotians were holding back the names. Indeed, the next day, the Pathet Lao confirmed that they were holding back names. According to a news report from Laos, the Pathet Lao publicly announced through

a Communist Pathet Lao spokesman...[that]...his group is holding American prisoners of war who will be released after a cease-fire goes into effect. Soth Petrasy, the Pathet Laos permanent representative in Vientiane, declined to give any details about American POWs in Laos. But he said the Pathet Lao leadership has a detailed accounting of prisoners and where they were being held and that both sides in the cease-fire negotiations are ready to exchange prisoners once the fighting ends....The exchange will take place in Laos, Soth said. If they were captured in Laos, they will be returned in Laos, he told UPI. [emphasis added]<sup>5</sup>

The Pathet Lao wanted a cease-fire agreement and were holding American prisoners until such an agreement between the United States and the Pathet Lao was reached. However, State Department officials, responding to the Pathet Lao statement quoted above:

pointed out today that the Pathet Lao statement was not consistent with more detailed statements made by Kissinger and that it was possible that Kissingers statements were based on some misunderstanding in his dealings with the North Vietnamese.<sup>6</sup>

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<sup>3</sup> Associated Press dispatch, Washington, D.C., January 30, 1973.

<sup>4</sup> *The Washington Post*, February 18, 1973.

<sup>5</sup> United Press International dispatch, Vientiane, Laos, February 19, 1973.

<sup>6</sup> "Pathet Lao Says No to Truce, No American POWs," *The Washington Post*, February 18, 1973.

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## THE SECOND INDOCHINA WAR

Mr. Kissingers misunderstanding was that the United States believed, as Kissinger stated in a January 24, 1973 press conference, that

American prisoners held in Laos and North Vietnam will be returned to us in Hanoi.<sup>7</sup>

However, during the 60 day cease-fire period required by the Paris Peace accords, American airmen were still flying combat missions and being shot down in the secret war over Laos. Mr. Kissingers misunderstanding was never cleared up, and at the conclusion of Operation HOMECOMING more than a month later, no American prisoners of war held in Laos were released by the North Vietnamese or the Pathet Lao. These men, and the men that the Pathet Lao forces publicly stated they were holding after the Paris Peace Agreement was signed, have never come home.

On March 26, 1973, the North Vietnamese announced that the last American prisoners of war would be repatriated March 27 and March 28, 1973. The hopes of the nation and of family members that American prisoners of war held by the Pathet Lao would be released by the North Vietnamese were crushed. As one news report stated

North Vietnam told the United States Sunday it intended to release the last group of American prisoners it holds at Hanois Gia Lam Airport on Tuesday and Wednesday, but said the U.S. demand that it also release POWs captured in Laos is beyond the jurisdiction of the [Paris] agreement. [emphasis added]<sup>8</sup>

The North Vietnamese publicly concurred with the Pathet Lao's policy with regard to the repatriation of the U.S. POWs the Pathet Lao were holding. Two weeks into this stalemate over the repatriation of U.S. POWs held by Pathet Lao, between the Pathet Lao and the North Vietnamese on one side, and the United States on the other, the United States announced that

There are no more prisoners in Southeast Asia. They are all dead.<sup>9</sup>

Furthermore, one news report quoted a United States government spokesman, who stated,

Rumors that there were hundreds of U.S. Servicemen held in Laotian prison camps, does the families [of the missing] a disservice.<sup>10</sup>

These statements were made notwithstanding the eighty men cited by Henry Kissinger held by the North Vietnamese, and notwithstanding the fact the no U.S. POWs held by Pathet Lao forces have ever been repatriated. Clearly, both of the above United States Government statements were demonstrably false; they were designed—one can only speculate—to persuade the media that information with regard to prisoners still alive in Southeast Asia had no foundation whatsoever, and furthermore, only compounded the emotional anxiety of anxious and grieving family members. The

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<sup>7</sup> ibid.

<sup>8</sup> Associated Press dispatch, Saigon, South Vietnam, March 26, 1973.

<sup>9</sup> Statement issued by the Department of Defense, Washington, D.C., April 13, 1973.

<sup>10</sup> United Press International dispatch, Washington, D.C., April 14, 1973.

fact of the matter is that the Pathet Lao publicly admitted to holding U.S. POWs in Laos, Kissinger implicitly agreed when he said

American prisoners held in Laos and North Vietnam will be returned to us in Hanoi.<sup>11</sup>

Yet the U.S. government abandoned any attempt to bring them back home.

### **THE KISSINGER HAND-CARRIED LETTER**

Five days after the signing of the Paris Peace Accords, Kissinger hand-carried a letter, dated February 1, 1973 to the North Vietnamese Prime Minister a letter which detailed the Administrations interpretation of the clause in the Paris Peace Accord in Article 21, which pledged that the United States would

contribute to the healing the wounds of war and post-reconstruction of the Democratic Republic of Vietnam.

The letter, and the commitments it implied, were not revealed even to the highest-ranking Senators and members of Congress. The text of the letter follows:

The President wishes to inform the Democratic Republic of Vietnam of the principles which will govern United States participation in the postwar reconstruction of North Vietnam. As indicated in Article 21 of The Agreement on Ending the War and Restoring the Peace in Vietnam signed in Paris on January 27, 1973, the United States undertakes this participation in accordance with its traditional policies. These principles are as follows:

- 1) The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.
- 2) Preliminary United States studies indicate that the appropriate programs for the United States contribution to postwar reconstruction will fall in the range of \$3.25 billion of grant aid over five years. Other forms of aid will be agreed upon between the two parties. This estimate is subject to revision and to detailed discussion between the Government of the United States and the Government of the Democratic Republic of Vietnam.
- 3) The United States will propose to the Democratic Republic of Vietnam the establishment of a United States-North Vietnamese Joint Economic Commission within 30 days from the date of this message.
- 4) The function of this Commission will be to develop programs for the United States contribution to reconstruction of North Vietnam. This United States contribution will be based upon such factors as:

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<sup>11</sup> "Pathet Lao Says No To Truce, No American POWs," *The Washington Post*, February 18, 1973.

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- a) The needs of North Vietnam arising from the dislocation of war;
- b) The requirements for postwar reconstruction in the agricultural and industrial sectors of North Vietnam's economy.

5) The Joint Economic Commission will have an equal number of representatives from each side. It will agree upon a mechanism to administer the program which will constitute the United States contribution to the reconstruction of North Vietnam. The Commission will attempt to complete this agreement within 60 days after its establishment.

6) The two members of the Commission will function on the principle of respect for each others sovereignty, non-interference in each others internal affairs, equality and mutual benefit. The offices of the Commission will be located at a place to be agreed upon by the United States and the Democratic Republic of Vietnam.

7) The United States considers that the implementation of the foregoing principles will promote economic, trade and other relations between the United States of America and the Democratic Republic of Vietnam and will contribute to insuring a stable and lasting peace in Indochina. These principles accord with the spirit of Chapter VIII of The Agreement on Ending the War and Restoring Peace in Vietnam which was signed in Paris on January 27, 1973.

### UNDERSTANDING REGARDING ECONOMIC RECONSTRUCTION PROGRAM

It is understood that the recommendations of the Joint Economic Commission mentioned in the Presidents note to the Prime Minister will be implemented by each member in accordance with its own constitutional provisions.

### NOTE REGARDING OTHER FORMS OF AID

In regard to other forms of aid, United States studies indicate that the appropriate programs could fall in the range of 1 to 1.5 billion dollars depending on food and other commodity needs of the Democratic Republic of Vietnam.<sup>12</sup>

It is unfortunate that the North Vietnamese did not understand the important Constitutional caveat inherent in the Kissinger letter. Any funds paid to the North Vietnamese, or any funds to purchase any aid given to the North Vietnamese, would have to be appropriated by the United States Congress.

But Congress knew nothing of the Kissinger commitments. Had key Senators and Congressmen been told of the policy, they would have had the opportunity to tell the President that voting for billions of dollars of aid or funds for North Vietnam would have been an admission of culpability. The United States had failed in its mission to protect South Vietnam from the totalitarian Communist regime in the North.

The suffering, brutality, death and dehumanization borne by the Vietnamese people since the war is proof that the American goals in Vietnam were correct. However, the failure of the

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<sup>12</sup> The U.S. State Department Bulletin, June 27, 1977, pp.75-76.

civilian leadership to achieve those goals had to do more with the collapse of political leadership in the United States than with the morality of the goals. Congress realized full well, if Kissinger did not, that the soothing word "reconstruction" actually meant "reparations." The American people would never pay reparations when no crime had been committed. Congress saw Kissinger's plan as a betrayal and an admission of guilt.

However, there is no doubt that the North Vietnamese concluded that the President's emissary had pledged billions of dollars in reparations to the Democratic Republic of Vietnam.

Two weeks after the date of the letter delivered by Kissinger, the United States and the North Vietnamese announced the formation of the **Joint Economic Commission**, in fulfillment of paragraph (3) of that letter. The announcement, according to one news report stated that

The United States and North Vietnam will create a **Joint Economic Commission** to oversee rebuilding of the war-torn country with U.S. dollars, the two sides announced Wednesday. A communique issued by the White House and Hanoi on four days of talks by President Nixon's envoy, Henry A. Kissinger, and North Vietnamese leaders in Hanoi listed no specific figures for U.S. post-war aid.<sup>13</sup>

Negotiations were underway between Kissinger and the North Vietnamese to implement specific aspects of the Kissinger letter. However, the White House was beginning to understand the extent of the political problems it was going to have with its aid plan. One news report from Paris stated the U.S. negotiators refused to acknowledge whether reparations to North Vietnam were being discussed, or the amounts which were being discussed. According to the report,

U.S. and North Vietnamese representatives met Monday to discuss American postwar reconstruction aid to the North Vietnamese...the American peace delegation declined to confirm the opening of the talks on President Nixon's plan for the postwar financing of North Vietnam's reconstruction...Nixon answered Congressional critics by saying aid money would come out of Defense and Agency for International Development funds instead of the domestic budget. The president said giving money to help North Vietnam rebuild its bombed country would contribute to lasting peace and stability in the area.<sup>14</sup>

In fact, U.S. reparations to North Vietnam were being discussed in Paris, France from April through June of 1973. The negotiations were extensive and detailed. A list of specific items was drawn up for the first year of U.S. aid. Among some of the items on the list:

700,000 square meters of prefabricated housing and warehouses; 200,000 metric tons of steel building supplies; 50,000 cubic meters of timber; 40 million meters of cloth; 2,000 metric tons of Rayon fibers; between 2,650 and 2,900 tractors, bulldozers and excavators; three repair plants for the equipment; 20,000 metric tons of steel tubes; 25-50 tug boats; 3 floating ports and 3 cranes, one floating;

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<sup>13</sup> United Press International dispatch, Washington, D.C., February 23, 1973.

<sup>14</sup> United Press International dispatch, Paris, France, March 7, 1973.

metric tons of barges; 570 trucks; 10 diesel locomotives; between 250-500 freight cars; 10,000 metric tons of rail; 10 6-25 ton pile hammers; 15,000 metric tons of synthetic rubber; 10,000 metric tons of caustic soda; 10,000 metric tons of steel; 5,000 metric tons of steel alloy; 2,500 metric tons of copper; 3,000 metric tons of high tension copper cable; 50,000 metric tons of coal; 1 million meters of tire cord; among other specific aid negotiated.

The negotiators had even drawn up a larger list of aid items to be given to North Vietnam as reparations by the United States from 1973 thru to 1978.

Political problems, however, were working against the Administrations plans to aid North Vietnam. One news report three weeks after the United States and North Vietnam announced the creation of the **Joint Economic Commission** illustrates the problems the senior Administration officials were encountering on Capitol Hill,

Secretary of State William P. Rogers Wednesday refused to rule out reconstruction aid to North Vietnam by presidential order if Congress fails to appropriate the funds....Rogers three times called for restraint by members of Congress in making adverse comments on the aid issue, at least until American troops are out of Vietnam and all American prisoners are released [emphasis added]<sup>15</sup>

The next day, one news report stated:

Secretary of State William P. Rogers said Tuesday the Nixon administration will seek prior authority from Congress for any economic assistance program to Vietnam...in a Monday session before the Senate Foreign Relations Committee Rogers asked that the controversy over aid be kept to a minimum for the next month or so. Such a recess in debate would allow the release of American prisoners to be completed and would also provide time for the administration to formulate its proposals...While the North Vietnamese did not list a number of prisoners they wanted freed, *The New York Times* reported from Saigon today that American sources set the demand at 5,000.<sup>16</sup>

In fact, only 591 U.S. POWs were repatriated by the North Vietnamese during Operation HOMECOMING, which is 12% of the figure of 5,000 U.S. POWs held by the North Vietnamese reported by *The New York Times*.

The number of prisoners which *The New York Times* reported that the United States government demanded from the North Vietnamese--5,000--correlates with the statement of a former employee of the United States government. This former National Security Agency (NSA) employee said in a sworn affidavit that the North Vietnamese repatriated only 15% of the U.S. servicemen they held in captivity. In other words, according to this source, the North Vietnamese kept 85% of the American POWs who were alive after March 28, 1973.

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<sup>15</sup> Associated Press dispatch, Washington, D.C., February 23, 1973.

<sup>16</sup> Associated Press dispatch, Washington, D.C., March 8, 1973.

**"A SOVIET, A CHINESE AND A VIETNAMESE GREETED THE PILOTS..."**

Some evidence suggests that a number of nonrepatriated Americans may have been turned over to Soviet control, and subsequently transported to the Soviet Union. A former U.S. military serviceman, assigned to the NSA provided the Minority Staff sworn affidavits that during the Vietnam war he "tracked" a certain number of U.S. servicemen from their point of capture to their release to the Soviets for debriefings by both North Vietnamese and Communist Laotians officials. This has not been corroborated, but information provided to the Minority Staff indicates that American POWs may have been sent to the Soviet Union for interrogation and subsequent use of their special skills.

Indeed, a declassified CIA report gives graphic details of a debriefing incident in Vinh Phu Province involving a group of U.S. pilots captured in Vietnam. Soviet personnel were present at the debriefing. At the conclusion of the debriefing, the U.S. POWs were turned over to a new set of guards who evidently wore distinct uniforms, suggesting a different kind of custody.

A review of declassified documents asserts that the phosphate plant described was a site for transfer of U.S. POWs to Soviet custody. Declassified portions of the CIA document available to the Minority Staff are as follows.

Report No. CS-311/04439-71  
Date Dist. 10 June 1971

Country: North Vietnam

DOI: 1965-June 1967

Subject: Preliminary debriefing site for captured U.S. Pilots in Vinh Phu Province and presence of Soviet Communist and Chinese Personnel at the site

1. A preliminary debriefing point for U.S. pilots shot down over Vinh Phu Province, North Vietnam /NVN/, was located at the Lam Thao district, Vinh Phu Province. Two U.S. pilots were taken to the debriefing point on one occasion in 1965; eight in 1966; and unknown number in 1967. The prisoners were escorted to the site by personnel of the Armed Public Security Forces /APSF/, and students from a nearby school served as perimeter guards. Each time prisoners were brought to the site they rode in an open car of Chinese origin resembling an American jeep. Some of the escort guards rode in a lead car and others rode in two cars following the prisoners. Upon their arrival at the plant, the guards lined up, forming a corridor through which the pilots entered the building. At this point a Soviet, a Chinese, and a Vietnamese greeted the pilots and led them into the building. The pilots usually remained in the building for several hours. When they emerged they had changed from uniforms into civilian clothing. [deleted] said [deleted] had told him the foreigners were Soviet and Communist Chinese. Soviet personnel had been stationed at the plant since its construction in 1963, but in 1965 the number of Soviets was reduced to three or four, and it remained at that level as of June 1967. About 20 Communist Chinese personnel arrived at the plant in 1966 and there were still about 20 there as of June 1967 as far as [deleted] knew, the Soviet and Communist Chinese personnel got

along well.

2. After shaking hands with the Soviet and Chinese, the prisoners were led to a different vehicle from the one which brought them to the site. They were escorted from the plane by a different set of guards who wore yellow and white uniforms and were armed with rifles and pistols. [Deleted] did not know the destination of the prisoners.

In a previous section, reports that U.S. prisoners were seen being transferred to Communist China and the Soviet Union during the Korean War were noted. The Korean War precedents give verisimilitude to the assertions received by the Minority Staff, although the available evidence is not yet conclusive.

### ***"PRISONERS RETURNED AFTER FULFILLMENT OF THE PROMISE"***

United States government officials have been told by North Vietnamese officials that the North Vietnamese government was still holding U.S. POWs well after the conclusion of OPERATION HOMECOMING. Lt. Col. Stuart A. Henington, who worked on the POW/MIA issue as a military intelligence and liaison officer with the North Vietnamese and Peoples Republic of China from 1973 to 1975, stated that North Vietnamese officials told him U.S. POWs would be returned when the reparations that Kissinger promised to the North Vietnamese were paid. In his book, Peace with Honor? An American Reports on Vietnam, 1973-1975, Henington wrote:

U.S. casualties under North Vietnamese control would be accounted for and prisoners returned after fulfillment of the promise. [emphasis added]<sup>17</sup>

The North Vietnamese--apparently--were waiting for the reparations that Kissinger had promised them, before the vast majority of American POWs reported by *The New York Times* were to be repatriated. Doubtless they held the prisoners back as human collateral. It should be noted that the 5,000 POW figure cited by *Times* is slightly less than twice that of the United States official POW and MIA totals. However, it is likely that the 5,000 figure reflected the total number of individuals believed to be held by Communist forces in Southeast Asia at that time. This total would have included the total number of covert or Black Cowboy POWs and MIAs who were not factored into the official United States government MIA and POW casualty figures for the entire Second Indochina war throughout Southeast Asia.

The North Vietnamese knew well enough that the internal political dynamics of the peace movement in the United States had forced the United States to the bargaining table in a weakened condition. But now they saw that it was unlikely the U.S. Congress would vote for billions in reparations.

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<sup>17</sup> Stuart A. Henington, Peace With Honor? An American Reports on Vietnam 1973-1975 (Novato: Presidio Press, 1983).

## THE SECOND INDOCHINA WAR

The political resistance to aid to North Vietnam grew, among other reasons, as a result of news reports that detailed North Vietnamese torture of U.S. POWs:

Reports from returning prisoners of war of torture and mistreatment by Hanoi [which] have stirred new attacks in Congress against U.S. aid for North Vietnam...Senate Democratic leader Mike Mansfield of Montana said the torture stories have not changed his own position that aid to Hanoi would help ensure the peace. But, he added, he does not know what effect the stories will have on getting aid through Congress. Even before this it looked difficult, stated Rep. Joe T. Broyhill, (R-VA), who said the stories convince me that not a cent of American aid money should be spent on rehabilitating a country that is apparently run by savages.<sup>18</sup>

On April 6, 1973, the United States Senate voted

to bar any aid to North Vietnam unless Congress specifically approves.<sup>19</sup>

The 88-3 roll call vote in the Senate, combined with the general political sentiment in Congress, indicated there was very little chance that Congress was going to vote for the Administrations request for aid to North Vietnam.

The final death-knell for the payment of reparations to North Vietnam occurred a week later when

Armed Services Chairman F. Edward Hebert...served notice he will introduce a proposal to prohibit any U.S. aid for Hanoi. The Louisiana Democrat also said justification for President Nixons request for \$1.3 billion aid to Southeast Asia so far is either nebulous or nonexistent.<sup>20</sup>

It was the very next day after Chairman Herbert announced his intention to introduce a proposal to prohibit aid for Hanoi, that the United States made its definitive statement that there were no more Americans alive in Southeast Asia and that "rumors" did the families a disservice.<sup>21</sup>

Several weeks later, in June, 1973, the American Embassy, Saigon, sent a cable to the Secretary of State, in Washington, D.C. which documents one of the attempts to cover up evidence of abandoning POWs:

Subject: PW REPORT BY NVA DEFECTOR  
REF: STATE 112133

1. NVA Rallier/Defector Nguyen Thanh Son was surface by GVN to press June 8 in Saigon. In follow on interview with AP, UPI and NBC American correspondents, questions elicited information that

<sup>18</sup> Associated Press dispatch, Washington, D.C., April 3, 1973.

<sup>19</sup> Associated Press dispatch, Washington, D.C., April 7, 1973.

<sup>20</sup> Associated Press dispatch, Washington, D.C., April 13, 1973.

<sup>21</sup> United Press International dispatch, Washington, D.C., April 14, 1973.

he had seen six prisoners whom he believed were Americans who had not yet been released. American officer present at interview requested news services to play down details: AP mention was consistent with embargo request, while UPI and NBC after talk with Embassy press officer omitted item entirely from their stories.

2. Details on rallier's account being reported SEPTEL through military channels by BRIGHT LIGHT message today. WHITE HOUSE

This cable appears to be an active step on the part of the U.S. government to insure there would be no media reports of American servicemen still being held captive in Southeast Asia, such reports would have conflicted with the United States government's policy statement that there were no U.S. POWs left in Southeast Asia, because "they are all dead."

In a September, 1978 hearing before the U.S. House of Representatives Special Committee on Southeast Asia, Congressman Benjamin Gilman (R-NY) asked former Under Secretary of State Philip Habib about the existence of any

agreements we are not aware of, secret memorandum that this committee is not aware of?

Mr. Habib responded to Congressman Gilman's question in this fashion:

There is no agreement or secret memorandum which this Committee is not aware of in this respect. There were, as the Committee is aware, some letters and exchanges. With respect to those letters, I think the committee has been informed of the content of those letters and exchanges.

Mr. Frank McCloskey (D-IN) then stated:

With all due respect, Mr. Secretary, this committee asked the Secretary of State and you the same question before we went to Hanoi last December. You did not advise us of that secret [Kissinger hand-carried] letter and we discovered its existence only when we got to Hanoi...We didn't have any idea the letter existed. We asked you in November if there were any secret agreements that we should know about before we went to Hanoi and we were not advised by you or the Secretary of State of the letters existence or of the \$3.25 billion figure which we later ascertained.

Mr. Habib, in response to Mr. McCloskey's question, stated:

That [the letter] is not an agreement. It never developed into an agreement. I didn't know of the existence of the letter...either.

Given the intensity of the negotiations which both the United States and the North Vietnamese undertook specifically at the time to implement the contents of the secret letter, including the creation of the Joint Economic Commission and extensive negotiations, it is hard to accept Mr. Habib's assertion that the letter did not constitute—at least as far as Kissinger represented to the North Vietnamese—a secret executive agreement.

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The House Committee's final report stated:

After the war, when the provisions for gaining an accounting failed to be followed, the State Department tried other means to achieve that end. It tried government-to-government appeals, demands, and protests. It enlisted the assistance of international humanitarian organizations, sought the aid and support of third-party nations and the pressure of world opinion. Short of recommencing the war there were few remaining alternatives on the diplomatic level. North Vietnam was already under a total embargo, and when South Vietnam, Laos, and Cambodia fell to Communist forces in 1975, South Vietnam and Cambodia were soon included in the embargo.

Perhaps if Congress and the American public had known of the existence of the secret letter, perhaps if Congress had been given a full accounting of the information on MIAs possessed by the U.S. government, instead of a cover-up, a concrete plan for implementing the provisions for gaining accounting of captives as described in the Paris Peace Accords, might have been crafted. But there was no way that Congress, with honor, could be blackmailed into accepting the payment of reparations with its tacit implication of surrender to a ruthless Communist regime.



Washington, D.C. 20501

9 March 1988

MEMORANDUM FOR: Colonel Joseph A. Schlatter, US Army  
Chief, Special Office for Prisoners of War  
and Missing in Action

SUBJECT: <sup>6</sup>  
Alleged Sightings of American POWs in  
North Korea from 1975 to 1982 [REDACTED]

REFERENCE: Memo for the DDI fm Colonel Schlatter,  
dtd 19 Feb 88, Same Subject

1. In response to your request, [REDACTED]

[REDACTED] three separate reports of  
such sightings, which are attached:

- o The first report, dated April 1980, indicates that [REDACTED] sighted two Americans in August 1986 [REDACTED] on the outskirts of P'yongyang. [REDACTED] about 10 military pilots [REDACTED] captured in North Vietnam were brought to North Korea.
- o The second report, also dated in April 1980, apparently describes the same incident. [REDACTED]
- o In the third report, dated March 1988, [REDACTED] indicated sighting as many as 11 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979 on a collective farm north of P'yongyang. [REDACTED]

## PROLOGUE TO PART II

The original plan of the Minority Staff was to review the U.S. government's handling and evaluation of "live-sighting reports." Such accounts are first-hand narratives by witnesses who believe that they have seen American military personnel alive in various locations. They provide tantalizing glimpses of POW/MIAs who then vanish into the mist of the bureaucratic nightmare. For example, American POW/MIAs from the Korean War were seen alive as late as 1982 in the censored CIA document (obtained under a FOIA request) dated 1988 which is reproduced on the opposite page. There is no reason to believe that this is the last report on North Korean POW/MIAs.

For Vietnam, the U.S. Government has at least 1,400 such reports, including reports that have been received in 1991; indeed, even, one is told, in the past few weeks. In addition, the U.S. Government has received thousands and thousands of second-hand reports--accounts often full of vivid detail, such as "my brother told me he saw 11 American POWs being transported in a truck at such and such a place."

Yet, amazingly, the U.S. Government has not judged a single one of these thousands of reports to be credible. Instead, the policy enunciated by an official statement of the U.S. Government in 1973 was that there was "no evidence that there were any more POWs still alive in all of Indochina." In spite of 1,400 unresolved reports of first-hand live-sightings, the Department of Defense, remarkably, still believes it has "no evidence." How does it dismiss these reports?

In reviewing hundreds of the raw intelligence files on the 1,400 reports, Minority Staff investigators found a predisposition by DOD evaluators to ignore corroborative evidence, and little interest to follow-up what normal searchers would consider as good leads. Many cases, of course, were quite properly disposed of.

Yet often DOD evaluators seemed more intent upon upholding the validity of the 1973 "no-evidence" statement, as though "no-evidence" were a policy rather than a description of fact.

It is contrary to common sense that all of the reports--all 1,400--are spurious, especially in the light of such obvious contradictions as the actual return of the unfortunate Private Robert Garwood in 1979.

Garwood was a battle casualty taken into custody by the North Vietnamese under fire. However, his court martial as a collaborator and deserter solved two problems for DOD: By

bringing up the charges DOD sought to redefine his case as a voluntary expatriate and therefore not technically a prisoner--and it enabled DOD evaluators to dismiss fully two hundred of the live-sighting reports. Since Garwood reported that he had been moved from prison to prison, the faulty logic of DOD seemed to demand that any report from the prisons he cited must have been a sighting of Garwood. The policy that there was "no-evidence" of living prisoners made it necessary to assume that other U.S. prisoners in those prisons could not exist.

Garwood was convicted of one count of simple assault on a fellow POW, one count of aiding the enemy by acting as a translator, interpreter, and interrogator, one count of wearing black pajamas--the enemy uniform--and one count of carrying an AK-47 (unloaded) during a patrol. Whether these convictions added up to meaningful collaboration with the enemy or not, it was not proved that he was a voluntary deserter. Nevertheless the living proof that the "no-evidence" policy was not correct was thoroughly discredited.

Convenient as the Garwood case was for DOD, the embarrassment still remained. Garwood was alive. There had been a live-sighting report on him in 1973 after DOD had publicly issued the "no evidence" policy. Indeed, documents and witnesses available to the Minority Staff show that CIA and DIA knew of Garwood's whereabouts, as well as other so-called U.S. deserters in Vietnamese custody, after 1973.

And now the reports proved to be correct. Since Garwood was alive in Indochina from 1973 to 1979, DOD logic was saved by his court martial. As a "collaborator" he may have been in North Vietnamese custody in 1973, but he no longer fit the definition of "prisoner," and so the integrity of the 1973 policy statement remained unassailed. Nevertheless, Garwood, upon his return, reported seeing another presumed deserter, Earl C. Weatherman, alive in 1977. He stated also that a third presumed deserter, McKinley Nolan, was also alive after 1973. It may be assumed that Garwood was not reporting a live-sighting of Garwood in these cases.

Indeed, a list has circulated among POW/MIA families purporting to show that 20 U.S. personnel listed as deserters, or AWOL, were left in North Vietnamese custody after OPERATION HOMECOMING, the 1973 prisoner exchange. Four others are listed as disappearing under unexplained or unusual circumstances. The Minority Staff takes no position on the validity of this list, but it does note that almost all of the individuals cited appear on a DIA alphabetic list entitled "U.S. Casualties in South East Asia," dated 2/26/80, but are conspicuously absent from a similar DIA list dated 8/22/84.

In the light of what appears to be a compelling need on the part of DOD to uphold the "no-evidence" policy, the Minority Staff believes that every live-sighting should be pursued vigorously without prejudgment. The Minority Staff believes that, if even one POW who was detained in South East Asia is still alive, no resources of the U.S. Government should be spared to locate him and effect his return to the United States if he so desires.

In recent days, the Government of North Vietnam has announced that it is willing to open its territory to relatives to search for any POW/MIAs or their remains. While that is an encouraging development, DOD should reciprocate with a similar gesture. DOD should open its territory too. The files of live-sighting reports and second-hand reports should be made available to families of the POW/MIAs and to any qualified investigator, particularly to Senators, Members of Congress,

and their staffs.

Such openness has not, up to this time, characterized the operations of DOD's Special Office of POW/MIA Affairs. On February 12, the Director of that office, Col. Millard A. Peck wrote a letter of resignation to his superior decrying the mind-set of cover-up and the policies which prevented a vigorous search for POW/MLAs who might still be living.

Observers described Colonel Peck as a man who had accepted the position with high motives and a sense of deep dedication. Yet his letter shows that he felt that he could no longer fulfill the demands of duty, honor, and integrity under the policies which he was asked to implement.

Nevertheless, he did not rush to seek publicity for himself. Colonel Peck's resignation first became known and was discussed publicly at a meeting of the Senate Committee on Foreign Relations in early April, but his letter did not become public until May.

The full text of the colonel's letter appears in this report as the Epilogue. It is in itself a sufficient commentary on the findings of this report.

Colonel Peck confirms that a "cover-up" has been in progress. He speaks of a "mindset to debunk"--that is, to discredit witnesses rather than to ascertain the truth of their statements. He says that there was no effort to pursue "live sightings." He states that "any soldier left in Vietnam, even inadvertently, was, in fact, abandoned years ago." He also criticizes the U.S. government's treatment of the families and friends of the POW/MLAs.

These statements should be evaluated in the light of Colonel Peck's long career of faithful service in the U.S. Army, including three combat tours in Vietnam, for which he was awarded numerous medals of gallantry, including the nation's second-highest award, the Distinguished Service Cross. These are serious charges put forth by a man who knows their seriousness. Moreover, he is one of the few who have intimate knowledge of the way the U.S. Government's POW/MIA policy operates.

Finally, the Minority Staff notes that Colonel Peck's conclusions are remarkably similar to the conclusions which the staff arrived at independently, having worked for nearly a year before Colonel Peck was appointed to the POW/MIA office. Our only acquaintance with him was during the few days in which his superiors allowed only Senator Grassley and staff to review live-sighting reports under strict constraints. Because of the atmosphere of tension surrounding these issues in the Executive Branch, our observations were limited to the fact that Colonel Peck was a competent professional acting according to his instructions. We now know in addition that he is a person of sound judgment and integrity.

# LIVE SIGHTING REPORTS

The Department of Defense (DOD) has been gathering reports on live sightings of American prisoners since the United States became involved in the war in Southeast Asia. First-hand live-sighting reports are defined as eye-witness accounts of a person or persons whom the witness believes to be an American POW or American POWs seen in captivity in Southeast Asia.

The DOD states that it has received in excess of 1,400 first-hand live-sighting reports since the end of the Second Indochina War (1955-1975). With the exception of a very small percentage of live-sighting reports that remain "unresolved," DOD has concluded that the vast majority of live-sighting reports do not pertain to any American POWs still in Southeast Asia. Given DOD's record of disproving these hundreds of live-sighting reports, there is little reason to assume that the few live sighting reports that are still "unresolved" will ever be determined by DOD to be valid eye-witness accounts of American POWs.

In the opinion of staff, many of the "resolved" live-sighting reports should be re-examined. There are numerous instances in which the Defense Intelligence Agency (DIA) explains away the validity of a report with a flawed or, at least, questionable analysis. Among the common explanations used by DIA to resolve live-sighting reports are the following: that a particular report in question is:

- 1) a fabrication;
- 2) a sighting of Soviet, Cuban, or other East bloc advisors;
- 3) a sighting of volunteers from Western countries working in Southeast Asia;
- 4) a pre-1979 sighting of Robert Garwood, the American POW who returned in 1979 and was, later, convicted of collaborating with the enemy;
- 5) a sighting of American civilians detained for various violations of the Vietnamese criminal code;
- 6) a sighting debunked or discredited--in other words, disregarded--because the source's statement was found to be inconsistent with information DOD considered to be factual; or,
- 7) an out-of-date sighting of POWs who were repatriated during OPERATION HOMECOMING (1973).

Many times such rationales are valid for particular reports; however, the same explanations are also used in a rigid, bureaucratic manner in order to resolve reports and close the files. Staff reviewed hundreds of classified and declassified live-sighting reports. In the opinion of staff, many live-sighting reports were closed prematurely and disregarded when minimal additional effort may have resolved the veracity of live-sighting reports.

In some instances, the analysis and conclusion that these sightings do not refer to American prisoners cannot be supported by the contents of the respective files. The findings, in these cases, were premature or, worse, could not be supported by the facts of the case. Moreover, DIA's analysis in a general sense reflects an approach by DOD that appears to be geared toward disproving each live-sighting report, rather than each report receiving, as proscribed by official DOD policy, the "necessary priority and resources based on the assumption that at least some Americans are still held captive."<sup>1</sup>

Thus, DOD has been able to construct a rationale to discredit "officially" nearly each and every live-sighting report. Staff found instances where DOD merely excluded from its analysis certain details of a valid sighting, such as a source's statement about the number of POWs sighted, their physical condition, a description of the camp or cave they were held in, whether they were shackled, or, whether they were gesturing for food; and by the exclusion of such corroborating details, the report could be labeled a fabrication. Furthermore, the exclusion of these details would not be known to anyone reading just the summary of the live-sighting report, or even by reading DOD's analysis of the report. Only by reading the "raw intelligence" can one learn such details.

DIA's greatest effort at corroborating a source's report is directed at the source's information about themselves, the source's description of the location of the live-sighting, and the source's explanation of how and when the sighting occurred. Great effort was not expended, however, to corroborate whether American POWs were in fact being held prisoner, or were working in or being transported through a particular location.

Any slight indicators of what DOD felt was an inconsistency in the source's description of the time, location, or circumstances of the sighting was used by DIA to erode, and therefore disprove the credibility of the source and/or the source's information. This lack of credibility of the source becomes the basis by which the source's live-sighting report is disregarded. It should also be noted that the debunking of such reports was not confined just to allegations of inconsistencies in the source's information; some live sighting accounts were dismissed for what, in the opinion of staff, seems to be dysfunctional analytical reasoning.

Once an analyst makes a conclusion, it seems to be cut in stone. In other words, the DIA is reluctant to change its conclusions concerning some individuals even when reliable evidence to the contrary is presented for review. Although it is obvious that the reliability of sources varies, it appears that DIA starts with the premise that every source is lying, and then works toward substantiating that premise. A more positive procedure would be to make every possible effort to substantiate the information before setting it aside.

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<sup>1</sup> See Department of Defense "POW/MIA Fact Book," 1990.

One example of DIA's debunking mentality is illustrated by the case of U.S. Navy pilot LCDR James E. Dooley.<sup>2</sup> Dooley was shot down, October 22, 1967, conducting a bombing run near Hanoi flying an A-4E aircraft. He crashed just south of Do Son, Haiphong Province, Democratic Republic of Vietnam (North Vietnam). Fellow pilots saw Dooley's aircraft after it was hit, watching it go down gradually until it hit about one mile offshore in the vicinity of Do Son. They did not see him eject from the aircraft. Limited observation by fellow pilots, weather, and the swiftness of the incident may have led to some confusion over whether or not Dooley survived the crash of his aircraft.

Dooley is officially listed as KIA-BNR. Dooley was not returned or accounted for during OPERATION HOMECOMING in 1973. In 1987, a North Vietnamese refugee was interviewed by U.S. intelligence personnel at a refugee camp. The refugee described the shootdown of an American jet aircraft he witnessed in 1968 while in the area of Do Son, Haiphong Province. According to the source, he saw the pilot bail out with a tri-colored parachute and try to swim out to sea to escape capture. The pilot fired a pistol at his pursuers before being captured. The refugee said, the captured pilot was stripped of his one-piece flight suit, placed in the sidecar of a motorcycle, driven across Do Son airfield and taken away by North Vietnamese officials to a waiting Chinese automobile.

An early DOD evaluation of the fisherman's information concluded the fisherman probably witnessed the shootdown of a Navy pilot named J. M. Hickerson, who was shot down two months after Dooley in the same general area of Dooley's shootdown. Hickerson was captured, and repatriated from North Vietnam in 1973.<sup>3</sup>

However, after OPERATION HOMECOMING, information that Dooley was alive began to surface. 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. Two Thai special forces soldiers released from North Vietnamese custody in 1973 identified Dooley's photograph as a fellow inmate. 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.

In April 1989, former POW Hickerson, in a written statement, described the details of his parachute landing and capture. Hickerson was disturbed that the fisherman's eyewitness account of the shoot down of an American Navy pilot was wrongly attributed to his shoot down. In his statement, Hickerson pointed out that he landed on the inside of the peninsula at Do Son, and therefore, he could not have been swimming out to sea when he was captured, as the fisherman described. Furthermore, Hickerson wrote, he did not fire his pistol before capture, as the fisherman described. Hickerson stated that his parachute was all white, not tri-colored as the fisherman stated. Hickerson further stated that when he was shot down he wore a Marine utility uniform, consisting

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<sup>2</sup> After Dooley was shot down he was promoted to his current rank, Lieutenant commander, which was shortly before the U.S. Navy declared him dead.

<sup>3</sup> Message, "From: JCRC, Barbers Pt, HI, To: COMNAVMILPERSCOM, date/time group 101802Z," April 1987, which references an earlier Cable, "From: JCRC, Bangkok, Thailand, date/time group 151000Z," January 1987.

of pants and shirt, not a one piece flight suit as the fisherman described. Finally, Hickerson was taken to prison riding on the back of a bicycle, not in a jeep as the fisherman described.

Despite these sharply contrasting differences between the actual events of Hickerson's capture, and the fisherman's description of the shoot-down he witnessed, DOD refused to change its original conclusion that the captive witnessed by the fisherman was Hickerson.<sup>4</sup> The fisherman may indeed have witnessed a capture, but the description of events more closely resembles the capture of Dooley, not Hickerson. In other words, a significant question remains: was Hickerson's shoot-down correlated to the fisherman's live-sighting report--despite the significant factual discrepancies between the two events--only because Hickerson was repatriated, and therefore the fisherman's live-sighting could be "resolved"?

In a message dated April 10, 1987, the Joint Casualty Resolution Center at Barbers Point sent an evaluation of the Dooley file to the National Security Council (Col. Childress), noting Dooley was listed in a "presumptive status of dead, body not recovered."<sup>5</sup> The message says that Dooley's case was presented to North Vietnamese officials in August 1984 as a case under consideration during a POW/MIA technical meeting in Hanoi. What was the status of the JCRC inquiry in 1984? Were they looking for remains, or were they trying to ascertain the fate of a person believed to have been a POW in Hanoi's custody and not accounted for?

As with a number of cases in JCRC's files, there are conflicts. It is not known how many potential cases of mismatch in casualty incident information there are in DOD files. The Dooley case is but one example of questionable analysis of live-sighting information by DOD of unaccounted-for airmen and soldiers from the Second Indochina War.

## ***INTELLIGENCE COLLECTION***

Beyond the problem of flawed, or questionable analysis are more fundamental problems. Staff has identified numerous weaknesses in the methodology and procedures for collecting and analyzing information from refugees. These weaknesses may be found in the procedures for soliciting the information, follow-up interviews, mobilization of adequate manpower, weak linguistic capabilities, the improper methodology for identification of sources; and the failure in many cases to obtain native language statements from sources during initial contact.

The primary responsibility for collecting this information originally rested with the JCRC, a Joint Chiefs of Staff organization within DOD. Presently, that responsibility rests with DIA. After the fall of the Republic of Vietnam (South Vietnam) government in 1975, JCRC offices were stationed within Thailand to carry out this mission.

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<sup>4</sup> Cable, "From: JCRC Barbers Pt, HI, To: COMNAVMILPERSON, time/date group 251800Z," July 1988.

<sup>5</sup> The Navy issued a DD Form 1300, 12/4/73, changing Dooley's status from missing to dead, body not recovered.

In Thailand, the procedure for collecting POW information was as follows: JCRC officials, depending on the availability of resources, traveled to various refugee centers to collect information on purported live-sightings of U.S. POWs within Laos, Vietnam and Cambodia. At each refugee camp, JCRC Officers would make announcements in the camps requesting that any refugees who have knowledge of American POWs should report, at a certain time, to a certain location, for debriefing. On occasion, volunteer workers at refugee camps, when initially processing the arriving refugees, would also elicit such information, and report it to JCRC.

The problem with this procedure is that it depends too much upon the initiative of frightened, confused refugees, who have been traumatized by their experience of fleeing their country, and are deeply suspicious of any governmental authority, even one that is trying to help them. The practice of making a general announcement--often referred to contemptuously by government officials as the "cattle call," with the subsequent interviews as the "round-up"--could easily be seen as a threat or danger signal to anyone who had contact with American POWs; contrariwise, it might suggest to a refugee with a manipulative mind that providing information, even if false, might be a way to get ahead in the refugee resettlement system. In the first case, opportunities to get valid reports are lost through fear; in the second, false reports are encouraged.

A more effective method is the so-called "canvassing method." Each refugee is asked questions about possible POW sightings as part of their initial refugee processing, thereby making it unnecessary for a prospective informant to stand out publicly, and lowering the threshold of resistance to discussing the topic. However, the canvassing method requires that JCRC personnel be stationed within easy reach of the refugee camps, a practice which was not followed.

Another failure in collecting information from refugees involves follow-ups to initial interviews. Follow-up procedures require JCRC officials to conduct interviews once a source indicates having information pertaining to American POWs still in Southeast Asia. The information would then be sent to DIA for analysis and follow-up interviews, if necessary. Originally, DIA provided to the JCRC staff additional questions to be asked; however, since JCRC did not have adequate manpower to cover the number of refugees pouring out of Laos, Cambodia (Kampuchea), and Vietnam, this procedure was not followed.

In excess of 300,000 Asian refugees fled from these countries; yet JCRC staff never exceeded thirty-four officials in number on-site in Southeast Asia. The cumbersome nature of this procedure impeded the timeliness of the follow-up interviews. As a result, the information collected was dated and, therefore, its usefulness was diminished.

Limited manpower and the methodology used for both initial and follow-up interviews were major weaknesses in JCRC's collection procedures. Initially, this limitation was especially true of the shortage of trained linguists. Indeed, DOD recognized this problem and sought to increase manpower. In 1987, DIA groups were established throughout Southeast Asia to collect POW information first-hand. This effort was code-named "STONEY BEACH." The program added greatly to the quality, quantity and timeliness of information provided by the refugees.

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L I V E   S I G H T I N G   R E P O R T S

The STONEY BEACH program enabled subsequent debriefings of refugees to be conducted in a more comprehensive manner. Unfortunately, once information was obtained, no effort was spared to utilize other intelligence methods available to corroborate selected content of the live-sighting report.

# "BLACK" OPERATIONS

Notwithstanding numerous government documents available under the Freedom of Information Act (FOIA), documents in public archives, and published works, most of the extensive covert military operations throughout Southeast Asia between 1955 and 1975 remain classified. As a result, DOD's list of U.S. personnel lost while on covert, or "black" military operations in Southeast Asia (i.e., Laos, Cambodia, Thailand, North Vietnam, South Vietnam, Burma, and the southern provinces of the Peoples Republic of China) is highly suspect.

As a result, this precludes a presentation of evidence that the lists of POW/MIA and KIA-BNR from Southeast Asia are skewed as a result of withholding of casualty counts from black operations. But the continued effort by the U.S. government to keep records of these operations classified, or to withhold information related to these operations under FOIA exemptions tends to indicate information on U.S. casualties related to these activities may not be accurate. An early 1970s Senate hearing on military operations on Southeast Asia was given classified information on losses from classified operations in Southeast Asia, but that information remains classified and is not included in this report.

Needless to say, the covert nature of classified operations has to remain secure even when personnel involved disappear. According to sources interviewed for this report, if an individual on a covert military or intelligence operation is lost—becomes an unrecovered casualty, i.e. either captured or KIA-BNR—he might be declared dead immediately (KIA-BNR); or he might be listed MIA, followed by a presumptive finding of death issued after 12 months elapsed. According to these sources, benign cover stories were sometimes prepared to explain the disappearance of individuals lost on covert or classified missions in Southeast Asia to reflect a MIA or KIA-BNR status. If such a cover story remains as the official account of such casualties, then it would impact on any future evaluations of an individual casualty file because the official case file contains erroneous information as to circumstances or location of the casualty.

One source interviewed alleges that, in order to protect the existence of some classified operations conducted during the Second Indochina War, U.S. casualties from these operations may have been explained away as training accidents in an entirely different geographic location (e.g., Thailand or Okinawa), or as battle losses in areas of South Vietnam even though the loss occurred in another Indochina location (e.g., Laos, Cambodia, or North Vietnam). If casualty information has been manipulated, as alleged by some people, to protect the secrecy of special operations, then what guarantee is there of oversight of accountability for U.S. personnel who were declared KIA-BNR or MIA from such covert operations?

Due to the classified nature of these covert or special warfare missions, there exist no easily accessible records of those involved in these missions; therefore, "presumptive findings of death" might be based upon faulty data in such individual case files. Or, perhaps if the review boards for individual casualty cases for persons lost during classified operations in Southeast Asia had access to the true circumstances of the loss, they might be able to make an absolute finding of death in some cases rather than prolonging the agony of the survivors by publishing faulty findings based on circumstances contrived to conceal covert operations.

In order to arrive at a true accounting for U.S. personnel from "black" operations in Southeast Asia, the following fundamental questions must be answered:

- 1) When did the United States begin covert operations in Southeast Asia?
- 2) Which U.S. agencies or military departments participated in such operations?
- 3) How many U.S. citizens served in Southeast Asia on classified operations during those years?
- 4) What were the losses of personnel in these operations?
- 5) Where did the losses occur?
- 6) What efforts have been made to account for those persons who failed to return from the classified missions?

The extent of United States covert operations in Southeast Asia identifiable through nonclassified, or declassified sources indicates a large number of U.S. military and civilian personnel were lost on these missions. DOD has publicly stated, after release of this investigation's Interim Report last October, all personnel lost on covert missions during the Second Indochina War are on the public casualty lists and that there is no secret list of casualties from covert operations in Southeast Asia.

However, sources interviewed by staff indicate otherwise. Are the public versions of these lists accurate as to the time, date, place, and status of the individuals engaged in classified operations when lost? Are survivors from classified operations the source of live-sighting reports of American POWs in Laos? There is reason to question DOD further on this problem of losses related to classified or covert operations in Southeast Asia.

One case in point is the March 11, 1968 combat loss of a U.S. Air Force communications/navigation site located on top of Phou Pha Thi, Sam Neua Province, Laos, known as Site 85. Eleven U.S. Air Force personnel were lost when the site was overrun by Communist forces. Except for four personnel lifted out by an Air America helicopter during the battle, the remaining eleven personnel manning the site that day are officially listed KIA-BNR.

The site was classified, its mission classified, and the circumstances of these March 1968 battle casualties remained classified for many years. Even today, much of the information related to Site 85's equipment, purpose, effectiveness, and battle loss is still classified.

The site provided the Air Force with all-weather capabilities for bombing Hanoi and Haiphong, North Vietnam. Its primary electronic navigation system was known by the acronym TACAN. The site was identified with a nearby classified landing strip operated under CIA covert funding and known as Lima Site 85. The former Air Force TACAN site on Phou Pha Thi is generally referred to as "Site 85."

Site 85 was built in 1967, over the objections of the U.S. Ambassador to Laos, and manned by a handpicked team of Air Force technicians in 1968. The Air Force technicians for Site 85, listed as Lockheed Aircraft Systems employees on paper, had been discharged from the military and were paid through Lockheed. The Air Force promised that their service credit would be restored once their classified mission was completed. This cover was necessary to avoid violating the provisions of the 1962 Geneva Peace Accords for Laos prohibiting foreign military presence in Laos.

Almost immediately after the March 10-11 attack on Phou Pha Thi, the indigenous forces, Thai and Hmong, providing security to the site were ordered to destroy it with heavy weapons fire before leaving the mountain top on March 11. These U.S. sponsored, CIA led indigenous guerrilla troops carried out their orders. To insure the complete destruction of the site, American A-1 aircraft in Laos attacked the site with rocket and machine gun fire.

After the successful Communist attack on the mountain site, the U.S. Ambassador to Laos declared the eleven missing Air Force personnel dead. No U.S. bodies were recovered or, for the most part, none identifiable with this group were seen after the attack. Finally, U.S. jet fighters were brought in from out of country to finish the destruction of the mountain site with bombs and rockets. On March 12, 1968, the U.S. indigenous guerrilla force from the mountain site were all accounted for at a rendezvous point. They had no Site 85 survivors from Phou Pha Thi with them.<sup>1</sup>

However, the Thai sergeant in charge of the indigenous guerrilla force guarding Site 85 told Committee staff that three of the Air Force technicians at the TACAN site were taken prisoner by the North Vietnamese/Pathet Lao attacking force. He gave this information to American intelligence officers in 1968.

A review of POW live-sighting documents, declassified under FOIA rules and released in 1978, contain reports that three American prisoners were brought to a village near Phou Pha Thi by North Vietnamese troops about the time of the attack on Phou Pha Thi. Documents from these files also refer to Americans held in the caves near Phou Pha Thi, while other caves in Sam Neua were used by Pathet Lao, North Vietnamese, and advisers from the Peoples Republic of China.

<sup>1</sup> According to a declassified CIA message, the heavy weapons fire and initial air attacks used to destroy the site were carried out on March 11, 1968.

Throughout the declassified POW files used by this staff, it was not uncommon to see reports that American prisoners were seen in these caves in Sam Neua Province. Since no bodies were ever recovered from Phou Pha Thi by U.S. forces, and there are no eyewitnesses to say that all eleven missing men were killed in the battle.

The Air Force officer in command of Site 85 and other similar activities in Laos was at the unit's Udorn, Thailand headquarters when Site 85 was overrun. According to him, he was told the destruction of Site 85 was not attempted until after there was reasonable evidence that no Americans were still alive on the mountain top.

But a declassified CIA report of the incident show the destruction of the site by the indigenous guerrilla force and American A-1 aircraft was started almost immediately. The jet aircraft bombing of Site 85 on March 12 was a day or more sooner than what the former commander believed to be the truth. According to reports of the loss of Site 85, aerial photos taken on March 11 and 12, 1968 show bodies on the ground, but the bodies cannot be identified as non-Asian or, U.S. military personnel assigned to Phou Pha Thi.

In September 1990, an Air Force captain traveling in Laos while conducting research related to his doctoral study arranged to interview a Pathet Lao general officer. During the interview, the Lao officer claimed to have taken part in the March 10-11, 1968 assault on Site 85. The Lao officer told the Air Force captain that three U.S. Air Force technicians survived the Phou Pha Thi mountain battle in 1968 and were turned over to North Vietnamese troops for further transport to North Vietnam.<sup>2</sup>

This information corroborates the Thi sergeant's report that three U.S. personnel were captured during the battle for Site 85.

In view of this most recent information on survivors from Site 85, the prisoner of war intelligence reports concerning three Americans seen at a village near Phou Pha Thi after the attack on Site 85 and other POW reports for that time period need to be reviewed and reevaluated to determine if any of them pertain to the Site 85 personnel. If three men survived the battle at Site 85, why haven't they been accounted for by the North Vietnamese? What was their actual fate? Given that no prisoners were ever repatriated from Pathet Lao control this incident takes on even greater significance.

The Air Force losses at Site 85 are only one example of the controversy over U.S. casualties in Southeast Asia as a result of covert, or classified military operations. Cross-border operations by U.S. Special Forces (SF), Army Long Range Reconnaissance Patrol (LRRP), and Marine Force Recon sometimes resulted in their members never being seen or heard from again. Air Force air support operations in Laos under the name of the "Ravens" resulted in numerous casualties, while

<sup>2</sup>Cable, "From: JCRC Bangkok, TH, To: CDR, JCRC Barbers Point, HI, time/date group 110910Z, September, 1990," provides this information without names of individuals. Institute of East Asian Studies, Indochina Chronology, Vol. IX, No.3, July-September 1990, p.42, identifies the captain as Timothy Castle. Another source identified the Lao as Singkapo Sikhotchounamaly.

members of the Ravens were officially listed as "civilians" serving in Laos. Navy SEAL, swift boat, or riverine force operations into North Vietnam, Laos, or Cambodia remain classified, including their non-recovered casualties. The so-called "black operations" undertaken by DOD organizations, the Department of State, and the CIA in Indochina are still not openly discussed by veterans.<sup>3</sup> Moreover, military history monographs and a number of other books have been published on Navy Riverine Forces in Southeast Asia, but preliminary research show the true story of these shallow draft boats is still buried in U.S. Navy files.

Who has accounted for their battle casualties and how accurate are those records? In addition to the military operations, there is ample evidence of Americans participating as civilians in covert operations, or classified activities outside of the Republic of Vietnam (e.g., Air America, Continental Air Services, CIA para-military operations), who accounts for those losses resulting from such "civilian" activities?

U.S. military and civilian losses in Southeast Asia during the entire period of the Second Indochina War must be reviewed for accuracy, as well as a means of providing information to the next of kin of these battle casualties. DIA, in its news release concerning the Interim Report released by Committee staff in October 1990, asserted that all American casualties are accounted for on its lists of MIA, POW, or KIA-BNR for the war in Southeast Asia. Without cross checking between operational reports from covert and/or classified missions and unclassified casualty lists, this will remain an open question.

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<sup>3</sup> See Christopher Robbins, The Ravens: The Men Who Flew in America's Secret War in Laos (New York: Crown Publishers, 1987); Shelby L. Stanton (Novato: Presidio Press, 1985). These are two well-documented works on clandestine or special warfare operations in Indochina. The Ravens describes clandestine air operations in Laos and The Green Beret at War describes Special Forces operations in Indochina from 1955 through 1973.

# ACCOUNTABILITY

Two methods are used by DOD to account for missing Americans in Southeast Asia. One is the statutory presumptive finding of death in individual cases; the other is categorizing casualties as Killed in Action-Body Not Recovered (KIA-BNR). In either case, when human remains are repatriated from Southeast Asia, they are identified against persons in these two categories. When an identification is made, the individual is accounted for as having died while in the Indochina War zone.

Individually, members of the military services, or U.S. Government employees who were missing while serving in Indochina and remain unaccounted for, can be declared dead by the secretary of the military service or head of the government agency responsible for that individual.<sup>1</sup> Basically, the U.S. Code permits the secretaries and/or heads of agencies to declare an individual dead after the person has been missing for 12 months under circumstances indicating he or she may have died. Each case is decided on its own merits and cases may be reopened if sufficient evidence is presented indicating the individual may still be alive, although not physically returned to U.S. control.

Both presumptive findings of death, and KIA-BNR status strongly prejudice subsequent evaluations of live-sighting information. For example, live-sighting information is much more likely to be disregarded in the field as a result of an individual having been already assigned to one of the legal status of death categories without identifiable human remains to substantiate the status.

Supposedly, KIA-BNR status has a stricter evidence criteria than does a presumptive finding of death. However, even KIA-BNR status has its problems when it comes to accounting for missing Americans in Indochina. Two illustrative cases of KIA-BNR problems—that were not among classified files reviewed by staff—follow.

In one case, a Vietnamese source identified the picture of a U.S. Marine as a person he saw in the custody of North Vietnamese forces. However, the U.S. official debriefing the source concluded the source was mistaken because the Marine identified in the photograph by the Vietnamese source was officially listed as KIA-BNR.<sup>2</sup> As a result of the U.S. official's conclusion, this live-sighting report is considered to be "resolved." Since even in the extremely short Gulf War, Americans officially reported to be killed in battle were in fact captured, and later repatriated by the Iraqis, it is likely that some servicemen reported to be KIA-BNR were in fact captured.

<sup>1</sup> Authority for "presumptive findings of death" is found in Title 5 USC, Section 5565 through 5566 for civilian employees; Title 37 USC, Section 555 through 557 for U.S. military personnel. These codified sections of law are implemented through regulations issued by the various departments and agencies responsible.

<sup>2</sup> This case was taken from DIA's 1978 declassified message traffic titled "Uncorrelated Information Relating to Missing Americans in Southeast Asia."

In another case, a U.S. serviceman who was reportedly last seen wounded on a Vietnam battlefield was subsequently listed as KIA-BNR. But a year afterward, he had to be reclassified as POW when a handwritten letter from him, dated after his presumed death, was found on the body of a dead Viet Cong soldier in South Vietnam. The letter was addressed to the serviceman's and talked of life in a Viet Cong prison camp. Based this information, the Marine Corps changed the corporal's status to POW and promoted him in absentia to sergeant. At the conclusion of OPERATION HOMECOMING in 1973 he was not repatriated. Since then, based on a lack of evidence that he is alive, the serviceman has been found, presumptively, to be dead.

### ***IDENTIFICATION OF REMAINS***

Part of DOD's solution to "resolve" POW/MIA or KIA-BNR cases is to identify recovered remains of individuals from Southeast Asia, and match those remains with unaccounted-for or missing Americans on the Vietnam-era casualty lists. However, the Committee has reviewed numerous cases that pieces of bone, or bone fragments were the basis for the identification of the remains of POW/MIA or KIA-BNR cases. These cases, if measured against court room body identification and death evidence criteria, would not be acceptable in court proceedings, except to infer, or to provide circumstantial evidence that something happened to a human being(s) at that location. Furthermore, a scientific evaluation of remains identification methodology used by DOD can be most politely described as not being based on any known and accepted forensic procedures.

In many cases, remains identified by DOD show that there is a probability that such remains are likely of the persons thought to have perished at a particular place. This determination is further complicated since individual skeletal were consumed by natural or in some cases, manmade forces. However, proof that bone fragments belonging to an individual were recovered is sorely lacking in many instances.

In some cases, DOD has made "identifications" of individual servicemen based on less than a handful of bone fragments. Further, in some cases, this finding was made by DOD, despite live-sighting reports that some of the individuals declared dead, and there remains "identified" at a crash site, were seen in captivity after the supposed date of death.

For example, on October 5, 1990, at Arlington National Cemetery, DOD buried the "remains" (bone fragments) of four U.S. servicemen presumed to have died when a helicopter crashed in Laos during the war. These remains were buried with full- military honors. Then, their names were taken from the unaccounted-for list, and added to the list of those accounted for from the Second Indochina War. However, according to family members, and admitted by DOD, two of the caskets of "remains" contained no bones at all--no physical matter, whatsoever. The two coffins were empty.

The burial charade was based on specious deductive DOD procedures. The aircraft manifest for that flight listed four American military personnel and nine South Vietnamese troops on board the helicopter when it crashed in Laos. Based upon the flight manifest documentation,

identification of a ring belonging to one of the Americans on the flight, and supposed positive identification of two teeth (one each allegedly identified for the two persons whose caskets had bone fragments in them), each of these cases were closed with everyone accounted for and buried with full military honors at Arlington National Cemetery.

Scientifically, these remains buried October 5, 1990 were not identifiable by any known or accepted forensic analysis. In the statements released to the press at the time of these "burials," DOD referred to "remains" and new cases "accounted for." Clearly, the implication in these statements is that physical remains had been recovered and restored to the families of the servicemen. Yet that is not what DOD means. DOD obviously has its own language, its own definitions of ordinary words, and its own purposes--mainly "resolving" cases--to be served.

Furthermore, there is some information that at least one of the four Americans may have survived the helicopter crash in Laos, but his actual death took place much later and he was buried at the Pathet Lao prison camp in which he was being held. In 1986, a Laotian eyewitness, a member of the Royal Laotian Army, reported that he had been imprisoned with Captain Nelson--one of the four "buried" at Arlington National Cemetery. The Laotian stated that he nursed Captain Nelson until he died, and that he was the one who buried Nelson. The Laotian identified a photograph of Captain Nelson, and provided DOD specific locations, geographical details as well as a hand-drawn map of the camp, with Nelson's grave site marked. Although the Laotian's report did indeed confirm the death, the death was not the result of being killed in action. Moreover, the alternate explanation of his death revealed the flaws in DOD methodology. Despite this evidence, DOD made a determination that the Laotian was not credible, and closed the case.<sup>3</sup>

### **THE MORTICIAN**

Another problem in identification arises from the Vietnamese practice of warehousing remains of U.S. POWs for purposes of barter. In 1979, a former North Vietnamese government official, commonly referred to as "The Mortician," defected to the United States. The Mortician testified before the United States Congress that he was personally responsible for preserving and storing in excess of 400 remains of American servicemen. The United States Defense Intelligence Agency, uncharacteristically, has publicly vouched for The Mortician's credibility with regard to his statement that he cared for the U.S. remains. These remains are warehoused in Hanoi.

To date, since the end of hostilities with North Vietnam, only 255 sets of remains of U.S. servicemen have been returned to the United States. Many of these remains have been recovered as the result of "joint-excavations" of plane and helicopter crash sites by United States and Vietnamese government personnel. Characteristic of the complete lack of cooperation the Minority Staff of the United States Senate Committee on Foreign Relations has received from the Executive branch throughout in this inquiry, DOD has consistently refused to give the Committee the number of U.S. remains, out of the total 255, that have been excavated, despite the Committee's repeated requests for this information.

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<sup>3</sup>Statement by Senator Helms (R-NC) printed in the Congressional Record, Friday, October 5, 1990, "The Mock Burial of MIAs," pp.S14625-S14627.

Given the statement of The Mortician, it is apparent that the Vietnamese have not returned many of the remains of U.S. servicemen in their possession. Even assuming that every one of the 255 remains returned to the United States was from the Vietnamese warehoused stock--which the Committee knows is not the case--they would still have 145 remains stored in Hanoi.

While this policy of doling out remains of U.S. servicemen, one set at a time, in an on-again, off-again fashion, may be repugnant to Americans, it accurately reflects the Vietnamese government's ideology, history, and the repatriation policies of its Communist allies.

### **THE CENTRAL IDENTIFICATION LABORATORY**

The responsibility for forensic identification of remains of U.S. Armed Forces personnel in the Pacific theatre rests with the Army Central Identification Laboratory, Hawaii (CIL-HI). According to DOD, by early 1990 CIL-HI had identified 255 sets of repatriated remains from Indochina as the remains of U.S. personnel unaccounted for from the Second Indochina War. For a number of years, CIL-HI has been identifying remains of missing U.S. personnel from the Korean War and World War II's Pacific Theater still being discovered or, in a recent case, returned by foreign governments.<sup>4</sup>

A prominent physical anthropologist, Dr. Michael Charney, Professor Emeritus, at the University of Colorado and an internationally recognized expert in the science of forensics has conducted an extensive review of physical remains "identified" as missing Americans from Southeast Asia by CIL-HI. He concluded that it was scientifically impossible to have identified the cases he reviewed from the bone fragments returned to the next of kin.

In fact, according to Charney, the misidentification of these individuals had to be intentional, since there was no scientific basis to make any type of identification. Dr. Charney has reviewed CIL-HI's identification of remains in many other cases. According to Dr. Charney, CIL-HI has falsely identified as many as eighty separate sets of remains of U.S. servicemen previously listed as MIA or KIA-BNR.

Dr. Charney has levied these serious charges against CIL-HI both publicly and to Committee staff. Dr. Charney states,

This facility [CIL-HI], entrusted with the analysis of mostly skeletonized remains of our servicemen and women in the identification process, is guilty of unscientific, unprofessional work. The administrative and technical personnel have engaged knowingly in deliberate distortion of details deduced from the bones to give credibility to otherwise impossible identification.

Dr. Charney also went on to say that CIL-HI has blatantly and deliberately lied about a large number of the remains CIL-HI has identified. Dr. Charney states that, in his professional opinion, CIL-HI technicians have in some instances made identifications of remains based on human

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<sup>4</sup> In May 1990, North Korea returned five sets of remains of U.S. servicemen from the Korean War.

remains or other material not capable of providing such an identification. He further states that many of the technicians who performed the identifications lacked advanced training in the field of forensic anthropology. Prior to 1986, CIL-HI's technicians referred to themselves as "doctors," when, in fact, they had never been awarded doctorates in medicine or any other recognized academic or medical discipline.

After 1986 U.S. House of Representatives hearings on the CIL-HI facility<sup>5</sup> in which Dr. Charney and Dr. George W. Gill, another expert in the field of forensic anthropology, both testified on about CIL-HI, the Army attempted to correct the deficiencies in procedure and staffing identified by Drs. Charney and Gill, as well as other witnesses. The Army hired recognized experts with doctoral credentials for the staff, even though the senior anthropologist—who had the final authority to make identifications at CIL-HI—was a person with questionable academic credentials.

The senior anthropologist, a longtime employee of CIL-HI, did not hold a doctorate in the field of anthropology but, had worked in the field of forensic anthropology since the end of World War II. To accomplish his tasks at CIL-HI he insisted on using a theory he developed for the identification human remains, a theory that was rejected by the anthropological scientific community.

Between 1985 and 1987, Dr. Charney reviewed CIL-HI's identification of thirty sets of repatriated remains from North Vietnam and he concluded that CIL-HI had wrongly identified these remains as those of individual U.S. servicemen from the MIA or KIA-BNR lists. In each of these cases, the material matter available to the CIL-HI forensic examiners (bone parts and fragments) was not sufficient to identify a specific individual by sex, race, height, weight, physical peculiarities, etc. CIL-HI technicians responsible for identifying remains, in some instances, employed forensic methods and procedures not recognized by the international community of professional forensic anthropologists.

According to Dr. Charney, the CIL-HI technicians deliberately misidentified remains as individual U.S. servicemen off the list of unaccounted for during the U.S. war in Southeast Asia. He believes the only conceivable reason for this demonstrable pattern of misidentification was a desire to clear the lists of MIA while deceiving the MIA families through the return of misidentified remains.

Dr. Gill, former secretary of the physical anthropology section, American Academy of Forensic Sciences, and a member of the board of directors of the American Board of Forensic Anthropology, substantiates Dr. Charney's statements concerning CIL-HI. Dr. Gill has publicly stated

It is clear from the bones that the problem in the CIL-HI reports results either from extreme carelessness, incompetence, fabrication of data, or some combination of these things.

These charges levied by Dr. Charney and Dr. Gill against CIL-HI have not been refuted by DOD, and this inquiry has found no evidence that contradict Dr. Charney or Dr. Gill.

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<sup>5</sup> U.S. Congress, House, "Activities of the Central Identification Laboratory," Hearing Before the Investigations Subcommittee of the Committee on Armed Services, House of Representatives, 99th Cong., 2d Session, 1986

## **PRESUMPTIVE FINDINGS OF DEATH**

The problem of accountability for individual American casualties has been addressed by every administration since the 1973 conclusion of the Second Indochina War. During the Carter Administration, for example, a DOD commission—politically sensitive questions are best handled by Commissions, especially if the object is to show the government is taking action to resolve the issue of unaccounted for servicemen—was established to review the status of individual MIA cases.

In these cases, for purposes of compensation to the next-of-kin, the commission issued the following directive:

The Commission has used the date of April 1, 1973 as the last date of entitlement to prisoner of war compensation in cases where the actual date of death is not known and where a finding of death has been issued after that date...[because]...the last known prisoner of war was returned to the control of the United States.<sup>4</sup>

The commission further stated:

There have been reports of sightings of Americans in Southeast Asia after that date [April 1, 1973], but neither the identities or status of those persons nor the reliability of the reports are known to be established....Therefore, the Commission finds that, in the absence of evidence to the contrary, April 1, 1973 is the last date when members of the U.S. Armed Forces were held prisoners of war by a hostile force in Southeast Asia.<sup>5</sup>

After a presumptive finding of death has been issued, surviving spouses, next of kin, or children are entitled to government-sponsored death benefits, e.g., six-months pay for spouses of deceased military members, government life insurance, etc. The individual is then removed from the active roles of the military service or agency responsible for him/her.

Among the issues yet to be determined by this inquiry are the following:

- 1) Was all intelligence reviewed pertaining to each individual who was presumptively found to be dead?
- 2) Have any cases ever been reopened and the presumptive finding withdrawn based upon live-sighting information, or any cases where the date of presumptive death was not changed to match information received well after the initial finding?

<sup>4</sup> As declared in the legal presumptive finding of deaths that were issued by the Commission.

<sup>5</sup> ibid.

# THE FRENCH EXPERIENCE

On May 6, 1991, the *Figaro* newspaper published in Paris a statistical summary of the fate of French forces fighting in Indochina who had been taken prisoner. The French forces were composed of French nationals, French Legionnaires, Africans and North Africans, indigenous members of the French Expeditionary Force drawn from Indochina, and local forces from Laos and Cambodia.

The statistical table was compiled by the Historical Service of the French Army and shows that of 39,888 prisoners held by the Vietminh, 29,954 were not returned. This total includes 2,350 French nationals and 2,867 Legionnaires who were taken prisoner but not returned.

Today in France there is great interest in the fate of French prisoners of the Indochina war. Owing to the efforts of French Senator Jean-Jacques Beucler, what has come to be called the "Boudarel Affair" has become front page news since this past February.

The Boudarel Affair involves the discovery of Georges Boudarel, a Frenchman who acted as a deputy political commissar in Vietnamese prison camps during the First Indochina War. He was in charge of brain-washing French prisoners, and has been accused of being an accessory to torture. Nothing was known of his whereabouts for years. Then it was discovered that, after serving in the Communist International underground in Southeast Asia and in Eastern Europe, he had obtained a teaching post in the French school system.

A new book by a former prisoner who charges that he was tortured by Boudarel has just appeared in France. Written by Claude Bayle, Prisonnier au Camp 113 is a detailed revelation of life as a prisoner of the Vietnamese revealing conditions so primitive that is not surprising thousands never returned.

## **THE FRENCH EXPERIENCE WITH INDOCHINA POWS**

In 1946, after a series of armed clashes with Ho Chi Minh's forces in North Vietnam, France agreed to allow Ho's group to establish an autonomous state of the Democratic Republic of Vietnam (DRV) as a somewhat-independent state within French Indochina. The DRV's capital was placed in Hanoi with Ho Chi Minh and the Indochina Communist Party in control.

Problems persisted between the French colonial government and the DRV. As various other political factions and nationalist forces within Indochina collectively resisted French colonial rule of Indochina, armed conflicts intensified. Finally, in late 1946, the Vietnamese communists and various nationalist forces combined into a revolutionary army that is commonly referred to as the Viet Minh. A full scale "war of liberation" was started in 1946 to remove the French colonial

government from Indochina. The Viet Minh took to the mountains and jungles to wage their war. When the Viet Minh left the cities of Vietnam they took several hundred French prisoners, military and civilian, into the jungles and mountain highlands with them. The Viet Minh's war with France, now referred to as the First Indochina War, refers to the period 1946 through 1954, when the Geneva Peace Accords were signed. The war included revolutionary factions in Vietnam, Laos and Cambodia.

The 1954 Geneva Accords required France to withdraw its colonial government from Indochina, provide for an exchange of prisoners, repatriation of remains of war dead, and division of Vietnam (i.e., North and South Vietnam divided at the 17th parallel) pending elections for public determination of a form of government and the unification of Vietnam into a single state.

During the war, the largest group of French prisoners taken by the Viet Minh was at the battle at Dien Bien Phu, North Vietnam. On May 8, 1954, when the French forces surrendered to the Viet Minh, about 6,500 French troops (including French regulars, Foreign Legionnaires, colonial troops from Africa and North Africa, and colonial troops from Indochina, as well as some civilians with the troops at Dien Bien Phu) were taken prisoner by the Viet Minh. French casualties related to Dien Bien Phu were approximately 2,242 KIA and 3,711 MIA. During the war, about 39,000 POWs were taken by the Viet Minh, with approximately 11,000 were returned during repatriation.<sup>1</sup>

None of France's war dead from Dien Bien Phu or other battle sites in North Vietnam, and none of its war dead from Viet Minh prison camps or military hospitals were repatriated. By contrast, all French prisoners held by nationalist or communist forces in Laos and Cambodia were returned or accounted for, as were the remains of French war dead in those two areas.

According to historians on the First Indochina War, the high rate of deaths in Viet Minh camps occurred because of the harsh conditions in those isolated camps. Also, prisoners with severe wounds, such as head, chest, and abdominal wounds, stood little chance of survival in these camps because of a total lack of medical treatment facilities and/or supplies.<sup>2</sup> In addition to the harsh camp conditions and inadequate medical facilities, the Viet Minh marched the French prisoners taken at Dien Bien Phu many miles to camps, causing many deaths during the march. And, during the prisoner exchange, the Vietnamese again marched the French prisoners over long distances, causing the death of a number of the prisoners en route to exchange points.

Only a very small number of French Union troops were able to escape after the siege at Dien Bien Phu. Seventy eight are recorded as having successfully made it back to French custody by traveling overland towards Laos. Of that number, nineteen were Europeans, the remainder were troops indigenous to Indochina.<sup>3</sup>

<sup>1</sup>Bernard B. Fall, Hell in a Very Small Place, (New York: J.B. Lippincott, 1966), pp.483,484. App. B., Table III provides the breakdown of French losses at Dien Bien Phu. The table includes three American pilots from the Taiwan based Civil Air Transport (CAT) company.

<sup>2</sup>During the siege of Dien Bien Phu, the Viet Minh had only one qualified medical doctor for 50,000 of their own troops. After the surrender, the French military doctors had to provide medical care for both the Viet Minh and the French POWs. Bayle's new memoir gives dramatic details.

<sup>3</sup>See Fall, pp.442-447.

There are reports that some French POWs were kept in forced labor status, while others were given years of indoctrination in Marxist-Leninist revolutionary doctrine and North Vietnam's anti-colonial philosophy at re-education centers before being returned to French African and North African colonies. The Vietnamese separated officers from non-commissioned officers, non-commissioned officers from other enlisted troops. The separated colonials from Legionnaires, and French regulars from all other troops. They separated the prisoners by race and emphasized the differences in races between the Europeans, the blacks, and the Arabs. Reeducation (Marxist-Leninist indoctrination) was concentrated on African and North African colonial troops.<sup>4</sup>

Just as the Soviets did at the conclusion of World War II in the Pacific and Europe in 1945, after the signing of the 1954 Geneva Accords, so too they sent a delegation to North Vietnam to repatriate forcibly French Foreign Legion POWs identified as former nationals of Soviet bloc nations.<sup>5</sup> The North Vietnamese repatriated some Legionnaires and large numbers of colonial troops from non-Soviet bloc countries directly to their homelands, via China, without notification to the international commission overseeing the Indochina prisoner exchanges. As a result of the forced repatriations by the Soviets and unreported repatriations by North Vietnam, there are great disparities in accounting for French POWs released by the North Vietnamese after the 1954 Geneva Accords.

In 1962, about forty "Metropolitan" French POWs were returned to France. After their return, the French government charged these former POWs as deserters, or "ralliers" and court-martialed them, giving some of them prison sentences of up to five years and no back pay for the period they were prisoners in North Vietnam. Another group of about twenty Metropolitan French POWs chose to remain in North Vietnam. This latter group was court-martialed in absentia for capital crimes committed during the war and elected to remain in North Vietnam rather than return to France and face execution.

Writer William Stevenson, a noted BBC correspondent who covered the French Indochina War, told the staff about interviews he had with French soldiers held captive by the North Vietnamese. He was of the opinion that the French prisoners seemed to be mentally deficient, possibly as a result of their long, harsh imprisonment, or severe brainwashing techniques known to have been employed by the North Vietnamese.<sup>6</sup> Robert Garwood, a former U.S. POW who voluntarily returned from Vietnam in 1979, stated that, during the mid-1970s, he saw French prisoners used as forced laborers in a North Vietnamese dairy farm not far from Hanoi. Garwood

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<sup>4</sup> See Fall, pp.438-442.

<sup>5</sup> As noted, the Soviets carried out a similar policy in 1945 in Hanoi at the end of World War II.

<sup>6</sup> "Rallier" is a term used by the French and Viet Minh to describe persons who rallied to the opposite cause. U.S. military intelligence documents from the Second Indochina War reviewed for this research also use the term "rallier" to describe an American serviceman who went over to the National Liberation Front or North Vietnamese side.

<sup>7</sup> Fall, Hell in a Very Small Place, pp.438-442. Survivors of Viet Minh brainwashed techniques had a myriad effect on the French POWs. Some carried guilt for their conduct in prison after their release; colonial soldiers became revolutionaries after return to their home states; and, oddly, Legionnaires and paratroopers became the French extreme right-wing militarist.

believed the French POWs he saw were former Legionnaires who had not yet earned French citizenship when taken prisoner during the First Indochina War.<sup>8</sup> Because of that, they had no home country to accept them after the war.<sup>9</sup>

During the 1954 French withdrawal from North Vietnam, the French gave the North Vietnamese construction equipment, railway equipment, and various pieces of land and water transport equipment, as well as stores of non-military supplies already in North Vietnam. From 1955 until sometime in the 1970s, the French government paid the Democratic Republic of Vietnam (North Vietnam) an estimated \$30 million, via Hungarian banks, for maintenance of French military graves. In return, the North Vietnamese periodically repatriated remains of French military dead to France; however, all the remains repatriated were exhumed from graves already known to French authorities. Best information available indicates none of the war dead from Dien Bien Phu, the Viet Minh prison camps, or the death marches were ever repatriated to France.<sup>10</sup>

In 1971, to resolve the lingering problem over the unaccounted-for POW/MIA from the First Indochina War, the French Foreign Minister declared all unaccounted for French POW/MIA in Indochina as dead. According to author/historian Bernard Fall, the actual number of French casualties in the First Indochina War was never made public. In 1973, the French resumed diplomatic relations with North Vietnam.

### ***ANOTHER REPATRIATION EXPERIENCE***

In 1975, after the successful invasion into South Vietnam by North Vietnamese and Communist forces, the North Vietnamese captured two high-ranking South Korean officials who were assisting the South Vietnamese in the defense of their country. The North Vietnamese promptly imprisoned the two South Koreans. During their imprisonment, the South Korean government negotiated continually with the Vietnamese for the release of the two South Koreans.

The two South Koreans remained imprisoned throughout the years of negotiation for their release. The Vietnamese never admitted--not even once--that the South Korean POWs were being held in prison. Even after the South Korean government presented the Vietnamese government incontrovertible photographic evidence that showed that the two South Korean POWs incarcerated in Vietnam, the Vietnamese government continued to deny holding the men.

Five years after the South Koreans were captured--in 1980--the Vietnamese government repatriated the two prisoners to South Korea. Still, after their release, the Vietnamese government denied that it ever held the men.

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<sup>8</sup> Individuals must complete, honorably, their initial six-year enlistment in the Legion to be eligible French citizenship.

<sup>9</sup> Garwood's information on French POWs still being used as forced labor by the North Vietnamese was not verifiable without access to classified files.

<sup>10</sup> Source material for the French Experience includes books by Bernard B. Fall, Jules Roy, and Archimedes L. A. Patti. Testimony of Anita Lauve before the House Select Committee on Missing Persons in Southeast Asia, April 1976, was also used. Other material was developed through interviews conducted by staff.

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# EPILOGUE

## THE PECK LETTER

DATE: 12 FEB 1991

ATTN: POW-MIA

SUBJECT: Request for Relief

TO: DR

1. PURPOSE: I, hereby, request to resign my position as Chief of the Special Office for Prisoners of War and Missing in Action (POW-MIA).

2. BACKGROUND:

a. Motivation. My initial acceptance of this posting was based upon two primary motives: first, I had heard that the job was highly contentious and extremely frustrating, that no one would volunteer for it because of its complex political nature. This, of course, made it appear challenging. Secondly, since the end of the Vietnam War, I had heard the persistent rumors of American Serviceman having been abandoned in Indochina, and that the Government was conducting a "cover-up" so as not to be embarrassed. I was curious about this and thought that serving as the Chief of POW-MIA would be an opportunity to satisfy my own interest and help clear the Government's name.

b. The Office's Reputation. It was interesting that my previous exposure to the POW-MIA Office, while assigned to DIA, both as a Duty Director for Intelligence (DDI) and as the Chief of the Asia Division for Current Intelligence (JSI-3), was negative. DIA personnel who worked for me, when dealing with or mentioning the Office, always spoke about it in deprecating tones, alluding to the fact that any report which found its way there would quickly disappear into a "black hole."

c. General Attitudes. Additionally, surveys of active duty military personnel indicated that a high percentage (83%) believed that there were still live American prisoners in Vietnam. This idea was further promulgated in a number of legitimate veterans' periodicals and professional journals, as well as the media in general, which held that where there was so much smoke, there must be fire.

d. Cover-up. The dark side of the issue was particularly unsettling because of the persistent

rumors and innuendoes of a Government conspiracy, alleging that U.S. military personnel had been left behind to the victorious communist governments in Vietnam, Laos and Cambodia, and that for "political reasons" or running the risk of a second Vietnam War, their existence was officially denied. Worse yet was the implication that DIA's Special Office for POWs and MIAs was an integral part of this effort to cover the entire affair up so as not to embarrass the Government nor the Defense Establishment.

e. The Crusade. As a Vietnam veteran with a certain amount of experience in Indochina, I was interested in the entire POW-MIA question, and willingly volunteered for the job, viewing it as sort of a holy crusade.

f. The Harsh Reality. Heading up the Office has not been pleasant. My plan was to be totally honest and forthcoming on the entire issue and aggressively pursue innovative actions and concepts to clear up the live sighting business, thereby refurbishing the image and honor of DIA. I became painfully aware, however, that I was not really in charge of my own office, but was merely a figurehead or whipping boy for a larger and totally Machiavellian group of players outside of DIA. What I witnessed during my tenure as the cardboard cut-out "Chief" of POW-MIA could be euphemistically labelled as disillusioning.

### 3. CURRENT IMPRESSIONS, BASED ON MY EXPERIENCE:

a. Highest National Priority. That National leaders continue to address the prisoner of war and missing in action issue as the "highest national priority" is a travesty. From my vantage point, I observed that the principal government players were interested primarily in conducting a "damage limitation exercise", and appeared to knowingly and deliberately generate an endless succession of manufactured crises and "busy work". Progress consisted in frenetic activity, with little substance and no real results.

b. The Mindset to Debunk. The mindset to "debunk" is alive and well. It is held at all levels, and continues to pervade the POW-MIA Office, which is not necessarily the fault of DIA. Practically all analysis is directed to finding fault with the source. Rarely has there been any effective, active follow through on any of the sightings, nor is there a responsive "action arm" to routinely and aggressively pursue leads. The latter was a moot point, anyway, since the Office was continuously buried in an avalanche of "ad hoc" taskings from every quarter, all of which required an immediate response. It was impossible to plan ahead or prioritize courses of action. Any real effort to pursue live sighting reports or exercise initiatives was diminished by the plethora of "busy work" projects directed by higher authority outside of DIA. A number of these grandiose endeavors bordered on the ridiculous, and -- quite significantly -- there was never an audit trail. None of these taskings was ever requested formally. There was, and still is, a refusal by any of the players to follow normal intelligence channels in dealing with the POW-MIA Office.

c. Duty, Honor and Integrity. It appears that the entire issue is being manipulated by unscrupulous people in the Government, or associated with the Government. Some are using the

issue for personal or political advantage and others use it as a forum to perform and feel important, or worse. The sad fact, however, is that this issue is being controlled and a cover-up may be in progress. The entire charade does not appear to be an honest effort, and may never have been.

d. POW-MIA Officers Abandoned. When I assumed the Office for the first time, I was somewhat amazed and greatly disturbed by the fact that I was the only military officer in an organization of more than 40 people. Since combatants of all Services were lost in Vietnam, I would have thought there would at least be a token Service representation for a matter of the "highest national priority." Since the normal mix of officers from all Services is not found in my organization it would appear that the issue, at least at the working level, has, in fact, been abandoned. Also, the horror stories of the succession of military officers at the C-5 and C-6 level who have in some manner "rocked the boat" and quickly come to grief at the hands of the Government policy makers who direct the issue, lead one to the conclusion that we are all quite expendable, so by extrapolation one simply concludes that these same bureaucrats would "sacrifice" anyone who was troublesome or contentious as including prisoners of war and missing in action. Not a comforting thought. Any military officer expected to survive in this environment would have to be myopic, an accomplished sycophant, or totally insouciant.

e. The DIA Involvement. DIA's role in the affair is truly unfortunate. The overall Agency has generally practiced a "damage limitation drill" on the issue, as well. The POW-MIA Office has been cloistered for all practical purposes and left to its own fortunes. The POW Office is the lowest level in the Government "efforts" to resolve the issue, and oddly for an intelligence organization, has become the "lightening rod" for the entire establishment to the matter. The policy people manipulating the affair have maintained their distance and remained hidden in the shadows, while using the Office as a "toxic waste dump" to bury the whole "mess" out of sight and mind to a facility with the limited access to public scrutiny. Whatever happens in the issue, DIA takes the blame, while the real players remain invisible. The fact that the POW-MIA Office is always the center of an investigation is no surprise. Many people suspect that something is rotten about the whole thing, but they cannot find an audit trail to ascribe blame, so they attack the DIA/POW-MIA "dump", simply because it has been placed in the line of fire as a cheap, expendable decoy.

f. "Suppressio Veri, Suggestio Falsi". Many of the puppet masters play a confusing, murky role. For instance, the Director of the National League of Families occupies an interesting and questionable position in the whole process. Although assiduously "churning" the account to give a tawdry illusion of progress, she is adamantly opposed to any initiative to actually get to the heart of the problem, and, more importantly, interferes in or actively sabotages POW-MIA analyses or investigations. She insists on rewriting or editing all significant documents produced by the Office, then touted as the DIA position. She apparently has access to top secret, codeword message traffic, for which she is supposedly not cleared, and she receives it well ahead of the DIA intelligence analysts. Her influence in "jerking around" everyone and everything involved in the issue goes far beyond the "war and MIA protestor gone straight" scenario. She was brought from the "outside", into the center of the imbroglio, and then, cloaked in a mantle of sanctimony, routinely impedes real progress and insidiously "muddles up" the issue. One wonders who she really is and where she came from.

4. CONCLUSIONS:

- a. The Stalled Crusade. Unfortunately, what began on such a high note never succeeded in embarking. In some respects, however, I have managed to satisfy some of my curiosity.
- b. Everyone is Expendable. I have seen firsthand how ready and willing the policy people are to sacrifice or "abandon" anyone who might be perceived as a political liability. It is quick and facile, and can be easily covered.
- c. High-Level Knavery. I feel strongly that this issue is being manipulated and controlled at a higher level, not with the goal of resolving it, but more to obfuscate the question of live prisoners, and give the illusion of progress through hyperactivity.
- d. "Smoke and Mirrors". From what I have witnessed, it appears that any soldier left in Vietnam, even inadvertently, was, in fact, abandoned years ago, and that the farce that is being played is no more than political legerdemain done with "smoke and mirrors", to stall the issue until it dies a natural death.
- e. National League of Families. I am convinced that the Director of this organization is much more than meets the eye. As the principal actor in the grand show, she is in the perfect position to clamor for "progress", while really intentionally impeding the effort. And there are numerous examples of this. Otherwise it is inconceivable that so many bureaucrats in the "system" would instantaneously do her bidding and humor her every whim.
- f. DIA's Dilemma. Although greatly saddened by the role ascribed to the Defense Intelligence Agency, I feel, at least, that I am dealing with honest men and women who are generally powerless to make the system work. My appeal and attempt to amend this role perhaps never had a chance. We all were subject to control. I particularly salute the personnel in the POW-MIA Office for their long suffering, which I regrettably was unable to change. I feel that the Agency and the Office are being used as the "fall guys" or "patsies" to cover the tracks of others.

5. RECOMMENDATIONS:

- a. One Final Vietnam Casualty. So ends the war and my last grand crusade, like it actually did end, I guess. However, as they say in the Legion, "je ne regrette rien..." For all of the above, I respectfully request to be relieved of my duties as Chief of the Special Office for Prisoners of War and Missing in Action.

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E P I L O G U E

b. A Farewell to Arms. So as to avoid the annoyance of being shipped off to some remote corner, out of sight and out of the way, in my own "bamboo cage" of silence somewhere, I further request that the Defense Intelligence Agency, which I have attempted to serve loyally and with honor, assist me in being retired immediately from active military service.

**MILLARD A. PECK**  
Colonel, Infantry  
USA