

Stenographic Transcript of
HEARINGS
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

*see p. 62
73*

DEPOSITION OF WILLIAM SULLIVAN

Monday, July 20, 1992

Washington, D.C.

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*There is a section
taken at NSC level
after P 220*

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1 DEPOSITION OF WILLIAM SULLIVAN

2
3 Monday, July 20, 1992

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5 U.S. Senate

6 Select Committee on POW/MIA

7 Affairs

8 Washington, D.C.

9 Deposition of WILLIAM SULLIVAN, a witness herein,
10 pursuant to notice, called for examination by counsel for
11 the Senate Select Committee on POW/MIA Affairs, in Room S-
12 407, The Capitol, Washington, D. C., commencing at 10:18
13 a.m., the witness having been duly sworn by MICHAL ANN
14 SCHAFER, CVR, a Notary Public in and for the District of
15 Columbia, and the proceedings being taken down by Stenographer
16 by MICHAL ANN SCHAFER, CVR, and transcribed by her.

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Wm Sullivan

1 APPEARANCES:

2 On behalf of the Select Committee on POW/MIA Affairs:

3 NEAL KRAVITZ, ESQ.

4 JOHN ERICKSON, ESQ.

5 Investigative Counsel

6 On behalf of the U.S. Department of State:

7 JAMES G. HERGEN, ESQ.

8 Assistant Legal Advisor for East Asian

9 and Pacific Affairs

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Geo Carter P. 89

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Vietnamese issue to keep up appearance they were
not involved in Laos P 158

Laos embassy S4Rs 174

Laos condition of U.S. Troops from Laos

Cambodia was
Chinese satellite

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C O N T E N T S

WITNESS EXAMINATION

William Sullivan

By Mr. Kravitz

AFTERNOON SESSION, P. 84

E X H I B I T S

<u>SULLIVAN EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>
1	19
2	19
3	19
4	82
5	101
6**	150

** Exhibit 6 retained by Counsel for the Select Committee

P R O C E E D I N G S

1
2 Whereupon,

3 WILLIAM SULLIVAN,

4 the witness herein, called for examination by counsel, on
5 behalf of the Senate Select Committee on POW/MIA Affairs and
6 having been duly sworn by the Notary Public, was examined
7 and testified as follows:

8 EXAMINATION BY COUNSEL ON BEHALF OF THE SELECT COMMITTEE

9 BY MR. KRAVITZ:

10 Q. Ambassador Sullivan, my name is Neal Kravitz. I'm
11 a lawyer with the Senate Select Committee on POW/MIA
12 Affairs.

13 As you know, you are here today for a deposition
14 with the Committee, and I want to thank you for appearing
15 voluntarily. We appreciate that.

16 I want to begin by just giving you a few brief
17 instructions as to how the deposition will go forward.
18 Please let me know you have any questions.

19 Obviously, I'll be asking questions, and your
20 answers, as you know, will be under oath. If at any point
21 you have any questions about what one of my questions means,
22 please ask for clarification before you answer the question.

23 At any time during the deposition, if, thinking
24 back to one of your previous answers, you believe that you
25 should add something or take something away from it or

1 change it any way, please feel free to interrupt me at any
2 point during the deposition and tell me that you'd like to
3 change your previous answer. It doesn't matter whether
4 several hours have gone by; it's important to us that we get
5 the most accurate, complete information that we can.

6 Everything that is said during the deposition by
7 you or any of the lawyers here will be on the record. As
8 you can see, a verbatim recording is being made of the
9 deposition, and a transcript will be created from that
10 recording. Under our rules, you have a right to review the
11 transcript, and all you need to do to exercise that right is
12 let Mr. Hergen know and he'll contact me, or you can contact
13 me directly through the Committee.

14 A. There may be some things that, as far as I know,
15 are still classified under the executive system of
16 classification. Now if I mention those and you say they are
17 on the record, you mean for publication?

18 Q. No. By "on the record," what I mean is part of
19 the transcript. In other words, people have heard the
20 phrase "this is off the record." What's important for you
21 to understand is that everything is on the record; in other
22 words, everything you say, everything I say, will be
23 recorded and will become part of the transcript.

24 That doesn't mean that it will be made public. In
25 fact, under our rules everything in this deposition, like

1 everything else that is part of the Committee's
2 investigation, is confidential to the Committee. That
3 doesn't mean that it will not become public in the future.

4 Under our rules, there are procedures by which a
5 majority of the Senators on the Committee, acting together,
6 or the Chairman acting alone, can make public anything that
7 has been the subject of the investigation of the Committee.

8 I have no reason to believe that your testimony
9 will be made public under those procedures, but it's
10 certainly possible. I guess the only thing I can tell you
11 about that is that you need to be aware of those rules.

12 A. That doesn't address the point of classified
13 material.

14 Q. Because classified material is going to be used in
15 the deposition, your testimony about that classified
16 material is, by definition, also classified. A large
17 quantity of these materials are the subject of a request
18 from our Committee to the Administration for
19 declassification.

20 A. To him, then?

21 Q. It's actually gone to the White House.

22 A. I see.

23 Q. I know Mr. Hergen is doing his best to assist us
24 in getting the White House to declassify these materials.

25 So, when those materials are declassified, I imagine that

1 your transcript, the transcript of your deposition, would
2 likewise be declassified or at least clearly could be
3 declassified.

4 A. What you are saying is, I don't have to concern
5 myself with the matter of classification. Someone else will
6 look at that afterwards.

7 Q. In fact, we have obtained from the State
8 Department a temporary DATA security clearance for you
9 for the purposes of this deposition. None of the documents
10 I'm going to show you are higher than DATA and
11 everyone in this room has at least a DATA security
12 clearance.

13 In the event that I ask you a question and your
14 complete answer to it would include DATA information
15 that you remember from your past, I'd ask you not to answer
16 the question involving that information because I'm not
17 allowed to hear DATA information.

18 If you have an answer that includes DATA
19 information, just tell us that. Mr. Erickson is cleared up
20 to DATA

21 A. I would be highly unlikely to be able to remember
22 and distinguish between what I learned from DATA and
23 what I learned from other things at this remove.

24 Let me ask one other question. You said the
25 transcript will come to me for review. I'm going to back to

1 Mexico crack of dawn Thursday morning, so this means --
2 would Mike have it finished? No. So you'd going to have to
3 do what?

4 Q. We'd have to figure something out. I mean, it may
5 be that the State Department could courier it down there.

6 MR. HERGEN: I might have to fly down and play
7 some golf.

8 MR. ERICKSON: Jim and I can go down. Don't worry
9 about it.

10 MR. HERGEN: Can you get a fourth?

11 [Laughter.]

12 THE WITNESS: The point is, I won't have it before
13 I go, and this is not a matter of great urgency, I would
14 assume. I'll be back up again in September.

15 BY MR. KRAVITZ:

16 Q. Well, it may make the most sense for you to come
17 to the Senate when you are back up here to review the
18 transcript. But if you would prefer to have the transcript
19 sent down to Mexico, we can at least try, and I would
20 imagine that something can be arranged.

21 A. It could possibly be sent to the embassy and I
22 could go to John Negroponte's, but it's not urgent. Let's
23 not concern ourselves.

24 Q. I'm sure it can be arranged. I know we're sending
25 Ambassador Negroponte's down to him.

1 A. He's within the system.

2 Q. It's easier to get to him than to get to the

3 One other point that I need to make on the record
4 just so everyone knows how this is going to work, and I
5 mentioned it briefly off the record. This afternoon we're
6 going to be using some documents that are in the control and
7 custody of the National Security Council, and someone from
8 there is going to be bringing them over for us.

9 Because of an agreement between the Select
10 Committee and the National Security Council, we can't take
11 actual custody of those documents. When we need the
12 documents, we'll ask the person with them to come into the
13 room with the documents. We will ask questions from the
14 documents, mark them as Exhibits to the deposition, but the
15 documents will go back to the National Security Council and
16 will not be made exhibits, actually physically will not be
17 made exhibits to the deposition transcript.

18 In addition, the agreement between the Committee
19 and the National Security Council is that all notes and
20 transcripts and tapes having to do with that portion of the
21 deposition that involves the National Security Council's
22 documents will be made separate from the rest of the
23 transcript and will actually all be stored over at the
24 National Security Council until further notice.

25 So there will be two separate transcripts of this

1 deposition, and Michal will have to use two different sets
2 of tapes, and all of Mr. Erickson's notes from that part of
3 the deposition will actually go with the National Security
4 Council person back to the National Security Council.

5 I don't know if Mr. Hergen is taking notes at that
6 point, I will let him fight it out with the NSC over what
7 happens to his notes.

8 A. Let me say that I have no documents, none
9 whatsoever. I was one of these people who observed the laws
10 in effect at the time, never kept a diary, never kept any
11 documents. So I have nothing in my possession that can be
12 of any value or of any interest to anybody in any branch of
13 the government.

14 Q. Okay. Before we start, do you have any more
15 questions for me as to what we are going to do in terms of
16 scheduling?

17 MR. KRAVITZ: Jim?

18 MR. HERGEN: No.

19 BY MR. KRAVITZ:

20 Q. Do you have a resume that maybe you could send to
21 us?

22 A. Unfortunately, I don't have any, no.

23 Q. You haven't applied for any jobs lately?

24 A. I never did, never have applied for a job, never
25 applied for a job in my life except to go into the Navy in

1 1942.

2 Q. I don't want to spend a lot of time going over
3 your background, but if maybe you could just briefly tell us
4 first a little bit about your educational background, and
5 then walk us through your employment over the time.

6 A. Well, I was born in Cranston, Rhode Island, in
7 1922. I went to school in the public schools of Cranston,
8 graduated from Cranston High School, went to Brown
9 University. I was in the class of 1943, but actually joined
10 the Navy in 1942 in a reserve category, which kept me in
11 college for a number more months, with a program pretty much
12 directed, my academic program, directed by the Navy rather
13 than by my own choice.

14 And I did graduate a little ahead -- maybe it was
15 with my class, but in 1943. I was in uniform when I
16 graduated and came back from midshipman's school -- summa
17 cum laude, incidentally.

18 I then went straight from there to a destroyer,
19 the USS HAMILTON, on which I served until 1946, same ship,
20 advancing through various jobs on the ship. My last year or
21 so I was first lieutenant and damage control officer.

22 I came out of the Navy in '46, went to Harvard
23 graduate school, but while I was there most of my teachers
24 were shot out from under me by being taken into the Federal
25 government to go administer the various programs and various

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1 things, so I shifted over to a school which was then jointly
2 administered by Harvard and Tufts, the Fletcher School of
3 Law and Diplomacy, got my master's degree from there in June
4 of 1947.

5 I had taken the Foreign Service examinations in
6 the fall of '46, accepted into the Foreign Service, and went
7 immediately from Fletcher into the Foreign Service, and,
8 incidentally, picked up a bride at Fletcher, thereby
9 depriving her of a Foreign Service career but giving the
10 State Department two for the price of one, as Bill Clinton
11 says.

12 Then I went to Bangkok, where I served in the
13 usual sort of junior officer category as Vice Consul, Third
14 Secretary, commercial officer and so forth.

15 Then I went over to Calcutta and served there as
16 commercial consul and as what they call executive consul.
17 Went from there up to Tokyo, where I was euphemistically
18 designated as a political advisor to General MacArthur;
19 since he didn't take advice, that was something of a
20 misnomer, but my function was to prepare for the peace
21 treaty and for the security treaty with Japan, both of which
22 I participated in negotiating and then staying there as the
23 first civilian member of the so-called Joint Commission,
24 which was a military-civilian commission to make
25 arrangements for basing rights and for such things as cost-

1 sharing and so forth by the Japanese for the stationing of
2 our forces there.

3 Went from there in the end of '52, assigned to the
4 embassy at Rome, but because of some personnel changes I
5 ended up as political advisor to Admiral Carney, who was the
6 newly-designated chief of a new NATO headquarters,
7 NATO/South, which included the Mediterranean and southern
8 command over to Greece and Turkey.

9 Q. Was that in Rome?

10 A. No, that was in Naples. So I came from Rome, down
11 to Naples, did that until such time as a man came to take
12 the job, which was about 8 or 9 months, I guess, and then
13 went back up to Rome, where I was in the embassy until '55
14 working primarily on military base rights negotiations and
15 matters of that sort.

16 Went from there to The Hague in The Netherlands
17 where I did somewhat the same, negotiating base rights
18 agreement for -- and working the NATO complex, and also
19 doing some political reporting.

20 Then, '58, came back to Washington in South East
21 Asian Affairs in the Department of State, originally
22 Cambodia desk, but in the course of all that got into
23 regional affairs, which was basically political-military.
24 And then when Av Harriman came in under the Kennedy
25 Administration he took me as his assistant.

1 Well, I guess I first encountered him when I went
2 over to Geneva for the talks on Laos, and then after I came
3 back from that, about a year, I guess, went with Av when he
4 became Under Secretary of State and worked with him there,
5 working pretty much on Vietnamese affairs.

6 Because of certain personality clashes in the
7 Administration when President Johnson came in, they put me
8 in charge of all the interdepartmental Vietnamese affairs.
9 I think my title was Special Assistant to the Secretary of
10 State. I was working with Dean Rusk.

11 Then, when Max Taylor went out to Saigon in '60 --
12 It was after the assassination -- '64, I went out with him.
13 He asked me to go out for one month as a so-called mission
14 coordinator. I spent five months there trying to get it
15 organized. And then I went where I had been predestined to
16 go, as Ambassador to Laos. So I was Ambassador to Laos from
17 the fall, from, I would say, maybe November of '64 until the
18 spring of '69.

19 And in '69 I came back and in effect took over my
20 old job as coordinator of interdepartmental affairs on
21 Vietnam and also directing the peace negotiations in Paris,
22 which had begun by that time. I stayed in that until
23 summer, maybe September, of '72, when I actually joined the
24 so-called secret negotiations that were going on.

25 In other words, there were two tracks of

1 negotiations. One, as you may recall, was an overt set for
2 public consumption, and the other Henry Kissinger was
3 conducting in a clandestine manner. He at first allowed no
4 one but his most immediate staff in on that, and finally, I
5 think in September, they realized they needed some
6 professional help, so they brought me aboard, but in a very
7 strange capacity.

8 I was not permitted to tell the Secretary of State
9 what I was doing and so forth and so on. The arrangement I
10 had with him, I would tell him if I thought he needed to
11 know something, and Bill Rogers, being a very decent
12 gentleman, accepted that arrangement.

13 Incidentally, I understand you deposed George
14 Aldrich.

15 Q. Yes.

16 A. After beating Henry about the head and shoulders
17 for a couple of weeks, I managed to get George there so that
18 we had a lawyer. I don't mean to sound as though I'm
19 pandering to lawyers, but I do come from a family full of
20 them, and so I realized I needed some help and I got George
21 Aldrich along with me.

22 Stayed with that until the spring of '73, when
23 I guess I was confirmed in the spring as Ambassador to the
24 Philippines and I went out to the Philippines, stayed there
25 until the spring of '77.

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1 Then I went to Tehran for the revolution, and
2 stayed there until the spring of '79, at which time, because
3 of rather sharp differences I had with Jimmy Carter and Zbig
4 Brzezinski, I resigned from the Service and immediately went
5 to become president of the American Assembly, which is a
6 not-for-profit organization affiliated with Columbia
7 University, nonpartisan, set up by Dwight Eisenhower and
8 Averill Harriman.

9 I did that for seven years, until '86 -- yes, '86
10 -- whereupon I retired to Mexico. We had bought land and
11 built a house there prior to that, and I occupy myself now
12 very largely in playing golf, swimming. I do maintain a
13 relationship with three or four not-for-profit
14 organizations.

15 I chair the board of a little center here called
16 the International Center. I'm on the board of the Lincoln
17 Foundation out in Arizona, and the Institute for Land Policy
18 in Cambridge, Massachusetts. These bring me back and forth
19 to the United States at least six times a year. I am just
20 about as close to Washington as I want to be.

21 Q. I think you may already have answered this
22 question when you said that you didn't have any documents,
23 but let me ask you more specifically.

24 Have you ever written any papers or articles
25 regarding your involvement in the Paris peace negotiations?

1 A. I don't recall. Certainly nothing extensive, if I
2 did write anything about it. George Aldrich did the
3 official history for the negotiations -- well, I can't say
4 for the whole negotiations, because he wasn't in on all of
5 them. He did the official interpretation, basically, in a
6 paper.

7 Q. Was that ever published?

8 A. We have that.

9 A. I don't think -- I can't say. I may have done
10 some little up-ed piece or something at some time, but I
11 said nothing that was substantial or significant.

12 Q. Have you ever written anything having to do with
13 the Vietnam war?

14 A. I wrote a little book of anecdotes for my
15 grandchildren, which W. W. McNaughton did me the favor of
16 publishing, called "Obligato," and in that I merely, in
17 narrative form, talked about the experience I had in Vietnam
18 and Laos in very foreshortened form and designed largely for
19 what I guess is the average American mind, 12 years old.

20 Q. I might even understand it.

21 A. It's strictly I decided to write this thing. It's
22 not an autobiography but a whole series of sort of
23 interesting episodes that I thought would be interesting.
24 I decided to put them down on paper before Alzheimer's set in,
25 and it's a book which W.W. Naughton published under the

1 title of "Obbligato."

2 Q. As far as you can remember, that's the only piece
3 that you ever wrote on the Vietnam war?

4 A. On the war? I think so. I wrote maybe one or two
5 things which were published under Averill Harriman's name,
6 and I can't remember the timing of them. I think one of
7 them, I know, was for the New York Times magazine.

8 Q. Okay.

9 MR. HERGEN: Just for clarification, Neal, are you
10 referring now to published type material or memoranda and
11 stuff like that?

12 THE WITNESS: I was not big on memos. If I had
13 anything to say, I did it on the telephone or wrote a cable.
14 You will not find -- this is why when the so-called Pentagon
15 Papers came out I remember Alex Johnson calling me and
16 saying, you know, we probably had more to do with this than
17 any of these people here, but there's not a damn item in the
18 book from either one of us because we were not stupid enough
19 to write memos.

20 [Laughter.]

21 BY MR. KRAVITZ:

22 Q. I actually forgot to mark your exhibits that I'm
23 supposed to in each deposition. Exhibit Number 1 is a copy
24 of the Select Committee rules.

25 [The document referred to was

1 marked Sullivan Exhibit No. 1
2 for identification.]

3 A. You gave me this.

4 Q. For the record, that's a copy of the Select
5 Committee's rules.

6 Exhibit Number 2 is the notice of Senate
7 deposition.

8 [The document referred to was
9 marked Sullivan Exhibit No. 2
10 for identification.]

11 A. I apparently threw mine away accidentally, so I'm
12 glad to have it. After I talked with you, because you asked
13 a number of things, I couldn't find it the next day.

14 MR. HERGEN: Actually I took Ambassador Kennedy up
15 to the wrong room. There was some confusion in the taxicab
16 and we had a big fight where to go, and I brought him up
17 here, and you know he's got a bad leg. And when we got up
18 here, much to my chagrin, we were directed over to the
19 Dirksen building somewhere and I had to take him all the way
20 back.

21 BY MR. KRAVITZ:

22 Q. And Exhibit Number 3 is the authorization form for
23 the deposition, signed by Senators Kerry and Smith.

24 [The document referred to was
25 marked Sullivan Exhibit No. 3

1 for identification.]

2 If you do want copies of it, since you have lost
3 them, we can easily have them made.

4 A. I keep a clean desk and throw most things in the
5 wastebasket, and I probably subconsciously thought I had
6 finished with it.

7 Q. You mentioned that you were involved in the
8 negotiations in Laos in 1962.

9 A. '61-'72, yes.

10 Q. What was your involvement in those negotiations?

11 A. Well, I went over there first as something I guess
12 that was called coordinator of the delegation or something
13 of that sort. They had a huge delegation. In fact, when
14 they first started to form the delegation, it was being
15 formed under the direction of Ken Young, who brought in an
16 enormous amount of people from almost every department of
17 government.

18 In the middle of all this, Ken was designated
19 Ambassador to Bangkok and left. I had been one of those
20 brought in at the outset, but it seemed to me so turgid that
21 I quietly slipped out at that point and nobody realized I
22 had left, and I never was involved until later when they had
23 gone through the first four or five months turgidity in
24 Geneva.

25 And Joe Sisco I guess had had this position of

1 coordinator of the delegation. He came back to Washington
2 and recommended that I be his replacement, and the Secretary
3 agreed and I went over there.

4 The first thing that Av Harriman asked me to do
5 was look over the delegation and see how it could be reduced
6 in size. So I did that and gave him a recommendation which
7 would have cut about one-third of the members of the
8 delegation. And he said he wanted more than that cut; he
9 wanted it cut in half, and he wanted me to be his deputy.

10 I said, well, most of these guys are senior to me.
11 He said, all right. Cut them. So we sent them on home;
12 that's how I became his deputy. So I was Av's deputy for
13 the remaining 12 months or so of the negotiations, and that
14 meant while he was away, which was most of the time, I was
15 heading the delegation.

16 It was a complicated circus of 12 different
17 delegations, so that it was one of the more had two co-
18 chairman, a Soviet and a British, one of the most complex
19 things I've ever been engaged in.

20 Q. What were the United States goals in those
21 negotiations?

22 A. The President, John Kennedy, had been told by the
23 outgoing President, Dwight Eisenhower, that Laos was the
24 most critical flash point in foreign policy and that there
25 was a great possibility that a war could erupt there which

1 would drag the United States into combat on the southeast
2 Asian mainland with China and the Soviet Union combined.

3 And it was Eisenhower's counsel that that should
4 be avoided at all costs. When the President was elected, he
5 designated a transition team, I guess they called it, that
6 came to the State Department to try to prepare for the
7 transition in foreign policy. Averill Harriman headed that
8 team.

9 He asked anybody who wished to to send in papers,
10 recommendations as to what changes should be made in foreign
11 policy. I sent in two, one on the question of the
12 recognition of China and the other on the question of Laos.
13 I sent the one in on Laos only because the Lao desk officer,
14 who had actually conceived it, was a rather modest man, even
15 though he was an Irishman, and he didn't want to put his
16 name on paper on the thing. So I did.

17 And the purpose of this was to achieve a
18 neutralized Laos so that there would be a withdrawal of
19 Soviet involvement there and hopefully North Vietnamese
20 involvement as well.

21 And it was the determination of the President and
22 his senior advisors, including Dean Rusk, that if we had to
23 do any fighting in southeast Asia we would do it in Vietnam,
24 for several reasons. One, the Vietnam coastline was
25 accessible to the Navy, and we had, therefore, support from

1 the sea as well as logistics.

2 Laos, by contrast, was a landlocked lousy little
3 place that was up the river and very difficult to get to and
4 tough jungle fighting. Secondly, the South Vietnamese had a
5 respectable, what we then conceived of a respectable
6 military force which could carry the bulk of the ground
7 fighting, and that these observations would be made also by
8 the Soviets and the Chinese and they knew once we got out of
9 Laos that, once we settled with Laos, that there would be a
10 significant confrontation if it took place in Vietnam.

11 That was expected to deter them from further
12 operations in Vietnam and to neutralize Laos, in which we
13 had no grand strategic stakes and which is not a
14 sophisticated country. So those were our objectives, to
15 achieve this sort of neutralization and to shift the focus
16 of any confrontation to Vietnam and to retain it there.

17 Q. How successful were we in achieving those goals?

18 A. We did neutralize Laos and had the situation in
19 Vietnam matured as was expected we would have been
20 successful. I might say we would have been ~~successful~~. I
21 think, militarily had we followed the advice of General
22 Lemnitzer, who was then Chairman of the Joint Chiefs of
23 Staff, which was instead of bogging U.S. ground forces down
24 in the jungles of Southeast Asia we should use very largely
25 navy and air and a small contingent, probably three

1 divisions, of U.S. Marines to go into North Vietnam and then
2 cut across to the limestone karsts above the Ho Chi Minh
3 trail, cut off the infiltration of North Vietnamese forces
4 and supplies into the south; keep the air and naval
5 interdiction of those two southern provinces, with the
6 understanding that we would hand them back to them if they
7 concluded a satisfactory abnegation of intent in Vietnam
8 thereafter in an agreement.

9 We felt that the South Vietnamese forces were
10 strong enough to handle the Viet Minh guerrilla operation in
11 the absence of supplies and logistics from the north.

12 So in the contingent sense and with the original
13 expectations, we met what we intended to do. What changed
14 was General Lomnitzer being replaced by Max Taylor, who
15 firmly believed that U.S. green berets and others could
16 fight as well as anybody else in adverse jungle conditions
17 and denied us the enormous advantage we had, had we used
18 navy, air and ground operations in the north.

19 Let me say, in deference to the judgments of the
20 two Presidents, Kennedy and Johnson, because I raised it
21 again in the Johnson Administration, no one could assure
22 that the Chinese would not come in if we went into North
23 Vietnam. I think in retrospect they probably would not have
24 because of their own tensions and because of the so-called
25 cultural revolution going on in China.

1 So this is what might have been, what if, but in
2 the framework of what our original intentions were, we were
3 successful in doing what we intended to do with Laos.

4 Q. What exactly was meant by the term "neutralizing
5 Laos" back in 1961 and '62?

6 A. Well, what I had set up in this little paper was
7 what we called the red, white, and blue solution, in which
8 the communists could keep the jungles up in the north, the
9 neutralists -- that is to say Souvanna Phouma's group --
10 would keep the area along the Mekong plain, which involved
11 the two capitals of Vientiane and Louangphrabang, and the
12 forces friendly to, associated with, and related, literally
13 related, to the Thai would hold the area in the south, the
14 panhandle, where the Ho Chi Minh trail went through.

15 So that in effect what it did was to sanctify by
16 agreement what was actually the state that existed in 1959
17 1960.

18 Q. To put Laos essentially into three areas?

19 A. Papering it over with a tripartite government.
20 You know, the symbol of Laos is a three headed elephant, the
21 royal symbol, and has been for years. So nothing new in
22 that. It's a little like the way you put Afghanistan back
23 together. We have many people that are trying to unify
24 Afghanistan, which is a task that has been in progress since
25 the mid 1600s and never worked out.

1 Q. When you arrived in Vientiane in 1964 as the
2 Ambassador to Laos, how did the division of Laos compare to
3 what had been agreed upon in the 1962 accord?

4 A. Well, the principal thing that had changed was
5 that the North Vietnamese, by their rapid development of the
6 logistics system down the Ho Chi Minh trail, had turned not
7 only the northeast but also the southeast of Laos into red
8 territory rather than blue.

9 Aside from that, we had essentially what we had
10 anticipated, except that the communists had, or the Pathet
11 Lao group had left the tripartite government, so that it was
12 in effect a bipartite government at that stage.

13 Q. And the Pathet Lao were acting as just guerrilla
14 forces within the country?

15 A. You know, the Pathet Lao, I'm never sure how many
16 actual Pathet Lao there were. I would be prepared to
17 believe that there were no more than 500 as effective
18 forces. Pathet Lao were merely a paravein for the North
19 Vietnamese.

20 We had one division, the 316th, that regularly
21 came in every year. It came in the dry season and went out
22 in the rainy season in the north, and it came down as far as
23 it could go west and as it went back we cut them off and
24 plastered them. I think we achieved, on a percentage basis,
25 probably a higher rate of attrition than Westmoreland was

1 doing in the south. But that was done without benefit of
2 ground forces, U.S. ground forces.

3 Q. I want to ask you some questions about your five
4 years in Laos, from 1964 to 1969.

5 A. Four and a half.

6 Q. Four and a half years. It was the fall of '64
7 until the spring of '69?

8 A. Yes.

9 Q. I think there's something on you in Who's Who in
10 America that I looked at. It lists you as the Ambassador
11 from '64 to '68 and then the chief of mission from '68 to
12 '69. Is there a real distinction?

13 A. They must have changed editors. The Ambassador is
14 the chief of mission.

15 Q. That's what I thought. So you had the same
16 position for all four and a half years?

17 A. Yes.

18 Q. What were your duties and responsibilities as
19 Ambassador to Laos in that period?

20 A. Well, every Ambassador is the representative of
21 the President of the United States in the country in which
22 he is serving, which means he directs all the activities of
23 the United States there, with the exception of those United
24 States military forces who are serving under joint command,
25 direct commands.

delivered by Amb

1 In other words, had there been any CINCPAC forces
2 in Laos, they would not have been under my direction. But
3 because of the neutrality agreements we had no CINCPAC
4 forces in Laos, so that I had as military only people who
5 were designated as attaches,

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9 So I represented the President in the direction of
10 my mission, which had about 2,000 people in it, and in the
11 state-to-state relationships between the Government of the
12 United States and the government of Laos.

13 Q. And that was the Royal Lao government at that
14 point?

15 A. The Royal Lao government.

16 Q. What about oversight of Central Intelligence
17 Agency operations within Laos?

18 A. Yes, very directly. They worked for me.

19 Q. Can you give us some idea of what your oversight
20 responsibilities were of the CIA operations?

21 A. Well, the CIA station officer was on my staff. He
22 attended my morning staff meetings. He checked out anything
23 he wanted to do with me. He had a certain amount of leeway,
24 but it was limited to those things which I had authorized.

25 Q. So there's no question that as Ambassador you were

1 the person controlling, ultimately, the CIA's operations?

2 A. Absolutely not. As a matter of fact, CIA's
3 station chief who was with me longest. I guess, NAME

4 NAME (when he was proposed to me by Dick Helms, who was
5 then DCI, I was back in Washington at the time, and Dick
6 told me that he realized this was one of his younger
7 officers and therefore not as senior as the people I'd had
8 in the past, but that he was, according to Dick, the best
9 man he had in operations.

10 Dick's only concern was that there had been times
11 when, while he had been doing some fairly brilliant things
12 like the tunnel in Berlin, for example, that he had not
13 always been a team player, and one of the reasons he was
14 sending him out to me was that I could make a team player
15 out of him. And NAME, was told that to begin with, and
16 he knew I had control, without any question, without appeal,
17 just to send him out of the country.

18 The same was true of all the other people working
19 for me. So it's a benevolent dictatorship being Ambassador.

20 Q. What about communications or diplomatic contacts
21 with the Pathet Lao?

22 A. Well, the Pathet Lao, who was Seth Petrasz, was a
23 figurehead and nonentity and had no communications himself
24 with anything that was going on in the military zone. He
25 was merely a residual representative of the Pathet Lao to

1 symbolize that they had not definitively and finally broken
2 their agreements, because they too depended upon the
3 continued existence of those agreements even for their
4 tolerated existence.

5 So I mean I would see him socially and we would
6 talk to each other. As I say, once a year we went over and
7 got his drains cleaned out so we didn't flood. That was
8 about all. I'm not sure I had any other Pathet Lao
9 communications after I came as Ambassador. I had a lot
10 before that, when I was in the negotiations.

11 Q. What was the frequency with which you communicated
12 with Washington, either with the Secretary of State or the
13 President?

14 A. Oh, you know, embassies have flows of documents
15 going every minute of the day literally, because they are
16 catching up at night on things that were sent. And since we
17 were just 12 hours out of phase with Washington they were
18 sending all their bumps in at night.

19 But if you are talking about how many times did I
20 receive instructions, I think I actually received
21 instructions to do something twice in the course of the four
22 and a half or five years.

23 Q. From whom did you receive those instructions?

24 A. Well, in the name of the President of the United
25 States, but it would either have been from -- it was usually

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1 something -- the only two occasions I remember were
 2 occasions when I was instructed to do things that I had
 3 resisted doing. One of them was putting a bunch of sheep-
 4 dipped Air Force people on a high mountain, Boupati, to set
 5 up a LORAN navigation device to help fighter-bombers going
 6 into the Hanoi area.

7 I regarded it as a place we couldn't protect and
 8 save them, and I resisted doing it. I was instructed to do
 9 it. They were eventually all captured and killed.

10 Q. Was that the Lima Site 35?

11 A. Lima 35, yes.

12 And there was another similar instruction to do
 13 something equally stupid which I resisted but then was
 14 instructed to do.

15 Q. Do you remember what the second incident was?

16 A. I can't remember. It was -- I remember there was
 17 another one besides Boupati, but I can't remember what it
 18 was at this stage.

19 Q. What kind of reporting requirements did you have
 20 as Ambassador? Were you required to report regularly to the
 21 Secretary of State, to the President, or anyone else?

22 A. Well, reporting, yes. All embassies at all times
 23 report regularly on what they are doing and what they are
 24 observing and so forth. This was a unique embassy in that
 25 it was not primarily a diplomatic post but we ran the little

*Site 35
 all involved
 & killed*

1 country. It was only 3 million people, and we had the AID
2 program that kept it alive. We had a military program that
3 kept it from being overrun.

4 And so we reported on a regular basis. How often
5 I personally would actually write a message, I would say
6 probably two or three a day. But usually, because it was so
7 complex, so much in flux, because I had come to the job
8 immediately from being special assistant to the Secretary of
9 State, who did not want to get himself involved in the
10 details of it and trusted me to do it, because I had been
11 working with Bob McNamara, Bill Bundy, Mac Bundy and Lyndon
12 Johnson for so long, they never sent me instructions.

13 They usually said this is out there, unless he
14 gets in trouble. About every six months the President would
15 call me back. The briefing officers would always portray
16 the enemy threat in the worst possible terms, so his
17 briefing maps would show hordes coming down, big red arrows
18 just 35 miles outside of Vientiane. And he'd say, Bill,
19 don't we want to get the women and children out of there?
20 What happens?

21 I'd say no, we don't need to, Mr. President. And
22 then he'd throw more money at me. Lyndon's way of handling
23 things was give Bill another \$50 million. And Dave Dell,
24 who was the Bureau of the Budget man, would go up the wall.
25 And he'd say, he can use it.

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Don't believe it

- 1 Lyndon was a president.
- 2 Q. What were the military operations aimed at?
- 3 A. In Laos?
- 4 Q. In Laos.
- 5 A. There were two sets of military operations, one of
6 which was controlled basically out of MACV, and that was the
7 effort to interdict the Ho Chi Minh trail, largely by air,
8 but also they foolishly put a lot of -- I guess that was one
9 of the other things I had. They put a lot of young people
10 in there in what were intended to be what they called, well,
11 Op 34, JUNGLE GYM, a whole series of operations.
- 12 Q. Are these the so-called cross-border operations
13 run out of South Vietnam?
- 14 A. In thick jungle. They were designed, or at least
15 ostensibly designed as intelligence operations, but they
16 usually had a lot of these gung-ho young snake-eaters who
17 would go in with these teams and foolishly would seek out
18 combat and had no way of surviving.
- 19 So I don't know how many U.S. military, Army
20 Special Forces primarily, were lost in those operations on
21 the trail. And I don't think the cost of it was ever
22 justified.
- 23 Q. Now those operations, because they were run by
24 MACV, were not run out of the embassy?
- 25 A. No. I required only -- I gave them a line which

1 in effect kept them away from friendly or neutral civilian
2 populations.

3 [Discussion off the record.]

4 I had made understandings with Prime Minister
5 Souvanna Phouma that he would not object to operations of
6 the types they described -- that is to say these limited
7 intelligence type operations -- in a zone which he and I
8 worked out together that he felt defined the area where the
9 population, if there was any, was probably already communist
10 or dominated by the North Vietnamese, or was North
11 Vietnamese itself.

12 So we gave a sort of free-fire zone in that area
13 of southeast Laos to the operations of MACV without their
14 having to clear them with me. They did have to report them
15 to me.

16 MR. ERICKSON: Off the record.

17 [Discussion off the record.]

18 THE WITNESS: Now in the northeast, where the
19 610th Division operated, I never quite understood what the
20 North Vietnamese purpose was and why they wasted so many
21 military assets on that, but they kept coming in in a
22 harassing mode from bases in North Vietnam and from bases
23 that they controlled in Xianghoang Province, northeast, to
24 march down toward the what we call Meo country, where
25 General Vang Pao's forces were, and harass them and harass

*became a (confidential)
thing (no)
should*

1 the villagers there every dry season.

2 And our people engaged -- by "our people" I mean
3 the forces that we supported, which were Lao, basically Miao
4 people, Hmoung, as they are now called, more correctly -- we
5 supported them with logistics. We supported them with air
6 cover, fighter cover. We supported them with fighter-
7 bombers in appropriate instances. And we also had tactical
8 advisors at headquarters but not out in the field

9 operations, :

DATA

10 occasionally seconding some people from Okinawa, green beret
11 types, in there, but not as teams, only as individuals for
12 advice.

13 That was a cyclical war, seasonal war, run back
14 and forth across the terrain. They would come in. Our
15 casualties, our friendly casualties, were quite light
16 because our people would fall back, and then when the
17 monsoons would begin to change we would helicopter them up
18 to forward positions, and then bring in aircraft from
19 Thailand and usually get them almost always in the same
20 passes. Why they would come back and do it again, I don't
21 know.

22 Blast them with napalm, and they would lose
23 thousands of people. Maybe it was a training exercise. I
24 don't know, but it was a hell of a way to train people. But
25 it was a strange military exercise that went on every year.

1 Eventually they got wise to the fact that the villagers whom
2 they were leaving behind in their first instances were part
3 of our communications and intelligence net. So in 1988-89,
4 they began the scorched earth and burned the villages. That
5 is when we got all those refugees out, and when Congressman
6 Pete McCloskey flew over it and discovered it was destroyed,
7 we must have done it with our air forces.

8 Q. What were the goals of the military actions run
9 out of the embassy?

10 A. To preserve the territory in which the Royal Lao
11 government could run.

12 Q. And in order to do that were we basically fighting
13 North Vietnamese army troops?

14 A. Yes, the 316th Division.

15 Q. Okay. Were there Pathet Lao military that you
16 were fighting or was it impossible to distinguish between
17 the two?

18 A. Impossible to distinguish, but insofar as there
19 were Pathet Lao they were not a serious, significant
20 military force. The Lao are lovers, not fighters,
21 basically. The hill people, the Hmoung, the black Thai,
22 those people, are fighters, but the lowland Lao, of whom the
23 Pathet were an element, are not dedicated warriors.

24 Q. You spoke about flights that would come across the
25 border and drop napalm and wipe out these divisions. Who

1 were those people? Who were flying those flights?

2 A. Well, we had several different types. We had a
3 little Royal Lao air force, which was basically made up of
4 T-28 trainer planes. We had some T-28s and A-1s that were
5 based out of Udorn that had in effect interchangeable decals
6 on them, and, depending on the nature of the mission, some
7 of them would be Thai pilots. If the mission was a
8 complicated one -- for instance, if we had a pilot, U.S.
9 pilot, downed and we had to have a group fly cover for a
10 rescue helicopter, we took out the Thai decals, put in U.S.
11 decals, put in U.S. pilots in the planes, and used U.S.
12 pilots.

13 Q. Who were the U.S. pilots? Were these Air Force?

14 DATA

15 A. There is a special element which was disbanded but
16 recently reconstituted in the United States Air Force called
17 SOW, the special operations wing, and runs out of Hurlbut
18 Field in Florida, probably the best pilots in the Air Force,
19 but they are not interested in those high-powered jet
20 aircraft that you can put on computer and basically land
21 with your hands up like this.

22 These guys flew T-28s, A-1s, B-26s, F-130s with
23 side-mounted weapons on them, C-47s with Gatling guns, and so
24 forth. They were constituted in a special force which
25 Secretary McNamara set up at my request in Nakhon Phanom.

"Heine
Aderholt"
(SM)

Colonel Heine Attahoe, later a general.

was dedicated to the operations in Laos. He

also had Couriers and some other aircraft that could be used for observation. The then-commanding general of the 7th Air Force, Spike O'Meyer -- you will find -- let me just make an overture dictum. You will find that the whole history of Vietnam was interlaced with personal animosities throughout. I've never seen so goddam many people who couldn't get on with each other.

And Heine was not the type that Spike tolerated. Spike believed in high-powered fast-flyers, which of course, when attempting to destroy a truck, could miss it by three miles, while these fellows could come down and circle around and zero in. And Heine was a little jealous, I think -- I mean Spike was a little jealous of Heine.

So he in effect disowned Heine and Heine, although the command structure put him back through the 7th Air Force, I don't think they communicated very much. He communicated with me and I had a liaison officer with him and he had a liaison officer with me.

So I had a backup. I also had another Echelon at Udorn called the 7/10, who was my resource if I wanted high performance aircraft. He could deliver me jets. And jets were always available because they would take off every morning and go on up and fly around, even if they didn't

1 have a target. And if they were going to run out of fuel
 2 before they could drop their load they would report it, and
 3 if we had a target for them, we'd give it to them.

4 So it was a wasteful war.

5 Q. If you can remember, on average how many flights
 6 were being flown per day by American pilots?

7 A. Well, we had a third echelon of air operations,
 8 which was contract, and in that we had two contract
 9 operations. One was Air America, DATA

10 and the other -- well, three of
 11 them: Continental Airlines, which had a small operation out
 12 there, largely because Bob Saxe wanted to contribute
 13 something and this is what Lyndon Johnson told him he could
 14 do. And a third was something called Byrd Ace -- something
 15 or another, Byrd and Son, and they had a small operation.

16 These people were contracted through DATA DATA
 17 DATA operations in support. They were not armed
 18 aircraft; they were logistic operations in support of the
 19 Mac people and so forth and so on.

20 We had, I think, 67 of those, as I recall. Each
 21 one flew probably two sorties a day, so that's 100 or so,
 22 some down for maintenance, so 100 or so sorties a day on
 23 your civilian-type aircraft. On the armed aircraft, oh,
 24 probably 100 sorties a day out of our own stable, and then
 25 we would pick off 20 or 30 flights from the high performance

1 types, if they were floating around and available and hadn't
2 dropped their load.

3 Q. Those were all American pilots?

4 A. Everything I've mentioned there is with American
5 pilots. We also had a backup unit. Well, we had
6 helicopters in-country which, if a pilot came down in an
7 area that was more readily accessible by diverting one of
8 our choppers, we'd send an Air America chopper, and they
9 were H-34s or whatever we got from the Marine Corps. Then
10 we had a bunch of Jolly Greens, the big, made by Bell, I
11 guess, these big things that were over in Nakhon Phanom that
12 we used -- they were armored -- when we had to go into North
13 Vietnamese territory to get a pilot.

14 Q. Were these numbers of sorties that you have been
15 telling me about the average for the whole four-and-a-half-
16 year period that you were in Laos?

17 A. Yes. Rainy season would cut back, particularly on
18 the transports, because we flew into these little fields
19 carved out of the jungles.

20 Q. What about our involvement, United States
21 involvement, in ground operations in Laos during that time
22 period?

23 A. I mentioned to you these little Op' 34 and JUNGLE
24 GYM or whatnot teams on the Ho Chi Minh trail. They were
25 the only involvement by American military formations in

1 Laos. I did have one occasion -- two occasions -- when a
2 CIA fellow disregarded my instructions and got into a
3 military engagement. I threw one of them out of the
4 country; the other one was so badly wounded he didn't come
5 back anyway.

6 Q. What was your training that enabled you to
7 essentially run a war as, I assume, someone who had had
8 diplomatic training primarily?

9 A. Well, first, I was born Irish.

10 [Laughter.]

11 As one Irishman said when I went to Laos, "tain't
12 much of a war, but it's better than no war at all.

13 Well, I don't know. I spent four years in the
14 Navy, a lot of it in combat operations. I had been on
15 various military staffs as a political advisor.

16 I might say, without denigrating the military, the
17 mystery of military professionalism, it doesn't take a hell
18 of a lot to be a successful military officer, provided you
19 don't pee in your pants, which a lot of people do the first
20 time they hear a bullet coming to them.

21 Q. I wouldn't want to predict what my reaction would
22 be.

23 What were the sources of intelligence information
24 that you relied on?

25 A. Well, primarily, if you're talking in the military

Interp

1 phase of operations, primarily signal intercept,
 2 occasionally -- well, that was one. Secondly was the
 3 network that SC had established throughout the Mec
 4 villages. And thirdly, we did a lot of observation or we
 5 had a lot of people doing observation on the Ho Chi Minh
 6 trail.

7 METHOD

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 10
 11 We had very little in the way of -- we had no
 12 infiltration, human infiltration of the North Vietnamese or
 13 of the Pathet Lao. It wouldn't have been worth anything to
 14 us anyway.

15 Q. What type of intelligence were you getting from

16 SC

17 A. They would track the movement of these units,
 18 because their villages would be hit and harassed, so we knew
 19 exactly where they were.

20 Q. So it wasn't that there was specifically
 21 infiltration of units; they were just being tracked?

22 A. They were just being tracked. But, you know, in
 23 the morning we would have an exact fix on them, where every
 24 one of their units was as they came across. They came
 25 tediously across the same terrain every year, so there was

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nothing really imaginative about what they were doing.

Q. Were you in daily contact or hourly contact with

SC

A. No.

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seem to be using Site numbers, Lima Sites. Site 98, and we

had direct voice communication

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back and forth between there and our embassy building.

Q. If you can answer this question without going into

any DATA just let me know. And if you can't, you

should let me know too.

DATA

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A.

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what agency?

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7 I think, for example, the famous siege of -- I can't even
8 think of the name of that camp and fortress in South Vietnam
9 right up on the North Vietnam-Lao frontier.

10 MR. ERICKSON: Hue?

11 THE WITNESS: No. There's a big marine camp up
12 there.

13 MR. ERICKSON: Khe Son?

14 THE WITNESS: Yes, Khe Son. There are those,
15 including Dick Stilwell -- Dick's now dead -- who believed
16 that there never was that great concentration of North
17 Vietnamese military forces at the approaches at Khe Son,
18 that all they sent down there was a whole lot of radios and
19 that they had broadcast enough things identifying themselves
20 and so forth and so on -- Khe Son is somewhere down in here
21 -- that they panicked, that they panicked MACV into feeling
22 they had a huge attacking force there.

23 So the whole

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24 ~~METHOD~~ y business was a tricky business. I
25 don't think -- we were a side show, I am sure, to Hanoi, in

1 northern Laos, and I don't think they bothered with any of
2 that sort of sophisticated nonsense up there.

3 BY MR. KRAVITZ:

4 Q. Were you using these various intelligence sources
5 to track anything other than the movement of North
6 Vietnamese troops in Laos?

7 A. Well, there were some Chinese troops up in the
8 northernmost portion of Laos that we tracked, and we did a
9 lot of photography. The Chinese did roadbuilding and we
10 photographed their road structure.

11 Q. Were you using this intelligence to track or
12 attempt to track U.S. casualties or people who had been
13 lost?

14 A. There were occasions when we could get
15 DATA indicating that they had captured someone who had
16 been downed.

17 Q. How often did that occur?

18 A. I can't really recall, but infrequently.
19 Infrequently.

20 Q. Do you think it's a number smaller than 10 or
21 larger than that? Do you have any sense?

22 A. Larger than a breadbox. I would say somewhere
23 maybe around 10, yes. That's the range within which I'm
24 talking, and I'm talking now over a period of four and a
25 half years.

Intel

Chinese

*Poc's
Captured
when downed*

1 Q. When you did

METHOD

2 METHOD | the capture of American personnel, how
3 were you able to track that person's position, if at all?

4 A. Well, you're getting into a very complicated
5 field, which was our whole search and rescue operations.
6 Pilots had standard briefings on areas in Laos where we felt
7 we could effect rescue -- in other words, where we had
8 friendly assets -- and therefore, if they were hit, they
9 were directed to fly to those areas.

10 Now let me say that again this gets into a
11 distinction between jet aircraft and the little things that
12 we used primarily. The little rotary engine planes that we
13 used under our control could take a great number of hits and
14 still get back safely. A jet, however, has two very severe
15 handicaps. One, because they are basically built around the
16 big jet engine, all of its hydraulics and all of its
17 electronic control mechanisms and so forth are in the skin.
18 A 30-caliber bullet can kill a jet.

19 The second thing is, a jet proceeds, these guys,
20 at 600 knots, maybe more, maybe less, and they can't proceed
21 much less than 250 knots, which sets up a very heavy drag on
22 the wings. And if you get a 30-caliber or even a rock, for
23 that matter, that gives you a break in the skin, your wing
24 starts to peel back and he can't fly more than perhaps 20 or
25 30 miles with this thing before the whole damn thing peels

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1 off and his equilibrium is lost and he's in trouble.

2 Our own people we lost very, very few of. When
3 type of aircraft they flew, the speeds at which they flew,
4 and their abilities and their experience were such that we
5 lost very few of the propeller-driven aircraft.

6 So our primary concern was these young jet jockeys
7 who probably, most of them, were quite inexperienced. We
8 had a few. We had an old friend of mine who got caffeine
9 after a while, went back in for a second. He just got mad
10 at somebody and shot at them, went back for that, and he
11 went in an F-100 in a semi vertical dive, and they got him.
12 And he went smack into the ground in North Vietnamese
13 territory.

14 But if you are on a horizontal operation, not
15 going in and then coming back and trying to get across Laos,
16 the main thing was to try to get near one of our safe havens
17 and probably had to abandon the plane. They usually
18 couldn't do much about getting the plane down, although one
19 guy did get down into the river, I remember, and hitchhiked
20 into my embassy.

21 But we had our own choppers around the place. We
22 eventually, toward the end, began putting Jolly Greens up
23 forward. We'd bring them over from Nakhon Phanom and
24 station them up forward when we knew there was going to be
25 significant activity. We had our own ground teams trained.

*ground teams
trained*

1 We had Meo teams trained.

2 The pilots, of course, all had beepers, and they
3 had communications. We were in on the pilot frequency so
4 that our people knew immediately there was a Mayday,
5 immediately somebody was hit. And our people would react
6 almost automatically.

7 I don't know how many people were eventually
8 rescued by our own combination of Meo and helicopters and so
9 forth. But at least the score is maybe over 100.

10 Q. Do you have a sense as to how many Americans were
11 shot down?

12 A. At one time I knew, but no longer. I don't have
13 any retention of either the figure or the magnitude. I
14 really don't remember, but a lot. A lot were, or a lot were
15 shot at and hit over Vietnam, and because they were aborting
16 to the nearest base, which was usually Udorn, they would try
17 to come back over Lao territory. If they got into our
18 perimeter, 90 percent of them were saved.

19 Now we had one or two occasions where people were
20 actually on the ground and we sent in teams, and we got
21 Jolly Greens and so forth, and couldn't get them out. They
22 were either killed or captured. We lost beepers and so
23 forth and so on.

24 These are pretty primitive people up there, and if
25 they capture somebody or they come upon somebody,

*Killed or
captured*

1 particularly if he is resisting, if he had been firing at
2 them, they usually don't make a prisoner out of them.

3 Q. Did you have actual intelligence information
4 indicating what you just said?

5 A. We had sightings, and we also had **METHOD**

6 Q. Let me ask you about the **METHOD** | You said
7 there was some number, perhaps around 10, 10 occasions or
8 some number around that, where you **METHOD**

9 **METHOD** | about the capture of American personnel.

10 Do you recall if any of those **METHOD**
11 indicated that the captured person was going to be killed or
12 had been killed?

13 A. Either you got them captured or killed. If they
14 went to the courtesy of capturing them, they usually didn't
15 kill them, at least not right then and there. They might
16 have put him in a cage and taken him to a village where
17 somebody stoned them to death.

18 Q. But **METHOD** | that you were talking about
19 then were people who, at least at the time of the **METHOD**
20 were reported to be alive?

21 A. You have to understand that the Lao, the black
22 Thai, the Hmoung, the people who lived up in that area, were
23 not organized units **DATA** | The only people **DATA**

24 **DATA** | were North Vietnamese units. The only people
25 **METHOD** | were North Vietnamese.

live? →

1 What happened in most of the places these people
2 went down, they went down into -- I hate to use the word
3 "savage" because they're not really savage people, but they
4 are savage when they get ~~hit~~ hit.

5 Q. So the approximately 10 -- we're just using that
6 figure --

7 A. Please don't get hung up on that figure, because I
8 have no recollection. Whatever the limited number --

9 ~~METHOD~~ | that showed that people were captured,
10 those were fed into the POW system and that person obviously
11 was carried on the list as being a POW rather than MIA or
12 dead.

13 But the bulk of the planes that went in this way
14 (indicating), there was never a survivor.

15 Q. The record should reflect that Ambassador Sullivan
16 was pointing down as if a plane was coming in nose-first.

17 Let me ask you about ~~METHOD~~

18 ~~METHOD~~ | captured U.S.
19 personnel. If you recall, ~~METHOD~~

20 ~~DATA~~ | indicate where those U.S. prisoners of war were
21 being held?

22 A. No. No. ~~DATA~~ | Now we later
23 had intelligence -- and again I don't remember the source

24 that there was a center in Xianghoang variously described
25 as being a large cave where a number of U.S. POWs were being

captured

POW

Intel

P3119

1 held.

2 Q. What part of Laos is that?

3 A. Xianghoang Province, northeast.

4 MR. ERICKSON: Is it up near Sam Neua?

5 THE WITNESS: It's out in this area (indicating).
6 Xianghoang, right here. So it's not very far. There's the
7 whole province. This was the main road from North Vietnam
8 over which these guys came (indicating), Barthelemy Pass.
9 They came down here (indicating), and our friends were here
10 in the hills by the Plain du Jare.

11 So their constant effort was to come down here,
12 come through here. So here was one place we would have word
13 that they were being held (indicating), and Sam Neua was the
14 other place we had where they were being held.

15 Now if you ask me what was our sourcing on that
16 intelligence, I don't remember. But those were certainly
17 areas. We had one guy, a Navy lieutenant, Friedman or
18 Freeman or something like that, who'd been shot down, and he
19 got out of one of these camps and got back to one of our Mac
20 places and we repatriated him.

21 MR. ERICKSON: I think his name was Dieter
22 Dengler.

23 THE WITNESS: Dengler was one. I'm not sure that
24 Dieter ever got into the -- did he get into the full POW
25 system, or did he just get released early? One of them got

1 into a camp.

2 BY MR. KRAVITZ:

3 Q. Dengler was in a camp.

4 A. He was in a camp? Okay. There was another guy
5 too, Friedman or Freeman or something like that.

6 Q. You said that you don't recall the source of your
7 intelligence.

8 A. It was probably from Mec informants. You see, a
9 lot of these tribal people were related back and forth on
10 both sides of the border, and they would just run around on
11 the ridges, not very conspicuously. They would move at
12 night and so forth. So people -- Cousin Dong may have been
13 over in Xianghoang and seen these people in a camp, and he
14 trotted over to visit the family in Plain du Jars, and said
15 casually he'd seen those round-eyed pale faces over there in
16 the camp.

17 So that was reported back into the Moung system.

18 Q. Do you remember what year it was that there was
19 intelligence?

20 A. It followed the end of my time in Laos. I would
21 say probably '68 or '67 -- '68.

22 Q. Is that for both Sam Neua and Xianghoang?

23 A. My memory sayeth not. I can't remember that much
24 detail.

25 Q. Did you have any additional details about this

POW's

1 information? I mean, was there information as to how many?

2 A. Oh, even then, just as now, you get all sorts of
3 fabricated detail. You know, southeast Asians, the greatest
4 part of the politesse is if they think there's something you
5 want to know, they'll make it up for you. So if they think
6 you're interested in what kind of clothes, they will invent
7 these things.

8 They smoke a little opium, so it sometimes
9 enhances their imagination. But intelligence in southeast
10 Asia is what I would call a fictive word.

11 Q. Let me just ask you to put to one side for now
12 your perception as to the reliability of this information.
13 What I'm trying to get at is what were the details of the
14 information.

15 A. I really don't recall. I am sure that if we asked
16 for more detail we got more details. And how detailed?
17 Were they chained to the wall? Sure, they're chained to the
18 wall. Were they in tattered clothes? Sure, they were in
19 tattered clothes. Were they well dressed? Oh, they were
20 well dressed. Were they well fed? Yes. Were they allowed
21 to move around freely? Oh, yes.

22 So you can get anything you want. You can get all
23 that in sequence from the same person in the same
24 interrogation.

25 Q. Did you have any sense as to how many American

1 POWs were being kept in these caves?

2 A. No, but I got the sense that it was not a large
3 number. That is, not in the teens, probably less than
4 20.

5 Q. Were there attempts to obtain photographs,
6 photoimagery of these locations?

7 A. Oh, yes. We photographed it day and night, never
8 saw a white or recognizably Caucasian figure in any of it.

9 Q. Did you see caves that were appropriate?

10 A. Oh, the place is riddled with caves.

11 Q. Did you see anything that appeared to be a prison,
12 any caves used as prisons?

13 A. No. Caves were used for military purposes there
14 because they were subject to constant bombardment. So they
15 sensibly stayed in caves.

16 Q. Were there ever propaganda statements made by
17 Pathet Lao or North Vietnamese regarding the capture of U.S.
18 prisoners of war in Laos that you were aware of?

19 A. Yes, sure.

20 Q. What was the nature of those statements?

21 A. Oh, they would usually put out a statement that
22 so-and-so, and they would have his name and serial number,
23 had been captured.

24 Q. So would that be the Pathet Lao that would do
25 that?

1 A. Depending on where it took place, but if it took
 2 place in Laos the North Vietnamese would broadcast it over
 3 Radio Pathet Lao, which was in Hanoi, and they would say
 4 that this man has confessed his crimes and seriously regrets
 5 having been duped by those criminal leaders in Washington
 6 led by that monster, Lyndon Johnson, and assisted by that
 7 foreign devil Sullivan, and so forth and so on.

8 Oh, you'd get a constant stream of that, and I'm
 9 sure they've got a library full of it there at FBI.

10 Q. What was the sense within your embassy as to the
 11 reliability of that type of propaganda statement?

12 A. Sometimes you could find a seed of information in
 13 it that you could use constructively, but we became -
 14 again, they were not very imaginative and we became pretty
 15 adept at reading what was the kernel of truth in whatever
 16 they had to say.

17 Q. What's your memory as to the percentage of
 18 Americans who were shot down over Laos who were actually
 19 rescued?

20 A. I have no - I would say in the early years of the
 21 time I was there, of those Americans who hit the ground
 22 alive we got most of them because they were in friendly
 23 territory.

24 Now again I'm talking only about northeast Laos.
 25 This whole operation down in southeast we didn't control

Woodcock

FBI

*for
ass*

1 this.

2 Q. That was MACV?

3 A. We didn't control search and rescue for them,
4 except when they strayed across the line and got over into
5 our friendly territory. And we had that happen several
6 times. In fact, I had quite a to-do with one of your Navy
7 commanders. I can't remember who it was, but I was backed
8 up by CINCPAC because these guys kept drifting over into
9 territory they weren't supposed to be in.

10 And I remember referring to it as indiscipline,
11 which the Navy -- this was before the days of the Tailhook
12 society -- the Navy found rather formidable. But, of
13 course, the Chairman of the Joint Chiefs wrote me about it.
14 And those people we could pick up because they were down.

15 Once you got across outside the jungle and into
16 the Attapeu and the region along through --

17 MR. Mergen: Just for the record, could you
18 please, Mr. Ambassador, show where approximately this line
19 is that you are talking about?

20 THE WITNESS: Basically the line. They operated
21 in the Cordella, here, all this. Now the Plateau Des
22 Bolovens was under our control. Saravane was under our
23 control most of the time. Ban Phone was under our control.
24 Attapeu was in and out. I've been to Attapeu several times
25 when it was under our control, and there have been times

1 when I couldn't go there because it was under Vietnamese
2 control.

3 But basically the zone that they operated was
4 Mounq Gia Pass. From Mounq Gia Pass down through here
5 (indicating) was Indian country. Westy's People, within
6 limits, could operate in there.

7 Now I have been at Tchepone when it was under our
8 control, so it's not entirely - the Ho Chi Minh trail began
9 and Mounq Gia also supplied the camps through here. And
10 they built their own road, which doesn't show on this map.

11 I went over there one time when we had briefly
12 captured one area of it somewhere north of Tchepone, and
13 went in in a helicopter. And there were two main roads,
14 under the triple canopy of the trees that you couldn't see
15 from the air, latterite roads that trucks could run down.

16 MR. HERGEN: Could you just designate with your
17 pen to show the outline of the area that was under MACV
18 responsibility?

19 THE WITNESS: Yes. Draw on this pretty map?

20 BY MR. KRAVITZ:

21 Q. Don't write on it. Just indicate.

22 A. All right. From Mounq Gia Pass here, down roughly
23 like this (indicating), but we never let them go into
24 Tchepone because that was basically a friendly population in
25 there, but basically where there was no populated east of

1 Ban Bac.

2 MR. HERGEN: So this is mostly, then, the
3 southeast mountainous portion?

4 THE WITNESS: Of the Codella. This is where
5 eventually they put in -- at Lang Vei we had a unit here,
6 too, and here is Khe Son right in here.

7 You haven't seen jungle till you've seen that
8 jungle. It was real snaky territory.

9 BY MR. KRAVITZ:

10 Q. So I think we understand that you had no control
11 over the great majority of the search and rescue.

12 A. I could have cut them off at any time, but I had
13 negotiated an arrangement with Souvanna Phouma that Westy
14 and his boys could operate in there.

15 Q. So you were not controlling the search and rescue
16 in the MACV area?

17 A. No. But occasionally I guess what brought all
18 this about was here's Nakhon Phanom over here in Thailand.
19 If a guy who was supposed to be going to Mung Gia got lost
20 in the fog or whatnot and came around and made a bombing run
21 in here under the mistaken impression that he was here
22 (indicating) and he got hit and knocked down, obviously our
23 assets in Nakhon Phanom were a lot closer to pick him up
24 than were Westy's assets over here, which basically came
25 probably out of Quan Tri, which was a big Marine helicopter

1 detachment there.

2 So if they were closer our people would sortie to
3 help anyway, and if the other guys got there first, that was
4 it.

5 Q. My question was, of the people who hit the ground
6 within the territory that you were supervising operations
7 in, what percentage -- let me ask you the question, and if
8 you can't answer it, tell me you can't answer it.

9 A. I really at this remote I can't really recall the
10 figures, and I don't want to mislead, and I don't want to be
11 on the record with something that's later statistically
12 proven stupid.

13 Q. But, for the record, I have to make clear what my
14 question is before you say that you can't answer it. Your
15 point is that you cannot at this time answer --

16 A. But the records exist.

17 Q. -- the percentage of people who hit the ground
18 running in the territory you were controlling who were
19 rescued by search and rescue missions.

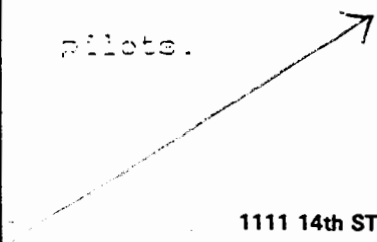
20 A. I cannot recall, but I can tell you that records
21 of this were meticulously kept that still exist in the
22 Pentagon somewhere.

23 Q. Why would those records be in the Pentagon?

24 A. Because they were their assets. They were U.S.
25 pilots.

SARs

emphasis of
"their"



1 Q. So those were the U.S. Air Force pilots coming in
2 from Thailand?

3 A. Oh, you mean our ~~DATA~~ operators? Our ~~DATA~~
4 operators, I don't think -- we may have lost one or two. We
5 didn't operate, you see, in enemy-controlled area,
6 basically. They were logistically supporting our friendly
7 forces, so we were flying in friendly skies.

8 But, no. The figures that you're looking for of
9 people who potentially could have become POWs -- I assume is
10 the import of your questions --

11 Q. Yes.

12 A. -- were all U.S. military in one branch of the
13 service or the other. So somewhere in the Pentagon -- and
14 I'm sure you can have access if you haven't already had
15 access to those figures -- they can give you the detailed
16 breakdown of all that sort of thing.

17 Q. We've been told by some sources that the
18 percentage of men shot down over Laos who were rescued
19 before capture was much higher than the same percentage in
20 other areas in Indochina.

21 A. Much higher, certainly, than North Vietnam, yes.

22 Q. Why would that be the case -- because they were
23 shot down over friendly areas?

24 A. They were able to get to a friendly area. The
25 concentration of hostilities and hostile forces in North

1 Vietnam and the fact that it was North Vietnamese territory
2 made it practically impossible for anybody who was shot down
3 there to have escaped into friendly hands.

4 We had very few successful SAR operations in North
5 Vietnamese territory. The majority of those that we did
6 have were probably -- and I say this without being --
7 probably in Laos. In other words, they were in an area that
8 was friendly.

9 Again, you actually did have people shot down, of
10 course, in South Vietnam, but usually, because very seldom
11 was anybody flying alone there in South Vietnam and given
12 the saturation of our forces and our helicopters in South
13 Vietnam, I should think that those downed there would have
14 the greatest chance of being rescued alive.

15 But I guess the number shot down in South Vietnam
16 was significantly less, or else they were not considered --
17 I don't know how they --

18 Q. So the main difference in this regard between
19 people shot down in Laos and people shot down in North
20 Vietnam is that in Laos on most occasions the pilot could
21 fly into an area or over an area that was controlled by us?

22 A. We could make a pitch for the Republicans here for
23 free enterprise under these OATA pilots as being more
24 efficient than the Navy -- but we wouldn't want to do that.

25 The OATA pilots, let me say, were among some

1 of the best and gutsiest people I ever encountered.

2 Q. ~~As of the spring of 1979, when you left your post~~
3 ~~as Ambassador in Laos --~~

4 A. '79?

5 Q. I'm sorry. I misspoke. As of the spring of 1969,
6 when you left your position as Ambassador to Laos, how many
7 Americans did you believe were being held prisoner of war in
8 Laos?

9 A. I had no idea. And I frankly assumed that the
10 bulk of those that would have been captured in Laos would
11 have been taken to Hanoi for interrogation purposes.

12 Q. What was the basis of that assumption?

13 A. Because I did ~~know~~ there was in Laos, in-
14 country, an intelligence team capable of doing the kind of
15 not only intelligence but psychological confrontation that
16 they would want with downed pilots or with captured U.S.
17 military personnel.

18 Q. Was this simply a speculative belief on your part?

19 A. Yes.

20 Q. So there was no information that you had that
21 Americans shot down over Laos were --

22 A. No. When I was in Japan I was on the staff of
23 General MacArthur and later the other generals during the
24 Korean war, and that had been the pattern there, that they
25 were taken back from front line positions to headquarters.

taken to Hanoi

1 So I just assumed they were doing it here.

2 Q. Was your assumption that if in fact this was
3 happening -- that Americans shot down over Laos and captured
4 in Laos were being brought to Hanoi for interrogation -- was
5 it your assumption that those prisoners would then be held
6 in Hanoi or that they would be returned to Laos?

7 A. I really never gave that a thought because at that
8 stage I was concentrated on fighting a war, not in arranging
9 a peace settlement. So I really didn't think much about the
10 site where they'd be held at the time when we might
11 negotiate a return of POWs.

12 We haven't gotten to Paris yet. You've got a long
13 way to go.

14 Q. We're going to get to Paris pretty soon. We're
15 still a couple thousand miles away.

16 A. How old were you when this was all happening?

17 Q. In January of 1973 I was 15.

18 A. So that in 1964 you were?

19 Q. Six or seven.

20 A. So you see how it strains my memory.

21 Q. I can remember very well what I did when I was six
22 or seven. I don't see what your problem is.

23 [Laughter.]

24 I remember exactly how many people were in my
25 first grade class.

1 [Discussion off the record.]

2 BY MR. KRAVITZ:

3 Q. You've told us how the casualties for various
4 military personnel were kept, and basically you've said that
5 all the information and statistics would be in the Pentagon,
6 as with any other military casualty information.

7 How was the CIA's casualty information kept? For
8 example, how did we keep track of any DATA who were
9 shot down or anyone who was detailed to the CIA DATA

10 DATA

11 A. For instance, if he was flying for Continental, he
12 was a plain honest civilian contractor. If he was flying
13 for Air America, he had some sort of affiliation with the
14 Agency . DATA

15 DATA

16 DATA

17 In the time that I was there, I had, I think, only
18 two CIA officers killed. One was -- no, he wasn't CIA. He
19 was a young IVS, conscientious objector. He was on a
20 helicopter with SC. They were working some relief
21 operations.

22 And the Vietnamese had during the night taken over
23 the village. They would put out panels on the strip or
24 clearing to indicate whether the village was clean, safe
25 enough, and the Vietnamese obviously knew the code, put out

1 what they called safe panels. When the chopper came down,
2 they attacked it and this poor kid got shot through the
3 head. But he was not CIA. He was a civilian. He was IVS.

4 I don't recall that I lost, except for those
5 sheep-dip kids who were on the hill, who were basically Air
6 Force people . DATA / I think,
7 employees or something like that, I don't think I lost any.

8 Plane crashes, one or two, but they were civilian
9 people, and when it happened it was public knowledge.

10 Q. Was there ever any information that any of these

11 DATA was captured?

12 A. I think so. And my recollection in the end was
13 that we finally got 10 people back from Laos, stated as
14 having been from Laos, one of whom was a Canadian, as I
15 recall, one of whom was a civilian, I think a civilian
16 pilot.

17 Now we had, at the same time that Dieter Dengler
18 got out, there was an Air America co-pilot that got out with
19 him, as I recall, or maybe he was a CBS newsman or something
20 like that. I can't remember.

21 Anyway, your basic question was whatever happened
22 to civilian pilots that got shot down.

23 Q. Regardless of what they were called -- whether
24 they were called civilian pilots.

25 A. We didn't lose that many, and I can't remember.

1 Day in my four and a half years there I remember losing a
2 couple of helicopters that lost equilibrium at night flying
3 down the river and just dipping in, and I cancelled all
4 night flights by helicopters. And I had people crashing and
5 so forth, but all in friendly territory.

6 I don't recall people getting shot down in hostile
7 territory because we didn't operate that much in hostile
8 territory. Now if you are asking me some of the guys who
9 flew out of Nakhon Phanom, for example, the so-called
10 Ravens, they were military and they may not have worn
11 insignia, but they were military. And I don't recall
12 whether they had any -- I don't think they had any
13 identification on their aircraft.

14 They flew these little O1s and O2s.

15 Q. Did you know how those casualties -- and by
16 "casualties" I actually mean to include people -- let me
17 finish the question. When I say "casualties" I mean to
18 include people who were taken prisoner. Do you know how
19 those casualties, those military people flying out of NKP,
20 were reported?

21 A. They were reported through their military
22 organization, which was the 39th or something Tactical Air
23 Wing, whatever it was.

24 Q. But you wouldn't have had any involvement in the
25 issue of how those casualties would be reported?

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1 A. No.

2 Q. Do you know whether loss locations were being
3 reported accurately?

4 A. Locations where they were lost?

5 Q. For example, were people --

6 A. Now you've asked a sensitive question here because
7 I think that MACV's operations, I later learned, on the Ho
8 Chi Minh trail, when they lost people there they reported
9 them officially as having been in Vietnam, which I find
10 preposterous. But that's what they did.

11 Heine's operation, everything that came out of
12 Nakhon Phanom, everyone knew they were in Laos and so forth.
13 So they were recorded -- I say this, but I don't really
14 know, frankly, now that I think of it -- I assume he
15 reported them as being in Laos. It was no secret that we
16 had air operations over Laos or that we were flying from
17 Thailand into North Vietnam across Lao territory.

18 And, therefore, I see no reason that anyone would
19 have fabricated the location of the loss of an Air Force or
20 Navy pilot or crew member who was in Lao airspace and went
21 down in Lao territory.

22 The other operations down on the trail, for some
23 reason, I remember when it began because I was in Saigon.

24 Q. Wasn't it considered a secret still that we were
25 hitting North Vietnamese army targets in northern Laos?

1 A. No. It was never considered a secret. You know,
2 this was -- the whole fiction of the secret war in Laos, it
3 was secret only because it's like Bishop Berkeley and the
4 tree falling in the forest. If nobody officially confirms
5 it to a newsman, even though the newsman knows it to be true
6 from his own visual sightings, therefore it is considered to
7 be secret.

8 I never, and nobody else in Washington, ever
9 confirmed officially that we were there. I remember one
10 time being at a dedication of something -- I can't remember,
11 the breaking of a dam or something -- standing with the
12 Soviet ambassador and there was a KC-135 tanker plane up,
13 there with four F-4s nuzzling up and getting fuel, and Boris
14 would say, Bill, what is that up there. I'd say, Boris, I
15 don't see a thing.

16 But the war in Laos, operations in Laos, were
17 never confirmed officially. But to keep them a secret was
18 impossible. The damn things were flying over thousands or
19 hundreds of sorties a day, so nobody could keep it secret.

20 And I say this, but I frankly would have to have
21 it confirmed, but I can't believe that the Air Force would
22 have contrived to suggest that their people were not lost in
23 Laos. People who were on the ground operating in the
24 southeast area, the JUNGLE GYMS and all those guys, I
25 understand that they later -- and I guess the same thing is

1 true with Cambodia -- they stipulated that their losses
2 were, and I don't know whom they were intending to deceive,
3 with this.

4 Q. Are you aware of any plans to rescue U.S.
5 prisoners of war in Laos during the four and a half years
6 you were there?

7 A. There was some talk about the possibility of a
8 raid on Xianghoang because of this cave and so forth and so
9 on, but it was considered not a supportable enterprise.

10 Q. Who was talking about conducting a raid?

11 A. Oh, God. Is Johnny Vogt still alive? I suppose
12 not. Johnny Vogt was an Air Force three-star general. I
13 think Johnny died, probably, of apoplexy. Johnny was G-3 or
14 whatever of the Joint Chiefs, plans, and he and his people
15 would come up with all sorts of kooky operations, most of
16 which never got passed.

17 There was a very sensible admiral, Nels Johnson,
18 who was director of the Joint Staff, and Nels usually shot
19 down most of these things before they ever got to the tank.
20 But Johnny would come up with schemes like this every once
21 in a while.

22 Q. Did you have authority to shoot down rescue plans
23 or raid plans in Laos?

24 A. They would have had to proceed with my concurrence
25 or my objections would have had to be overridden probably by

1 the President. He didn't usually override much of what I
2 directed.

3 Q. So you can recall one proposed plan for a raid in
4 Xianghoang?

5 A. I'm not sure I would even call it a proposed plan.
6 One postulation of some ideas of going in to do that.

7 Q. What's the basis for your opposition to the idea
8 of a raid?

9 A. I thought everybody who went in would get killed,
10 and the POWs, if they were there, would be killed.

11 Q. So the reason you were opposed to the raid was not
12 that you disbelieved reports that POWs were there?

13 A. No, no.

14 Q. You just thought the raid was a bad idea?

15 A. Yes. A lot of things I thought were bad ideas.

16 Q. Is what I just said an accurate statement of your
17 position at that point?

18 A. I guess my answer would be yes and no.

19 MR. HERGEN: Can you break it down, Neal? It's an
20 important question. Can we take it one piece at a time?

21 THE WITNESS: Let me say I'm never sure it reached
22 the stage where it was ever put to me for approval or
23 disapproval, so I can't say that I opposed.

24 Had it been put to me, I would have opposed. I
25 don't think it ever got off the ground.

*Meeting between
by on 11/1/68*

1 BY MR. KRAVITZ:

2 Q. At least in theory you were opposed to the idea?

3 A. At least in theory I didn't think it was a
4 sensible idea to try to send people into the vastnesses of
5 the North Vietnamese headquarters to pull people out of
6 there.

7 Q. And the reason you thought such a raid would be a
8 bad idea is that everyone involved in the raid, plus
9 probably the POWs who were held there, would get killed?

10 A. My standard operating procedure was that if we
11 were going to do anything that involved putting people on
12 the ground, you should be preponderant in force. You should
13 have more than they had. And we couldn't get that many
14 people there.

15 Q. So your answer is that you were afraid or you
16 believed that the people conducting the raid --

17 A. My answer is that I don't recall that it ever got
18 to the stage of a proposition that was firm enough, because
19 I think some people in the military had the good sense to
20 destroy it before it got --

21 Q. Let me ask it this way. Were you opposed to the
22 idea of a raid in Xianghoang during your time there in 1964
23 to 1969 because -- let me finish the question -- because you
24 believed that there were no live American prisoners of war
25 in the caves?

*don't understand
reason, raid*

1 A. Neal, it's a good try, but it's a hypothetical
2 question. I believed that there probably were prisoners of
3 war somewhere in the Xianghoang and Sam Neua areas. But I
4 was not faced with a proposal to rescue them. So the
5 hypothesis of what I would have done had I been faced with
6 such a proposal is irrelevant.

7 You're not going to try again, are you?

8 MR. HERGEN: Just for clarification, indulge me
9 just one second, this is a sensitive area and there's been
10 so much said now on the record that I'm afraid people
11 reading the record could draw a whole bunch of different
12 conclusions from what's just been said.

13 Could you please ask the witness whether he knew
14 of specific individuals that were captured at Xianghoang or
15 were there?

16 MR. KRAVITZ: Why don't you ask the follow-up
17 questions, if you want?

18 MR. HERGEN: Just very briefly, Mr. Ambassador, is
19 it your testimony, as I understand it, that you were not
20 aware of specific individuals who were captured and
21 imprisoned in that area that we just discussed, according to
22 your current recollection?

23 THE WITNESS: I had no confirming knowledge that
24 people were there; however, we had intelligence information
25 that some were there and I was prepared to believe that

1 information. But I had nothing to confirm, and I certainly
2 did not have any knowledge of how many people there might
3 have been or exactly where they were kept.

4 But I was prepared to believe as credible the
5 intelligence information which suggested there were some
6 American POWs in the Xianghoang area.

7 MR. HERGEN: Is it correct that that was general
8 information?

9 THE WITNESS: Generally accepted in the
10 intelligence community, yes.

11 MR. HERGEN: And it was general with respect to
12 location and to identification?

13 THE WITNESS: Well, I'm not sure anyone could
14 specify by map coordinates exactly what cave they were
15 talking about, but the idea that a cave, which was a normal
16 thing for the North Vietnamese to use as protection in that
17 area, might have served as the point where POWs were held
18 was, in my judgment, a logical conclusion.

19 MR. HERGEN: And the final clarification question
20 I hope is that, to the best of your current recollection you
21 were not presented with a formal decision --

22 THE WITNESS: No. To the best of my recollection,
23 I believe that some proposals in some fragmented form were
24 current at that time in some elements of the military
25 operational area, but I'm positive I know that I was never

1 presented with such a proposal during my tenure there.

2 MR. HERGEN: Thank you for indulging me.

3 BY MR. KRAVITZ:

4 Q. Let me ask you one more question of clarification
5 along those same lines. You've now stated your recollection
6 of the state of the intelligence information relating to the
7 possibility of U.S. POWs held in caves in Xianghoang, and
8 I'm not going to try to restate it because I'll probably
9 misstate it. We'll rely on the record.

10 But my question is, what you said about Xianghoang
11 and your recollection of that area, does that apply as well
12 to your recollection of the intelligence relating to reports
13 that U.S. POWs were being held in the Sam Neua area in
14 caves?

15 A. Yes. Let me say we had a plethora of intelligence
16 information concerning POW live-sightings, just as you have
17 today. The two areas where I was willing, for logical
18 reasons, for reasons of deduction rather than reasons of any
19 active or actual intelligence, the two regions I was
20 prepared to believe that there might be holding areas were
21 Xianghoang and Sam Neua, because they were military
22 headquarters for the North Vietnamese.

23 And I have always assumed that POWs captured in
24 Laos or, for that matter, anywhere in Indochina would, if
25 possible, as soon as possible, be pushed further up the

1 echelon toward some headquarters command structure. And
2 those are the two areas in Laos that were headquarters
3 command structures for the North Vietnamese forces.

4 Q. One witness who was a U.S. Air Force pilot working
5 at a high-level position, working in Laos in the 1967-68
6 time frame, has testified in a deposition that he was
7 involved in the proposal of a plan to rescue U.S. prisoners
8 of war believed to be held in caves near Sam Neua during
9 that two-year time period.

10 A. May I get this identity again? I know you're not
11 going to give me the name of the individual -- or do you
12 want to give it?

13 Q. Well, I'd rather not.

14 A. Are you suggesting this is a man who was flying, a
15 pilot?

16 Q. I'm not sure. I can't remember exactly what his
17 position was. I know he was flying missions.

18 A. And he was stationed in Laos?

19 Q. Yes. I'm going to tell you who it was because you
20 may be aware of what his role was.

21 DATA

22
23 Q. He was in Thailand?

24 A. He was in Thailand.

25 MR. HERGEN: Once again, your candor pays off.

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BY MR. KRAVITZ:

Q. He was involved in U.S. Air Force activities in
Laos.

A. Right.

DATA

METHOD

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24
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Q. Let me ask you about that.

DATA

whether it was he that proposed it or someone he was
working with, his testimony was that there was a proposed

1 plan to rescue U.S. prisoners believed to be held in caves
2 near Sam Neua in 1967 or 1968, and that the plan was; I
3 think in his word, nixed at the last minute by CIA
4 headquarters, and that that information, that the plan had
5 been nixed, was presented by you.

6 A. Presented by me to whom?

7 Q. DATA

8
9 A. Oh.

10 Q. My question is whether you have any recollection
11 of that.

12 A. No. I would have doubted -- I would assume my
13 station chief would have presented that information to him.
14 I think that's probably the plan that I'm referring to that
15 I am rather convinced never got to my level. But it's
16 possible. DATA

17
18 Q. Wasn't the plan that you were talking about
19 earlier at the other location?

20 A. Well, Xianghoang, Sam Neua. I didn't mean to be
21 specific. It could be either one. But if he was talking
22 about Sam Neua, yes. I say that sounds exactly, in the
23 recesses of my memory, that sounds exactly like -- but if it
24 was turned down by CIA headquarters, it would presumably
25 mean that it had never gotten to me.

1 Now it may be that there was a meeting in my
2 office at which my station chief was present at which the
3 mix was told NAME But had it come from CIA
4 headquarters, I would assume it would have come through
5 NAME for whoever my station chief was at the time.

6 Q. Were you aware of a prisoner of war raid near
7 Mahaxay during the same two-year time period -- '67-'68 --
8 that was actually led by NAME in which the raid
9 went forward without embassy or CIA headquarters approval,
10 and 92 prisoners of war, none of whom were American, were
11 actually rescued and released?

12 A. No. I'm not. Of course, Mahaxay is in that zone I
13 told you I had sort of ceded to MACV. But it sounds like
14 NAME if he had done this. If he had done that -- and I
15 don't say that he didn't do it -- it would be typical that
16 he had done it without obtaining permission and knowing that
17 he was violating standard procedures.

18 Q. NAME the 92 prisoners who
19 were released were debriefed by Americans, and it was
20 learned that Americans, including Dieter Dengler, had been
21 held at that camp shortly before the raid. Does that sound
22 familiar to you as any information you had learned?

23 A. In fact, the whole Dieter Dengler thing is only a
24 twinkle way back here because I remember his coming out, and
25 I remember the debriefings of him, et cetera. But I don't

*Gen.
Seward*

1 recall.

2 My recollection was that he broke out on his own
3 without the benefit of a raid. Is that correct?

4 Q. That's my information.

5 A. So he had been back in friendly hands at the time
6 *NAME* allegedly carried out this adventure?

7 Q. That I don't know. It may have been between the
8 time he escaped -- he escaped twice, so I'm not sure.

9 Let me ask you a couple of questions about Soth
10 Petrazy. You've already told us --

11 A. A cipher if there ever was one.

12 Q. What do you mean by that?

13 A. He had no authority, no power.

14 Q. That's one of the questions I want to ask you
15 about him. Is it your sense that Petrazy had literally no
16 authority to say or do anything?

17 A. I'll go beyond that to say that it's my sense that
18 the Pathet Lao as an organization had virtually no power.
19 If there was anyone, if there were any people in the Pathet
20 Lao organization who had any valence whatsoever, they would
21 be Prince Souphanouvong, the head of it, and General
22 Sincapo, the head of the military branch.

23 Soth was merely a figurehead whom they used
24 because he spoke elegant French, and he could conduct
25 himself civilly in the position he was in. Soth was not a

Pathet Lao



Lao Dong

1 person who figured anywhere in the hierarchy of the Pathet
2 Lao, but the Pathet Lao as such figured very low in the
3 hierarchy of the Lao Dong party, which is the North
4 Vietnamese communist party.

5 You have to understand that the Lao Dong party
6 never considered itself confined to Vietnam. It was always
7 designed to control the entire area of Indochina that had
8 formally been run by the French. And when they formed it in
9 1926 they designated their area of operations as the entire
10 Indochina.

11 Souphanouvong merely headed up the Lao branch of
12 the Lao Dong party, just as Keosompang headed up the
13 Cambodian branch -- excuse me, Keosompang was on the Chinese
14 side. Anyway, they had a structure. They had a structure
15 in the south and a structure, but it was run out of Hanoi.

16 Q. What was your opinion or impression of both
17 Petrasz's truthfulness when he purported to make government
18 statements?

19 A. Zero. He would say whatever he was instructed to
20 say or whatever he thought was best, most convenient.

21 Q. Who was instructing both Petrasz to say what he
22 would say?

23 A. Well, first of all, he never said much. I think
24 his communications were rudimentary, so I'm not sure how
25 much communication he did have to his bosses.

1 Q. I don't mean to be difficult. The reason why I'm
2 asking this question is as time went on, I think after the
3 time, probably long after the time you left Laos, both
4 Petrasz repeatedly made statements to the effect that the
5 Pathet Lao were holding a substantial number of U.S.
6 prisoners of war in Laos.

7 A. Before the '73 agreements were signed?

8 Q. Yes.

9 A. But after the '73 agreements were signed?

10 Q. Both before and shortly after the signing of the
11 Paris Accords. The reason I'm asking -- what I want to ask
12 you is whether you have a sense, whether you have any
13 recommendations as to how the Committee should try to judge
14 the believability of these statements.

15 A. I would suggest that you put absolutely no
16 credibility to both Petrasz's statements. I don't think
17 both had any idea what was going on in the battlefield area.
18 I don't think he was privy to any of that information. And
19 I don't think he was considered a person that was relevant
20 to the military operations of the North Vietnamese.

21 If he made such statements -- and they would have
22 been made after my departure because I never recall them --
23 if he made such statements in the period prior to the
24 signature of the Accords, I can understand it as an effort
25 to try to inflate his own importance or the importance of

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*Pathet Lao
Starts of 1973*

1 his organization, and to make sure that he was taken into
2 consideration.

3 Making them after the signature would sound to me
4 a little strange because if, when the Pathet Lao actually
5 delivered the 9 Americans at Gia Lam, they specified at the
6 time that this was all they had. So why Soth would be
7 suggesting that there were more --

8 Now let me tell you that the Pathet Lao that
9 delivered them at Gia Lam were people who came from Hanoi.

10 Q. Right. And that was already 60 days after the
11 signing.

12 A. It was about 59, I think. They held them to March
13 28.

14 Q. By that point Soth Petrasz was no longer making
15 statements that were inconsistent with the Hanoi position
16 regarding prisoners in Laos.

17 A. I see.

18 Q. I could be wrong, but I'm pretty sure that his,
19 Petrasz's statements, boasting-type statements, continued
20 after January 27 for some period of time.

21 A. That shows how slow his communications were, I
22 guess.

23 MR. KRAVITZ: Why don't we take some time for
24 lunch and then come back and talk about Paris?

25 [Sullivan Exhibit No. 4 was

*be deleted from original
transcript
2/28/74*

marked for identification.]

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[Whereupon, at 12:00 p.m., the taking of the
instant deposition recessed, to reconvene at 1:15 p.m. the
same day.]

AFTERNOON SESSION

[1:51 p.m.]

1
2
3 Whereupon.

4 WILLIAM SULLIVAN.

5 the witness herein, called for examination by counsel for
6 the Select Committee on POW/MIA Affairs and having been
7 previously duly sworn by the Notary Public, was further
8 examined and testified as follows:

EXAMINATION BY COUNSEL ON BEHALF OF

THE SELECT COMMITTEE - Resumed

BY MR. KRAVITZ:

11
12 Q. Ambassador Sullivan, before we start this
13 afternoon is there anything, any part of any of your answers
14 this morning that you'd like to add to or change in any way?

15 A. No. I wish I could remember and elaborate a
16 little more on some of these things on which I was vague,
17 but I have to tell you that my memory doesn't really serve
18 me in detail that far back.

19 Q. When you left your position as Ambassador to Laos
20 in the spring of 1969, did you go back to the State
21 Department at that point?

22 A. Yes. I went back in effect to the same job I'd
23 had before, which was we had an interdepartmental working
24 group, and I chaired that.

25 Q. Was that the ad hoc committee on Vietnam policy?

1 A. No. I don't think we had any such name for it.
2 It could have been the name, but I don't recognize that. It
3 was less concerned with policy and more concerned with the
4 implementation of policy decisions that had been taken,
5 largely at the WSAG. I was a member of the WSAG, so I was
6 in on that level, which was policy, and this other one I had
7 people from State, Defense, Joint Chiefs, CIA, USIA, an
8 effort to make sure that all departments were pulling in the
9 same direction.

10 Q. When was it that you became involved in the Paris
11 Peace process?

12 A. Sometime late summer of '72. I don't remember the
13 exact date.

14 Q. Had you been involved in the public peace talks
15 before that time?

16 A. Yes. The delegation in Paris, the public
17 delegation, in essence reported back through me, so that
18 Cabot Lodge and David Bruce and I've forgotten who else
19 and Phil Habib was sort of the conscientious one, got their
20 instructions from us.

21 I think I'm correct in saying that that came out
22 of my State Department group. They presumably had to
23 coordinate whatever instructions, but this was a relatively
24 sterile exercise, very largely propaganda. They would draft
25 statements that they were making or proposing to make in

*What
expense*

1 Paris, and send them back to us. And people on my State
2 Department staff would vet them out and then send them back
3 their instructions.

4 Q. Were you ever personally involved in the
5 negotiating itself over in Paris with the public delegation?

6 A. Well, marginally. In 1968, when they first
7 started -- and that was a team that was headed by Av
8 Harriman and Cy Vance, Andy Goodpaster, Phil Habib, and I
9 don't remember who else, just before they began -- well, I
10 guess I should go back one step beyond that.

11 The arrangements for those negotiations were set
12 up in discussions that I had with the North Vietnamese
13 Ambassador in Laos. In other words, I was instructed to get
14 in touch, because we literally had no contact with any
15 Vietnamese. The only place that we had courteous contact
16 was in Vientiane, so I was instructed to set up the
17 arrangements with him.

18 And we went through a whole square dance about
19 where they would take place, and finally agreed to have them
20 in Paris. Then our delegation went over, and a day or two
21 before they were supposed to start Av Harriman sent me a
22 typical Harriman message, which I received about 5:00 one
23 evening, asking me if I could be in Paris for dinner with
24 him at the Hotel Creone the next evening at 8:00.

25 I had my administrative people check it all out.

*AV Harriman
Ambassador in Laos*

1 and they said no way I could get there. I said I know
2 Harriman; he's an old railway man. He's looked up the
3 schedule somewhere and he knows I can get there. So I found
4 that I could be having my air-attache fly me down about 5:00
5 in the morning to Bangkok, where I picked up a Swedish
6 airline, SAS plane, that took me from Tashkent to Copenhagen
7 and made a Copenhagen connection with Air France, which got
8 me into Orly at 7:15, I think it was.

9 And I remember Phil Habib and somebody else met me
10 at the airport. I turned over my baggage checks to whoever
11 the other guy was. Phil took me to the Creone. We went to
12 Averill's suite. He looked at his watch and he said you're
13 five minutes late.

14 [Laughter.]

15 Anyway, so the whole point of my being there was
16 because I had had contacts with the North Vietnamese in the
17 1961-62 talks on Laos. AV thought he could set up a back
18 channel just the way Henry Kissinger eventually did, and
19 that I could deal with Mau Von Lao.

20 Two things happened. Laibez venemant de Paris
21 took place at that time, had the big uprising of students
22 and whatnot, and the city turned into a hell of a mess, and
23 then they got into this whole dispute over the shape of the
24 table and all that sort of thing.

25 So the Vietnamese were not about to permit any

1 private contacts. And I, in the meantime, had come down
2 with intestinal problems and all the laboratories and
3 whatnot in Paris were closed down, and hospitals, because of
4 the strike. So I flew back and went for two or three weeks
5 to Bethesda Navy Hospital to get all the little bugs out of
6 my system, so I never did -- I went back briefly to Paris
7 after that, but we concluded there was no way I could be
8 useful. So I went back to Laos and spent the rest of the
9 year in Laos.

10 During the period from '69 to '72, I visited Paris
11 three or four times, with the delegations there, partly
12 because Judge Ed Walsh, who is now the special prosecutor,
13 and Cabot Lodge weren't getting on, and I tried to mediate
14 that for a while. Ed finally quit.

15 But I don't think I attended any substantive
16 negotiations or meetings, and I certainly was not a part of
17 the team on site. We were backing them up from Washington.

18 Q. What type of backup work did your committee, your
19 interagency group or whatever its name might have been, do
20 for the delegation?

21 A. Well, essentially when they drafted statements
22 they were going to make and so forth to check to be sure
23 that they were within policy as had been handed down ex
24 cathedra from the White House, and make sure that their
25 facts were correct as far as the intelligence community was

intel

1 concerned.

2 We provided them with all sorts of information as
3 well, stuff that we would bring in, or we alerted them to
4 things that were going to happen. This was in the period
5 when we were shifting to Vietnamization or whatever we
6 called Melvin Laird's policy, and we had some troop
7 withdrawals that began.

8 All these things, we were the ones that informed
9 them and kept them informed. We also were responsible for
10 providing them with personnel, as people rotated in and out
11 of that delegation. In effect, they were handled as any
12 other mission abroad, reporting back through my office.

13 Q. What types of information in addition to just
14 policies would you provide? I mean, for example, would you
15 assign people in your interagency group to study certain
16 subjects, such as prisoners of war, for example, and write a
17 paper?

18 A. I don't recall prisoners of war specifically,
19 though I'm sure from time to time in the two or three years
20 or whatever some of their statements touched on that issue.
21 But we had -- well, for example, the CIA representative of
22 my group was George Carver, and George would go off and
23 assign his people to pull together some whole summary of
24 atrocities committed and so forth that we could lay on the
25 record.

George Carver

1 And occasionally the military wanted to get
2 something on the record, and we'd get that pushed over
3 there, too. But they were largely self-sustaining and, as I
4 said, by the time I came it was already understood that it
5 was a pretty sterile exercise.

6 Q. When you say it was understood, by whom?

7 A. Well, I guess the two of us who discussed it most
8 regularly on the secure phone were Phil Habib and myself.
9 In due course we became intuitively aware, about 1970, '71,
10 that there was something going on elsewhere, although we,
11 neither one of us was officially informed of this fact.

12 But just the way the tea leaves -- just the way
13 everything was moving, our antenna detected that somebody
14 somewhere was doing something else.

15 Q. When did you learn who that somebody was and what
16 else was going on?

17 A. Well, officially probably not until the summer of
18 '72, but exactly when I can't remember.

19 Q. Did you learn about Dr. Kissinger's secret talks
20 with Le Duc Tho before the time that you joined his
21 delegation?

22 A. I think by the time I joined I was aware they were
23 going on, and I think I may have even been officially
24 informed that they were going on by that time. I was
25 sitting regularly in WSAG meetings, and obviously some of

1 the things that I was learning there did not come from any
2 sources that were known to me.

3 How and when I was informed, I don't know.

4 Q. When did you begin to attend WSAG meetings?

5 A. Probably in '69.

6 Q. So when you returned to the State Department?

7 A. Yes, right in that time, yes.

8 Q. At whose invitation did you attend those meetings?

9 A. I think the designated attendee from the State
10 Department was Alex Johnson, who was then Under Secretary,
11 and I think Alex arranged for me to be there because he was
12 not that well informed on the details. So I probably was
13 invited by Alex, with the authorization coming from Henry.

14 Q. To your knowledge, did you attend all WSAG
15 meetings during that time period, or just the WSAG meetings
16 that addressed Vietnam war related issues?

17 A. Well, I think WSAG per se was directed only toward
18 Vietnam issues. This was largely the same group, with the
19 exception -- the WSAG group, when I attended it, was
20 Kissinger chairing, David Packard for Defense, later
21 succeeded by Bill Clements, Alex, and myself were State, Tom
22 Moorer for the Joint Chiefs, and Dick Helms for the Agency.

23 There was somebody else down at the end of the
24 table. Now who the hell was that? Al Haig sat in
25 occasionally, but he never sat at the table.

1 Q. We have some minutes of those meetings, so maybe
2 when the NSC person comes into the room you will be able to
3 figure out who the person at the end of the table was.

4 A. Anyway, roughly the same people -- that is to say
5 Dave Packard, Alex and Henry and Dick -- in another guise
6 constituted themselves as the WSAG group for nuclear arms
7 reduction agreements and so forth, and they even had some
8 other manifestation.

9 But when we met constituted at WSAG, it was on
10 Vietnam issues.

11 Q. Okay. During the 1969 to 1973 time period, did
12 you ever attend National Security Council meetings?

13 A. No. The National Security Council meetings are
14 usually attended only by principals -- a formal National
15 Security Council meeting, as established in the 1947 law.

16 Q. Before the time that you joined or were asked to
17 join Dr. Kissinger's delegation in the summer of 1972, did
18 you work with any of the National Security Council staff
19 members?

20 A. Oh, sure. They had at least one member on my
21 interagency group. It was either John Negroponte or David
22 Engels. I don't remember them all.

23 Q. And Negroponte was working with your group before
24 the time -- strike that. Before the summer of 1972, was
25 Negroponte or Engel, whoever it was, working with you?

1 A. There was always an NSC representative on the
2 interdepartmental group. And the one I remember the most
3 distinctly is John Negroponte.

4 Q. And he would be working with your interagency
5 group supposedly preparing for the public peace talks?

6 A.

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8 METHOD

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16 Anyway, we handled the Vietnamization buildup. We
17 had representatives from AID there. So it was a supervisory
18 group for the whole, implementing the whole Vietnam effort.
19 We had a Joint Chiefs representative there.

20 Q. But people from the National Security Council
21 staff who were involved in the secret talks were also
22 involved in your interagency group?

23 A. Well, in their compartmentalized lives, yes.

24
25 Q.

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Q. I guess we don't need to talk about that in this deposition.

Who invited you to join Dr. Kissinger's delegation in the summer of '72?

A. He did, Kissinger.

Q. And how did Dr. Kissinger explain what he wanted you role to be?

A. He made it very clear -- I assume there's no secrets here -- that he and Bill Rogers did not get on very well; and so he made it very clear that I was being asked to do this at the direction of the President, but not as part of my State Department functions.

And I was to be a member of the delegation because of personal experience, professional background, et cetera, et cetera, but that I was to have no discussion of my activities with the Secretary of State, which was a rather awkward position to be in.

Q. Is it accurate to say, then, that the way this was presented to you by Dr. Kissinger was as his attempt to have

1 you personally part of his delegation rather than an attempt
2 by Kissinger to reach out to the State Department for any
3 kind of joint venture?

4 A. I think no, certainly not to the Department per
5 se, but I think there may have been some little concern on
6 his part that, never having negotiated an agreement of this
7 type before, that he had better get some professional help,
8 but the dilemma he had was how do you do that without
9 engaging the Department.

10 So I had to be pretty much foresworn to be there
11 on a personal basis rather than as a representative of the
12 Department.

13 Q. Did you agree to those terms?

14 A. I consulted first with Bill Rogers. He and I
15 worked out an understanding. The President had called him
16 to tell him that this was going to happen, so I wanted to be
17 sure of that. And then I wanted to be sure what ground
18 rules he would accept. He was very generous about it --
19 basically only don't let me get blindsided. Just alert me
20 to something that I need to know is going to happen that
21 will affect me.

22 And we operated on that basis.

23 Q. So what was your role on Dr. Kissinger's team?

24 A. Well, the first thing he wanted was somebody to
25 vet the agreements and tell him whether there was anything

1 missing, anything lacking, whether I had any problems with
2 what they entailed.

3 Q. Now what time period are you talking about?

4 A. Well, it's this time period September somewhere in
5 '72.

6 Q. My understanding is that the great breakthroughs
7 in the negotiations happened in probably October of 1972,
8 and that there was an almost-agreement reached later in
9 October. Is that the agreement that you're talking about
10 that Kissinger wanted you to review?

11 A. The text, yes. And I'm not sure when it was, but
12 the one where peace is at hand was October 26. I remember
13 that date quite clearly. It's graven. So in the time frame
14 I came there was a text that had been pretty much --

15 Q. I just want to make sure. Before, you were
16 talking about summer, so you are not talking about an
17 agreement that was in existence in July of '72 or anything
18 like that?

19 A. Not that I know of, although somewhere in my mind
20 is a remembrance that the real break came in July somewhere.
21 I don't have enough recollection of the dates anyway.

22 I came aboard when a textual agreement was already
23 in existence, and I was asked to really give my advice as to
24 what I thought of it. And then I was to join the
25 negotiating team. I recall that I had two or three

1 concerns, one of which was POWs, that it was not adequately
2 spelled out in Article III, Chapter 3, rather -- Chapter 3,
3 Article 3 of the agreement.

4 And there had to be a more detailed construction
5 of how this was all going to happen, because it was just
6 stated that within 60 days of withdrawal of troops and so
7 forth and so on.

8 The other concern was over the international
9 control teams that were going to operate, and I didn't think
10 the vague definition of them was adequate and that they had
11 to be spelled out. I don't recall the others.

12 But anyway, these concerns led me to tell
13 Kissinger that I needed a lawyer, and he resisted that. He
14 didn't want anyone. But I insisted I could not draft what I
15 felt was needed from my own resources, that I needed
16 somebody and I particularly wanted George, George Aldrich.
17 George had worked with me in the Laos agreements when he had
18 been in the Defense Department. In fact, I was responsible
19 for getting him over to the State Department.

20 And eventually Henry, when I was persistent enough
21 in this, relented and let me bring George along, again under
22 the same restrictions, that he was detached. So the
23 protocols were basically the product of George Aldrich's
24 drafting, and since we are specifically focusing on POWs,
25 that was George's.

1 Because he had to operate in a vacuum, he couldn't
2 consult with Defense or anybody else. He had to do this out
3 of his own resources, his own study of the 1954 agreements
4 and arrangements with the French and his study of the Korean
5 war things and so forth and so on.

6 So insofar as we had a framework for the POW
7 exercise, it was George Aldrich's doing. I negotiated it
8 with very little change that I can recall. The Vietnamese,
9 I think, inserted in the Article about Vietnamese civilians,
10 some language that you could probably recognize as coming
11 out of Hanoi.

12 Q. I think that's in Article 8(c).

13 A. It would be in Article 8. Other changes that they
14 put in I can't remember, but they were not significant. It
15 was not a major negotiation.

16 Incidentally, at that time -- now you wanted to
17 ask what I did over there. What happened was that Henry
18 came and went because he was still running the NSC and so
19 forth. And Le Duc Tho came and went because he was
20 technically listed or nominally listed as advisor to the
21 delegation. So Nguyen Pan Thach and I then took up the
22 formulation of agreements into textual context.

23 In other words, Henry and Le Duc Tho would agree
24 to something in principle; then Thach and I and my group had
25 to -- and we had a very, very small group.

1 Q. Now, who was in your group?

2 A. Well, John Negroponte stayed, and Dave Engels. My
3 principal advisor was George Aldrich. And I had one guy
4 from the overt delegation, Ray Isham -- have you deposed
5 him?

6 Q. Yes.

7 A. Hay was -- I think Hay came from the overt
8 delegation, didn't he? We had him as sort of a liaison. I
9 think by that time the overt delegation was being run by
10 Bill Porto, so I had Hay and George. I had a military guy,
11 too.

12 Q. Did Winston Lord and Peter Rodman --

13 A. Peter came and went with Henry. He was Henry's
14 amanuensis. He was putting the book together.

15 Q. Someone else told me the exact same thing last
16 week. I can't remember who it was.

17 A. Winston sometimes was left behind with me.
18 Speaking of left behind, let me tell you a wonderful
19 anecdote. We used to go over on these secret ones. We'd
20 take Air Force 2, usually, and file a flight plan for Reim
21 Main, and then file it for an average of 450 knots, and we'd
22 go across at 600 or something and then land at this French
23 air force field in the middle of the country.

24 And then President Pompedieu's little plane would
25 be waiting for us. We'd get out in the middle of the air

1 strip in the dark and stumble on board Pompedieu's plane and
2 fly into Paris. And then Dick Walters and the air attache,
3 named Colonel Gay, would meet us and take us in.

4 One night when we landed at the little air strip
5 near Paris, Winston realized that he had left his suitcase
6 sitting out in the middle of the air strip at this other air
7 field. I can imagine the next morning when some Air Force
8 guy came out to run his Mystere jet down the runway and
9 there was Winston Lord's suitcase.

10 This occasioned one of Henry's more vitriolic
11 onsets of histrionics. But Winston stayed. Henry would
12 leave behind with me people from his staff, because I wasn't
13 allowed to bring anybody else in there.

14 Q. So when Dr. Kissinger would leave, you would be in
15 charge of the secret delegation?

16 A. Yes. We became progressively less secret, because
17 -- I mean, we would meet in strange places, people's houses,
18 safe houses, and so forth. French communist headquarters.

19 Q. I want to go back to the period of time when you
20 were first reviewing the proposed peace agreement or the
21 draft peace agreement in sometime early summer or late fall
22 of '72.

23 A. Let me say we had drafts, and this was not alien
24 to our draft. In fact, they used the overt -- what we would
25 have used as the overt draft largely as a model for the

1 document. So it wasn't something concocted out of thin air.

2 Q. What was it about the POW article that you found
3 to be lacking at that point?

4 A. Well, if you have the text of Chapter 3, it's a
5 very, very brief --

6 MR. KRAVITZ: Let's mark this as the next exhibit.

7 [The document referred to was
8 marked Sullivan Exhibit No. 5
9 for identification.]

10 BY MR. KRAVITZ:

11 Q. Ambassador, Exhibit Number 5 is a printed copy of
12 the full text of the agreement and protocols in their final
13 form.

14 A. Okay. Fine. Article 8, Chapter 3. It's all
15 pretty vague as to how this was supposed to be done and
16 who's supposed to do it.

17 Now, what we did -- and this is the business of
18 tying in the international control teams, the two-party team
19 particularly where the United States had a delegation --
20 four-party teams, rather, where the United States had a
21 delegation, tied in to make them the agents and the ones who
22 were responsible for the execution of this agreement.

23 There was no responsibility fixed for the
24 execution here. The thesis, the idea was that the only
25 leverage we had was the withdrawal of our forces. And so,

1 quite correctly, this does tie in -- simultaneous with or
2 completed no later than the same day as the troop withdrawal
3 mentioned in Article V.

4 So that was the guts of it. The thing they most
5 desperately wanted was the withdrawal of our forces, and
6 particularly of our air operations. They were shook by the
7 B-29 operations, incidentally. I went back to Paris on
8 January 1 after the so-called Christmas bombing, and they
9 were shock not only with the force but the accuracy of them,
10 but moreover, and the most important thing, they ran out of
11 SAM-2 missiles. They had fired the last one at the B-52s.

12 And they were wide open. We could have really
13 clobbered them. They got no replacements because the
14 Chinese were blockading, not sending anything across their
15 territory, and we had mined and blockaded the ports for the
16 Soviet delivery directly by Soviet ships.

17 So I can assure you -- I remember when I came back
18 on January 2 or January 3 I got a bad infection in my throat
19 and the Vietnamese were so solicitous that I should not be
20 tied up so I couldn't be talking, because George Aldrich
21 said they kept thinking that I had a button down here
22 somewhere I was going to push and the B-52s were going to
23 come back.

24 So our leverage, we felt, was the potential of
25 reinitiating military actions, and that was the leverage we

1 could hold over them to get the release of our prisoners by
2 the withdrawal of our forces.

3 So that was sound. But there was no way in which
4 the thing was to be implemented.

5 Q. Let me ask you this.

6 MR. ERICKSON: On page 112, sir, is where the
7 protocols are.

8 THE WITNESS: Okay.

9 BY MR. KRAVITZ:

10 Q. Before we move to the protocols, let me ask you
11 this. When you first reviewed that draft in October of '72
12 or around that time, was Article 8 essentially the same as
13 it appeared in the final?

14 A. I think it's unchanged, yes.

15 Q. So the only change, really, then was the addition
16 of the protocols.

17 A. Right. But the protocol was --

18 Q. When I say "only," I don't mean to minimize its
19 importance.

20 A. It's the only thing that really tells you how to
21 go about all this. And, as I say, I think George -- did you
22 ask him this question? Did he claim responsibility for the
23 authorship of this?

24 Q. He said he had drafted. He's modest, though, so
25 he may not have claimed as much credit as he merited, but he

1 did say he was involved.

2 A. He did this. As I say, he was not allowed to
3 consult with anybody.

4 Q. Let me ask you, before we get to the specifics of
5 all this, let me ask you some general questions about just
6 the whole negotiation approach of our government.

7 Ultimately what was your opinion of this dual
8 system of negotiations?

9 A. Well, it accurately reflected the sorts of schisms
10 that existed within the Nixon Administration and the
11 President's penchant for security, which in itself was
12 accentuated by Henry's own paranoia. So I've served in a
13 lot of Administrations and I can assure you that within all
14 of them there are these personality conflicts which usually,
15 however, derive from struggles for power, ambition, and I
16 think this was the consequence of the existence of those.

17 Q. What effect on the course of the negotiations do
18 you think really the shift of foreign policy power from the
19 State Department to the White House had?

20 A. Well, it's a shift that lasted for two or three
21 more Administrations, and it's only because of the personal
22 authority and intelligence and position of Jim Baker that
23 it's gotten back over to Foggy Bottom.

24 But historically this has been a question back and
25 forth. Constitutionally, the President has every right to

1 use Colonel Howes as Wilson did, Allen Dulles as Eisenhower
2 did, to use Harry Hopkins as Roosevelt did. So this is not
3 unusual and I think anybody who is in the system has to
4 accept that as a basic premise, even though it may tread
5 upon lots of people's egos.

6 But it does deprive the practitioners of the
7 enormous compendium of professional experience that inherent
8 in the bureaucracy. Now let me explain that I think in this
9 instance it was compounded by the nature of the men
10 involved, Richard Nixon and Henry Kissinger, but also by
11 their concern for the leakage in the bureaucratic system,
12 something with which this Committee is not unfamiliar.

13 And they felt that they would be negotiating in
14 the press or basically with the press if it were that
15 broadly constructed. So I think you have to weigh off one
16 against the other. I think they were correct in this, that
17 there were lots of people -- the atmosphere in Washington
18 during that time, with the strength of the anti-war
19 movement, the disaffection of a good portion of the Congress
20 and a good portion of the bureaucracy, particularly the
21 younger bureaucrats, was such that they had good reason to
22 be wary of permitting this thing to be in a larger
23 structure.

24 I am not sure, had we had it in a larger
25 structure, that we would have gotten any different

1 agreement, and possibly would have gotten no agreement at
2 all. So I am not prepared to second-guess their judgment,
3 that doing it in this rather obscure way was a mistake.

4 It caused somebody like me to lose a hell of a lot
5 of sleep because George and I literally would work 16 hours
6 a day on this. We had no resources we could call on, so we
7 had to do it all on our own, and they had an enormous
8 delegation, and they had the whole entire French communist
9 party to back them up on taping and transcribing and things
10 of that sort, which we couldn't do.

11 So it was an exercise that we didn't relish, and I
12 think it would be unfortunate if it has to be repeated, but
13 I can understand the reasons they did it.

14 Q. What were Dr. Kissinger's and President Nixon's
15 top negotiating priorities, at least as of the time, as they
16 may have been defined by the time you joined Dr. Kissinger's
17 delegation?

18 A. By this time, frankly, the top negotiating
19 priority was the return of POWs. We lost any hope of
20 getting much of anything else.

21 Q. What were the main priorities that had been given
22 up by that point, in the fall of '72?

23 A. The complete withdrawal of all North Vietnamese
24 forces from the south, the acceptance by the North of the
25 17th Parallel as the delineation between the two states, the

1 effort to try to get the Chinese and the Soviets to
2 underwrite the design for Southeast Asia, for Indochina that
3 was implicit in our involvement there -- that is to say in
4 effect to Balkanize Southeast Asia, which I think in due
5 course the Chinese finally accepted as of more value to them
6 than having an area that was under Soviet control -- things
7 of that sort.

8 And there was considerable cynicism about the
9 capabilities of the south -- capabilities, honesty,
10 integrity, and everything else of the South Vietnamese
11 political structure -- by that time. So if you were to ask
12 me what one thing compelled us in the Paris negotiations, it
13 was to get back the POWs.

14 Q. How widely shared within Dr. Kissinger's
15 delegation was the cynicism that you described about whether
16 the South Vietnamese government was one that was honest and
17 strong and likely to continue in existence?

18 A. I think nobody would put it in those terms, but I
19 would say the person who felt, or two people perhaps who
20 felt that we had an obligation of honor to the South
21 Vietnamese, one was Al Haig and the other was John
22 Negroponte. I would say by that time -- well, first of all,
23 not all of them had had that much experience in Vietnam.
24 Certainly Al and John and David Engel, I guess they had all
25 had experience. I take that back.

1 They all had sort of different levels of
2 experience. But there was nobody who entertained any
3 illusions about the South Vietnamese. There were some who
4 felt -- and Al and John -- that we entered into this
5 knowing, without illusions, knowing, and therefore we had an
6 obligation to protect them.

7 Q. What was Dr. Kissinger's view on that subject?

8 A. I hesitate to speak for Henry. Are you going to
9 depose him?

10 Q. We hope.

11 A. I'd better let him give his own. He certainly
12 became more and more irritated by the behavior of the South
13 Vietnamese in this negotiating process, and particularly by
14 -- it was, oddly enough, less President Thieu than it was
15 his -- he had a little nephew named Ngyat, a wonderfully
16 explicit name, who was sort of his man watching the
17 negotiations, who wrote things in Thieu's name, or got Thieu
18 to sign things -- most annoying.

19 For example, when we made that break in November,
20 the South Vietnamese of course had seen the negotiated text,
21 but they wanted some 100 or something changes in the text,
22 most of which were strictly chicken-shit stuff. It really
23 was. Things like that caused considerable irritation.

24 They had a very decent little fellow in Paris and
25 they had a couple of very bright young fellows in Paris who

1 understood the situation. On a personal level there was
2 never any irritation. They also had a very decent man here
3 in Washington, Diem -- who is still here, incidentally. I
4 don't know whether you depose foreigners.

5 Q. I think we should, actually.

6 A. He will be very cautious. He won't say anything.
7 But also very decent.

8 Q. I'm trying to understand really how much freedom
9 Dr. Kissinger had or you, when Dr. Kissinger was not there,
10 had to agree to changes in the text. How much control did
11 President Nixon have?

12 A. You have to understand the timing on this. This
13 was just when Watergate was reaching its highest
14 acceleration, I guess I'd say. And the President was almost
15 exclusively focused on Watergate, as far as I can see.

16 Q. Even by the fall of 1972?

17 A. Well, Watergate had happened in, when, June?

18 Q. 1972.

19 A. 1972. So things were closing in by the fall of
20 '72. And although he kept a remarkably clear head, and I
21 remember in meetings with him his ability to focus quite
22 specifically on the issues at hand, it must have been an
23 enormous distraction.

24 So I would think it fair to say that he delegated
25 a lot of responsibility to Henry. Now Henry didn't exercise

Watergate

1 all that responsibility exclusively. In other words, he
2 touched base with the President regularly for bureaucratic,
3 historical and other purposes, and there was a certain
4 amount of sniping coming from Waldeman and so forth and so
5 on.

6 But fundamentally Henry had the President's
7 confidence, and I think I had Henry's confidence. There was
8 only one instance I remember where I had gone over to go
9 skiing in Switzerland on one break, and I got a call in some
10 little town up there. Allegedly the President -- this was
11 Al Haig -- the President wanted me to go back and get some
12 assurance on something. It had something to do with
13 carrying weapons, pistols.

14 I don't believe the President ever personally was
15 involved in it, but anyway I remember getting my skis off
16 and taking them off and coming back and getting a perfectly
17 simple, why sure, that's what we meant.

18 So I can't say that I was on a very loose leash,
19 but the text, except for that one point, I think is as I
20 negotiated things in the text. I never got second-guessed.
21 Henry would usually call me every morning -- that is to say
22 morning Washington time, afternoon my time in Paris.

23 Q. That was while you were negotiating the protocols?

24 A. More than the protocols, the text of the
25 agreement. A lot of the stuff in the agreement itself was

1 left pretty sketchy and we had to put a good many together.
2 Of course, a lot of them interrelate, so we had to get the
3 things back inside and so forth.

4 Q. Can you give us a sense -- and it may take you a
5 while, but can you give us a sense of which parts of the
6 final agreement were already in existence when you joined
7 the team in the fall of '72 and which parts were really
8 added later?

9 A. Almost all articles -- I think it's fair to say
10 that everything in the basic agreement was more or less
11 there. Now we did some reshuffling of articles. We took
12 some phrases or paragraphs or sentences out of some places
13 and put them under other articles and that sort of thing.

14 But there was not very much fiddling with the
15 agreement. There were several of these paragraphs in the
16 agreement that had things in brackets. In other words,
17 there would be one U.S. version and then there would be a
18 Vietnamese version. That sort of thing Thach and I had to
19 put together.

20 Let me say that, had I had to negotiate with Le
21 Duc Tho, I don't think I could have done it because Tho was
22 -- he was an old revolutionary and his method of negotiating
23 was to shout propaganda, shout dicta at you. People will no
24 longer have this experience, unfortunately, but negotiating
25 with communists was always a problem because these guys were

1 true believers.

2 They believed that Marx and Lenin were
3 scientifically addressing history and addressing social
4 problems, and that there was a correct way of doing things.
5 So when you didn't want to do something, they would
6 patiently, or not patronizingly tell you that this is
7 correct, you cannot -- and this was Le Duc Tho.

8 Thach had more experience. He'd been ambassador
9 to India and so forth and so on, and he had more experience
10 in negotiation. So he and I could negotiate things ten
11 times more rapidly than Henry and Le Duc Tho because Le Duc
12 Tho would never, never make any concession at the table. He
13 could come back sometimes and tell you that he had a new way
14 of phrasing these things, which would mean a concession.

15 It was not a normal negotiating circumstance. So
16 a lot of these things that were left bracketed and so forth
17 Thach and I would work out some language out together.

18 Q. When was it in time that you and Thach were having
19 these negotiations? Was it just in January of '73 or were
20 they sooner?

21 A. I joined Paris in October, and then I went out to
22 Saigon, I guess, and then we came back and I went back to
23 Paris in November. And Henry was there part of the time.
24 Then he went back to Washington and I stayed with Thach till
25 the Christmas bombing started. Then I broke off the

1 negotiations.

2 So whatever that was, that period, that's when we
3 were primarily working on -- I'd really better not try to
4 delineate the working on the text and when
5 we were working on the protocols, because I think we were
6 doing all the negotiating on the
7

8 protocols with Vong Hin. He was the minister of justice in
9 Vietnam. So he did all of that.

10 Q. Mr. Aldrich's recollections were that he and
11 Ambassador Porter were involved in protocol negotiations in
12 December of '72, but that those were essentially fruitless.
13 And then in January of '73 you and Mr. Aldrich conducted
14 protocol negotiations that were the ones that resulted in
15 the actual protocols.

16 A. I'd sort of forgotten that Bill Porter was
17 involved in any of that, but if George said so his
18 recollection is better than mine.

19 I thought -- in December, prior to the December
20 bombing? Well, then that is more likely that I was working
21 on the main text, agreement text, with Thach in that period
22 from November to the beginning of the Christmas bombing.

23 But I know when we came back in January, then we
24 set to work in earnest on the protocols, and at a certain
25 time we brought in General Woodward and Colonel Miles.

1 Q. The four-party military commission people?

2 A. Yes. Woody later became the head of the U.S.—
3 delegation. I can't remember. I thought somewhere I had a
4 JCS representative over there. Maybe not. Woody and Miles.
5 I can't remember the other guy's name.

6 Because we were trying to put together protocols,
7 how they were going to operate, and here these poor bastards
8 had never seen the text, and we were trying to check
9 whether, in their judgment, some of these things were
10 feasible. So that was in January.

11 Have you got some list of where we were?

12 MR. ERICKSON: I'm just trying to help get these
13 dates from certain documents we have.

14 THE WITNESS: Well, we went right up to the
15 deadline on these protocols. We didn't have everything
16 finished until shortly before the signing ceremony.

17 Did I write that article?

18 BY MR. KRAVITZ:

19 Q. That's an article by a guy named Tad Shultz.

20 A. Oh, Tad.

21 Q. The article indicates that it was October 12,
22 1972, that Dr. Kissinger presented a draft, 58-page draft,
23 agreement to Nixon, Rogers, and several State Department
24 experts, including William Sullivan.

25 Then later it says Kissinger and Sullivan arrived

1 in Saigon on the morning of October 19, I guess. That was
2 for the meeting with President Thieu.

3 A. Well, correct the record to reflect all those
4 dates as being the accurate ones.

5 Q. The only reason we point that out is to see if
6 that refreshes your memory.

7 A. It's useful because, as I say, I have no records,
8 and I'm getting less and less memory as my years go by.

9 Q. When you were meeting with Thach during that pre-
10 Christmas bombing period, were you getting things
11 accomplished?

12 A. I think we were getting some of the bracketed
13 texts resolved and articles firmed up and so forth and so
14 on, but that's just my impression from this date.

15 Q. What was your understanding as to the need for the
16 Christmas bombing?

17 A. Well, what had happened was we had this great
18 fiasco on October 26 in which -- well, let me explain. You
19 see, we had problems in Washington within our
20 Administration. They had problems with Hanoi as well. As
21 you probably know, the structure of a communist state is
22 that everything was run by the politboro and the party, and
23 the people in the government are nothing but flunkies who
24 execute things.

25 The government was headed by Pong Vong Dong. Pong

Pham

Van Dong
(2)

Handwritten note:
Hanoi
11/20/68

1 Vong Dong was a man of great ego, but no real competence.
2 He had been lionized by the French. He'd been educated in
3 France. So people gave him far more stature than he really
4 deserved. He hadn't really -- sort of like Bill Rogers, he
5 had not seen the text of the agreements either until Le Duc
6 Tho showed them to him.

7 And there was one phrase of art in there,
8 "administrative authority" or something of that sort, which
9 described what was going to be the nature of the
10 governmental arrangements of the National Council, National
11 Reconciliation Concord.

12 Our belief was, and I think correctly so in terms
13 of the text, that this was to be an advisory body and not
14 the executory body of the government itself, Vietnam
15 government. Arnould deBourchgrave went to -- he was then a
16 correspondent for Newsweek. I think -- went to Hanoi and he
17 had an interview with Pong Vong Dong. And Pong Vong Dong
18 told him that what this meant was that the government of the
19 future of South Vietnam after the agreement was going to be
20 a tripartite government in which the communists had a role.

21 We were in Saigon. Henry and Al Haig and I, and we
22 were trying to convince Thieu and company that this was a
23 subsidiary advisory group and that the real government was
24 still going to be Thieu and pals.

25 When Arnould was met at the airport in Vientiane

Arnould
de Borchgrave

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1 by Mac Godley, who was my successor as ambassador, and
2 spilled this stuff out to Mac, I remember they were in the
3 car coming back from the airport, and Mac got on his radio
4 telephone from his car and managed to patch through to me in
5 Saigon and say, hey, we've got a problem because Arnould has
6 this story which he attributes to Pong Vong Dong and so
7 forth.

8 And that was all that Thieu and company needed to
9 dig in their heels and say they weren't going to agree. So
10 the October 26 agreement sort of fell apart.

11 When we came back to Paris, we were required by
12 virtue of giving some satisfaction to the government in
13 Saigon, to raise all their objections and try to get some of
14 them resolved. We said we would make a good faith effort to
15 do that.

16 The North Vietnamese reacted to that by trying to
17 retract and back down on many of the things that they had
18 previously agreed to. So we got into a retrogression.

19 Nixon then --

20 Q. Is this retrogression occurring during talks
21 between Kissinger and Le Duc Tho?

22 A. Um-hmm. At which I was present.

23 Q. But these are not the talks between you and Thach?

24 A. No. Thach and I --

25 Q. Were you and Thach having discussions at the same

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1 time that Kissinger and Le Duc Tho were having discussions?

2 A. Sometimes, but usually we were in effect heading
3 the delegations while the other two were absent. They flew
4 in and out. Don't press me on that because I can't
5 remember.

6 But, anyway, the question of the Christmas
7 bombing. Nixon put it to us, saying can you certify to me
8 that progress is being made on those issues. And I remember
9 Henry and I walking in the rain or drizzle around the back,
10 living in the embassy residence because there was no
11 ambassador in Paris at the time, and discussing if we can
12 honestly certify that to him. But if we do not certify it
13 to him, then he is going to bomb and all the consequences of
14 that.

15 Now Nixon had what he called the sort of madman
16 theory. If he could make them believe that he was capable
17 of becoming irrational and not under control, although he
18 was a very cold, calculating man, he thought that that was a
19 useful context, to give the appearance of being an
20 uncontrollable man. And this was the way he wanted it done.

21 So you asked me, what was the question, "Justified?"

22 Q. Did it appear as if the talks were going poorly
23 enough that this jolt was really needed?

24 A. Yes. As I say, the way it was put to us is we had
25 to tell Nixon that we were satisfied that progress was being

1 made.

2 Q. Is that what you and Dr. Kissinger told President
3 Nixon?

4 A. No, no. It said that's what we were told.
5 Actually, Henry then told Le Duc Tho that this was the
6 question that had been put to him and why he didn't assure
7 him that -- he then said we could not make such a
8 certification. He didn't say to him that in the absence of
9 such a certification you're going to get the bejesus bombed
10 out of you, but he left that impression.

11 We knew it was going to happen. So it was not an
12 easy -- we knew what was being put on our shoulders, that we
13 were being in effect made the ones who would decide whether
14 or not bombing would resume.

15 Q. What happened when Dr. Kissinger told Le Duc Tho
16 that President Nixon had asked the question?

17 A. Le Duc Tho put on one of his I'm tougher than you
18 are acts. I've been in this for a long time. The French
19 have put me in jail and beat me up, and I don't quiver.

20 Henry then went back, and I stayed on. Thach and
21 I were doing these things. Le Duc Tho went back, too, and
22 when the bombing came apparently Thach told me that one
23 landed very close to Le Duc Tho's house and that's when
24 things changed.

25 Incidentally, may I tell you another little

1 anecdote? Later, when we were in Hanoi, you know, at one
2 stage the French embassy there -- it wasn't an embassy --
3 the French representative's house was hit by a hung bomb
4 from a Navy pilot. They were trying to bomb the railroad
5 station and the bomb didn't come off and hung on. And when
6 he pulled up the damn thing went off and slammed into this
7 house and killed the charge.

8 And I remember I guess I had to go apologize. I
9 forgot to whom I apologized. He said, ah, yes, this was a
10 very sad thing. There was a wonderful Ming vase in this
11 house. And then I guess it was the charge's lovely Egyptian
12 mistress -- she was such a delightful person -- said, it was
13 the charge himself.

14 [Laughter.]

15 But when I went to Hanoi they took me around and
16 showed me this house, and of course it looked like precision
17 bombing. The houses on both sides of it were still intact,
18 but this thing was leveled. And they said how did you do
19 this? Excuse me. War is hell.

20 Q. Did you and Dr. Kissinger in fact subsequently
21 tell President Nixon that you were not making progress in
22 the negotiations?

23 A. Well, Henry went back and talked to the President.
24 I don't know exactly what he said, but that is the essence
25 of what he conveyed because I was then told stand by because

1 bombing's going to begin. And when it began they broke off
2 our talks.

3 Q. One witness has told the Committee that in
4 November 1972, at a time, I guess, when the negotiations
5 were just starting up again after all the problems that you
6 were just describing in Hanoi and then the problems we were
7 having with President Thieu had happened, and the North
8 Vietnamese really were pulling back from their October
9 agreement, Dr. Kissinger cabled back to the White House
10 either to President Nixon directly or to General Haig
11 recommending that the United States essentially cave in and
12 give in to all or many of the Vietnamese new terms.

13 Do you recall that?

14 A. No. I wasn't privy to all of Henry's
15 communications, and a lot of these were done by secure
16 phone. But I would certainly doubt that because this was
17 not the way in which he comported himself there or that any
18 of us were prepared to comport ourselves. We were
19 thoroughly pissed off.

20 It was a tactic on their part. They were
21 responding to the South Vietnamese tactic which we in effect
22 said we'd make a good faith effort to try to get. So they
23 pulled this one.

24 Q. I haven't seen these cables, by the way. I've
25 just been told about them by someone who was working at the

1 NSC at that point.

2 A. Well, let me assure you that because of the
3 paranoia about leaks very little was put on paper. If any
4 conversations were had and Henry had anything with Al, it
5 was on the secure phone, not recorded by anybody. So I just
6 dismiss that as improbable. It was certainly not our
7 posture in Paris.

8 Q. What happened after the Christmas bombing?

9 A. Well, then, as I say, I went back with George to
10 Paris, and I guess -- no, I didn't have any of the White
11 House staff with me. By this time I had a State Department
12 interpreter, and I had May Isham, but anyway we then got
13 down to some really concrete business with Thach and
14 company, partly on the residual elements in the agreement
15 itself but largely on the protocols.

16 And somewhere in this stage Woody and Colonel
17 Miles and people from MACV flew in. And I think I must have
18 had somebody from the Joint Chiefs. I can't believe that
19 and we then wrapped up in time, but, as I say, it didn't
20 really terminate until shortly before the signatures.

21 I've forgotten when Henry came back. According to
22 this, it says he was back on the 9th or 10th or something.

23 Q. The Accords were initialed on the 23rd of January
24 and then signed on the 27th.

25 A. The thing that I read about the Le Duc Tho-

accords

1 Kissinger agreements were the 9th and 10th, so he must have
2 been back within ten days.

3 Q. What was it that caused you and Mr. Aldrich to go
4 so suddenly on New Year's Day?

5 A. Instructions from the President.

6 Q. Had there been some indication from the North
7 Vietnamese?

8 A. Henry had exchanged messages with Le Duc Tho in
9 which Le Duc Tho indicated he was willing to send people
10 back to the talks at that time.

11 Q. So you were then negotiating with Mr. Thach, and
12 at some point Dr. Kissinger came over and Le Duc Tho arrived
13 again?

14 A. Yes.

15 Q. Was it your sense that, as in the fall of '72, the
16 release of POWs was still the top U.S. priority during this
17 stage of the talks?

18 A. Yes, consistently throughout. At that stage, we
19 got into a sort of fruitless discussion about Cambodia
20 because we had no assurances on releases from Cambodia, and
21 they first of all claimed that they had no influence in
22 Cambodia, that these people that we were attributing to them
23 were actually from another communist party and so forth,
24 which later turned out to be China.

25 And then I think we got some sort of statement

Spine

1 from them that there were no U.S. prisoners of war in
2 Cambodia. Now I don't remember how that was recorded.

3 G. Actually, as soon as we're able to show you that
4 piece of paper, I think you'll be able to have your memory
5 refreshed. You've already told us that by the time you
6 joined Dr. Kissinger's delegation a lot of our previous
7 priorities had been essentially conceded.

8 Can you just give us a sense as to, in light of
9 everything that may have affected the relative strengths,
10 bargaining strength positions of the two sides and the
11 amount of leverage that each side may have had, political
12 issues at home, protests, congressional threats to cut off
13 money, whatever else may have affected the subject, can you
14 give us a sense as to at least how you perceived the
15 relative bargaining strengths of the U.S. and the DRV both
16 before and after you joined?

17 A. Let's go back to the beginning of the decision to
18 commit forces to South Vietnam. I suppose the best source,
19 although I suppose he's not in physical condition to depose,
20 is Dean Rusk, because, after Eisenhower had sort of graced
21 President Kennedy with this priority that Laos was the real
22 problem, one of the first items that the new Administration
23 undertook -- and I was in the Eisenhower Administration here
24 in Washington and then stayed on for the Kennedy one -- was
25 to grapple with the question of how important was Southeast

1 Asia-Indochina to us because Eisenhower had crystalized it
2 as being the center of all our concerns and so forth.

3 What we eventually concluded -- and by "we" it was
4 sort of an amorphous group, and the Kennedy Administration
5 operated in a far less structured way than Eisenhower's.
6 Andy Goodpaster sort of ran the NSC operation in Eisenhower
7 and it was a very structured military sort of thing.
8 Kennedy's, we met at dinner parties in Georgetown, touch
9 football games and so forth and everything else. It was a
10 lot of informal discussion among people who were sort of the
11 central players in this.

12 And the real concern, contrary to most of what you
13 read in any history of this period, was Japan, that we felt
14 that, despite all the evidences of friction between the
15 Chinese and the Soviets, we felt there was a concerted
16 action taking place, a pincers movement in which on the land
17 side there was going to be an action to take over all of
18 Indochina by the communists, and on the sea side and out
19 here to the east that there was going to be a major effort
20 to produce a coup d'etat in Indonesia and take over
21 Indonesia, and that you'd get a pincer movement and cut the
22 sea lanes to Japan.

23 So it was because of those larger strategic
24 considerations that a decision was made to go into
25 Indochina. That, I would say, was what I would call the

1 conceptual framework. Then you got to the strategic
2 question of how you did it. Well, the decision then was
3 made that we not go into Laos, that we neutralize it, that
4 we use our forces with respect to Vietnam.

5 And then came this division between Lemnitzer, who
6 was Chairman of the Joint Chiefs, and Max Taylor. Max had
7 the President's ear. Max prevailed. He then became the
8 Chairman of the Joint Chiefs, and I remember just before he
9 was in the White House as the military advisor to the
10 President, which was a non-constitutional extraordinary
11 position, and I remember when he was -- I don't think it had
12 been announced but was pretty much known around Washington
13 that he was going to become Chairman -- he asked me to go
14 with him and we visited South Vietnam and we visited
15 Indonesia.

16 And along with us came his aide, who later became
17 Admiral Ralph Cousins, a captain then in those days, Captain
18 Cousins. That was it, I guess, just the three of us. And
19 it was Max's conviction that the war could be won on the
20 ground in South Vietnam.

21
22 DATA
23
24
25

1 The revolutionary activity which we thought was
2 building up in the Philippines subsided to some degree. --So
3 we essentially had just the Indochina problem before us, and
4 what we finally conceded was in effect the emphasis on
5 Balkanization. It became an area that was taken over
6 largely by the North Vietnamese, whom we regarded and whom
7 the Chinese regarded in some large measure as surrogates to
8 the Soviets. Turns out they were less surrogate than any of
9 us thought.

10 They are prickly, independent little bastards, and
11 I must say just in terms of historical perspective you have
12 to admire the guts of these people, because they stood up to
13 the French, they stood up to us, they stood up to a lot of
14 things over the years. It's given them a sense of hubris
15 that has distorted their perspectives on the world.

16 I think Thach is one of the few that realized, but
17 he was subsequently sacked from the politburo because he was
18 one who wanted to make arrangements and opening to the west
19 and so on.

20 On our own side we suffered from hubris too. We'd
21 been going for the post-war period, despite the setbacks in
22 Korea and the Bay of Pigs, things had pretty much been going
23 on our way. So it was kind of hard for anyone, particularly
24 gung-ho New Frontier young people, to suggest there was any
25 small thing we couldn't do, like win a war in Vietnam.

Vietnam

1 So it was a very sobering and maturing process
2 when Lyndon Johnson came along. He had never that much
3 shared the enthusiasm for operations. He was far more
4 focused on domestic affairs, and to him this was in large
5 measure a distraction from what he wanted to do -- what did
6 he call it, the Great Society? -- and that's why eventually,
7 July 4 -- I remember it well -- 1964 he threw the whole
8 bunch of us out.

9 He told Max that he was going to make him
10 proconsul. We were going to get it all out of Washington,
11 and he could write his own letter. And Max did write his
12 own letter, putting Westy under his command and so forth and
13 so on, and that he could have anybody he wanted in the
14 Administration to go with him. That's why I ended up going
15 out there, because he wanted me to work out the arrangement
16 of how we put Westy under his command and so forth, which
17 became an interesting exercise.

18 But Lyndon Johnson wanted this thing over with.
19 He, even before the famous meeting of the wise men and so
20 forth, he had come to the conclusion, he could feel it in
21 his belly, that this wasn't going to work, and he asked me
22 to stay on. He told me he was not going to run for the next
23 term.

24 I was supposed to go from Laos to the Philippines
25 and he changed his mind and asked me to stay there. So I

1 would say that the change in -- the sea change, the change
2 in objectives -- no, that's not correct.

3 The change in attitudes took place in the Johnson
4 Administration. But not being -- you know, there are many
5 people, Kenny O'Donnell and others, who have said from
6 talking with President Kennedy that had Kennedy lived he
7 would have pulled us out of there in '65 after the failure
8 of the coup d'etat in Indonesia, and there's evidence to
9 that. I had a couple of experiences which would suggest
10 that there was some possibility of that.

11 But Johnson didn't have that kind of flexibility
12 and, of course, his attitude was if we're going to end this
13 thing, we're damn well going to win it, and whatever you
14 need to win it, you win it and bring back the coonskin and
15 so forth.

16 So it wasn't until Nixon's time and it wasn't
17 until Nixon's second term or until he felt he was safely
18 into his second term that he felt he could make these
19 changes in objectives. As I say, this is when we got to the
20 change in objectives which in effect eschewed the prospect
21 that we would have a Balkanized Indochina.

22 Does that answer your question in a long 15-minute
23 answer?

24 Q. Actually, that's not exactly --

25 A. I take it all back then.

1 Q. I guess what I'm more interested in is -- I
2 shouldn't say more interested. What we're also interested
3 in is a sense as to who really had the leverage, which side
4 had the leverage at various points in the negotiating
5 process.

6 A. I'm sorry. Okay. By the time we got into these
7 negotiations, there is no question in my mind that in terms
8 of their commitment and willingness to suffer that the North
9 Vietnamese were more willing to suffer the consequences of
10 protracted stalemate than the United States was.

11 We were on the verge of some degree of anarchy
12 here in the United States because of our continuation in
13 Vietnam. So our time was relatively limited and they knew
14 it. The Vietnamese knew it, and they conducted themselves
15 as though they believed it.

16 Now, on the other hand, they also were aware,
17 after they shot off their last SAM-2s, that they were naked
18 as jaybirds as far as defending themselves was concerned,
19 and they were not totally certain that Nixon wouldn't pull
20 the madman routine. So, analyzed objectively, they probably
21 had more leverage than their fears would let them truly
22 believe, and I think their fears were really quite profound
23 by the time the Christmas bombing was over.

24 Q. You mentioned a couple minutes ago that at least
25 John Negroponte and possibly others within the Kissinger

1 delegation had some concerns about, I think you used the
2 word, our honor.

3 A. Honoring obligations that we had undertaken to the
4 South Vietnamese, yes.

5 Q. Ambassador Negroponte. I think in his deposition
6 with us, went even further and said that it was his belief
7 at the time that the accords were signed in January of '73
8 that there simply were insufficient protections --

9 A. He made that point several times.

10 Q. -- to keep the South Vietnamese government from
11 being overtaken by the North Vietnamese. Based on what Dr.
12 Kissinger was saying and doing, as you were able to observe
13 him, what was Dr. Kissinger's view on that subject?

14 A. Well, I don't know. This is one of those books
15 have been written about this, "Decent Interval" and so forth
16 and so on. I think Henry honestly felt that the aftertaste
17 of their exposure to military power, particularly air power,
18 and the anticipation of Article 21, I think it is, that we
19 would bind up the wounds.

20 Q. Heal the wounds of war.

21 A. Heal the wounds of war or some wonderful language
22 that was right out of Walt Whitman, contribute to healing
23 the wounds of war and post-war reconstruction. I think he
24 obviously thought that the combination of those two things --
25 -- you know, the fact these guys lost 2 million people

1 killed, 2 million of their young people that they had sent
2 down in the south to be killed -- that even they would
3 decide they'd had enough of this fighting for the time being
4 and would accept and execute the agreements.

5 Now this is prior to Watergate consummation and
6 the disappearance of Richard Nixon.

7 Q. Although, based on what you told us a while back,
8 Watergate was already playing a large role.

9 A. Prior to the denouement of Watergate, in which
10 Richard Nixon disappeared, because by the time, by 1975,
11 when they attacked, we had Jerry Ford in the White House.

12 I am not prepared to disbelieve that Richard Nixon
13 would have resorted to all-out bombing again had they done
14 on his watch what they did in '75, when President Ford was
15 in the White House.

16 Q. Was it your sense that as of January 27, 1973,
17 there was a high level or low level of resolve within the
18 Administration to enforce the Paris peace agreement?

19 A. The Administration by that time consisted of a
20 group of largely disparate camps that kept only vaguely in
21 touch with each other. I think there was a high degree of
22 resolve within the Joint Chiefs of Staff. By this time I
23 don't remember who was Secretary of Defense. Who was
24 Secretary in '73?

25 Q. Richardson briefly, and then Schlesinger.

1 A. There was not a high degree, I think, on the part
2 of Elliot to get back in the fighting again. Henry was at
3 State, so there was a pretty high degree there.

4 MR. ERICKSON: Excuse me, but his question was
5 when the Paris Peace Accords were signed.

6 THE WITNESS: I'm sorry.

7 MR. ERICKSON: He said '73.

8 THE WITNESS: I was thinking '75. In '73, yes,
9 and I think that began with Richard Nixon, who was not long
10 for the world at that time. But I think he honestly did
11 mean the threat that -- I don't think he uttered it, but
12 that he implicitly had leveled, and I personally thought
13 that had there been such a flagrant violation of the Accords
14 as occurred later that he would have used military -- would
15 have used B-52s and other aircraft.

16 MR. KRAVITZ: Why don't we take a break and then I
17 want to start talking about the POW protocols when we come
18 back.

19 [Recess.]

20 MR. KRAVITZ: Why don't we go back on the record?

21 BY MR. KRAVITZ:

22 Q. Ambassador Sullivan, when you first reviewed
23 Article 8 back in October of 1972 and stated your opinion
24 that more details as to how the prisoner return was going to
25 be handled were needed, and then again when you and Mr.

1 Aldrich began negotiating the prisoner of war protocol later
2 in 1972 and into January of 1973, what protections or
3 procedures did you view as necessary in order to assure that
4 all of our live prisoners of war would actually be returned?

5 In other words, what was lacking in Article
6 8(a) that you thought needed to be included in the
7 protocols? Excuse me. Just to keep this a little more
8 organized, if you could in your answer, I want to
9 distinguish between what you thought was necessary first
10 simply to get the return of live prisoners and then a second
11 question I'm going to ask you is what would be necessary to
12 ensure the fullest possible accounting.

13 So my first question really relates more directly
14 to Article 8(a).

15 A. Well, I think I want to stipulate that the credit
16 for actually putting the protocol together goes to George
17 Aldrich, who frankly had to do it I won't say off the top of
18 his head but without any consultation with anybody else.
19 George and I discussed what we thought should be in it. We
20 discussed the fact that there had to be some U.S.
21 involvement by U.S. military personnel in the actual
22 delivery or receipt of prisoners of war, that the function
23 should be vested in the U.S. element of the four-power teams
24 in the ICCS protocol, which we were also drafting
25 simultaneously.

1 We felt that we should involve Red Cross
2 societies, and I have to confess I'd have to look it up. I
3 can't remember how we did that, but we asked to get some
4 neutral Red Cross societies involved. It's in the protocol.

5 And we stipulated --

6 Q. What were the neutral Red Cross people supposed to
7 do in terms of what your goals were?

8 A. As I recall, it was to examine the places where
9 these people had been kept to assure that they had conformed
10 to the rules of war in terms of humane treatment and so
11 forth and so on. I don't want to take time, but it's in
12 here in the protocol. We can look it up.

13 Well, why don't we look it up? The other thing
14 was, based on the experience with the French graves
15 registration team, to leave behind a team of people drawn
16 from the U.S. delegation or whatever we called it, who would
17 be the ones to track down the -- let's see, in Article 9 how
18 did they word it --

19 MR. ERICKSON: I think you want to go to page 114.

20 THE WITNESS: Let me go to Article 9 first,
21 8(b), I guess: Parties shall help each other get
22 information about those military, and so forth. So we in
23 effect developed a graves registration team which was a
24 spinoff from -- well, why don't I look at the damn protocol?

25 BY MR. KRAVITZ:

1 Q. I think it's the first protocol, actually.

2 A. Yes.

3 [Pause.]

4 Contribute to proving living conditions and so
5 forth. It was, frankly, more than proving them, but also we
6 wanted to have some impartial inspection of the kinds of
7 places. You know, we had all sorts of accusations people
8 had been put in cages.

9 Q. I want to focus, though, again on the subject of
10 what protections, if any, were deemed by you and Mr. Aldrich
11 as lacking in Article 8 but as necessary to make sure that
12 all live prisoners who might exist would actually be
13 released.

14 In other words, I want to focus not on conditions
15 of imprisonment or on accounting for the missing right now,
16 but really just on what protections were necessary to make
17 sure that people weren't held behind, in other words make
18 sure the Vietnamese actually gave us everyone they had in
19 their prisons.

20 A. Well, there was nothing missing in Article 8
21 because Article 8 specifically obligated them to that. But
22 it has been our experience not to trust these people on the
23 basis of words of obligation that they give. So we tried to
24 set up mechanisms that would ensure that there would be
25 detailed undertakings on their part that would go beyond the

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*assured
POW's*

1 obligations which they presumably signed in good faith but
2 which we weren't sure they would execute.

3 Q. Let me ask you this, as you were instructed to-
4 negotiate the protocols for Article 3, was Article 8 itself
5 considered off limits or was it open to renegotiation?

6 A. Well, let me go back. I wasn't really instructed
7 to do it. When I looked at this thing I thought I wanted
8 this done, and I got no instruction as to how to do it. I
9 just depended on George to be the person who could put it
10 together for me.

11 Q. Was it your understanding, though -- I mean, I
12 take it that without --

13 A. Had there been anything missing, in your original
14 question, in Article 3, I did not consider that Article 8
15 was off limits. I could have reopened it and I am sure
16 Henry would have agreed to reopen it had I pointed out
17 something that I felt was actually missing in it.

18 That's why in your language I said there's
19 nothing. I think it is conceptually complete as it stands.
20 What it was lacking was an expatiation of what should be
21 done.

22 Q. There were proposals that had been made both in
23 backup papers provided to Dr. Kissinger's delegation and
24 just in discussions about the issues of how to negotiate for
25 prisoner releases, and just get your sense as to whether

article 8

1 these were considered important mechanisms.

2 A. Where do these backup papers come from?

3 Q. Well, for example, one of the papers that we've
4 read was a paper written by Frank Sieverts and an
5 interdepartmental study group actually at the request of
6 your -- well, it was written at the request of the ad hoc
7 committee on Vietnam chaired by William Sullivan, so I
8 assume that that's the committee that you have been telling
9 us about.

10 A. I don't know. I chaired a lot of committees in
11 those days, but I think that may have been -- ad hoc. I
12 don't recall that name of it. What was the date of this?

13 Q. That was April 1972 that his paper was written.

14 A. Frank's paper was written?

15 Q. Right.

16 A. Well, now, you see that was one I was having done
17 on a contingency basis because at that stage I was not aware
18 that these Le Duc Tho-Kissinger negotiations were going on,
19 so it was not technically a backup paper for Henry
20 Kissinger. As far as I know, nobody except on the NSC staff
21 was in a position to write backup papers.

22 But this was one -- we had a lot of papers. We
23 had actually, I think, a negotiating framework that we had
24 put together for our overt delegation in Paris, which was in
25 some measure adapted. That was, I think, the framework that

1 was used for this eventual document.

2 Anyway, now you've identified the paper.

3 Q. One of the protections against prisoners being
4 held back, in other words, against the Vietnamese
5 dishonestly returning U.S. prisoners and not returning all
6 of them, was that we would insist on an exchange of prisoner
7 lists before the ceasefire went into effect and the import
8 of that meaning that if we were displeased with the size of
9 the Vietnamese list of U.S. prisoners we could not actually
10 enter into the ceasefire.

11 Was that something that you would have considered?
12 Obviously the language of Article 8(a) already makes it
13 clear that that issue, that protection, if it was put
14 forward initially by Dr. Kissinger before you entered the
15 negotiations, had been conceded. I don't know whether it
16 was or not.

17 Article 8(a) simply says that prisoner lists will
18 be exchanged.

19 A. Be exchanged the same day. Now when did the
20 ceasefire go into effect?

21 Q. I think it was that day.

22 A. The same day or the day after?

23 Q. It was the same day. All of this happened on the
24 27th of January.

25 A. Well, now what are you asking?

*Protections
no importance*

1 Q. What I'm asking is, first of all, do you think
2 that that was an important protection to seek in light of
3 our distrust of the North Vietnamese, to insist that they
4 turn over a prisoner list before the ceasefire went into
5 effect and, if so, why was that not something that we
6 brought into the negotiations when you were involved?

7 A. Well, I don't want to get nitpicky about this, but
8 if they were exchanged in Paris at the time of signature --

9 Q. They weren't actually.

10 A. That's right. They were meeting later that
11 afternoon, which I think I attended. First of all, I don't
12 remember the memorandum, and I don't -- clearly it must have
13 affected our desire to have a list prior to the withdrawal
14 of our forces or prior to the beginning of the execution of
15 our withdrawal of our forces.

16 So we still retained that leverage. And I don't
17 recall any effort to link it to a ceasefire per se, because
18 in my mind it was always something that was linked to
19 withdrawal of forces.

20 Now, does anything in the record show that we
21 tried to get it before the ceasefire took effect?

22 Q. Not that I've seen. But we really just haven't
23 been made privy.

24 A. But this was what was recommended in Frank's
25 paper?

1 the ceasefire -- I mean to the withdrawal of forces
2 simultaneous with and completed not later than the same day
3 as troop withdrawal.

4 Q. That's why I asked you whether Article 8 was open
5 to renegotiation or whether you understood your role to
6 negotiate the protocols within the confines of what was
7 already agreed.

8 A. Let me just make an observation from the
9 perspective of nearly 30 years later. We never did get a
10 ceasefire in Vietnam, and it may have been we were aware we
11 weren't really going to get a ceasefire. The ones we got in
12 Vietnam were very much like those they're getting in
13 Sarajevo right now.

14 So that may have been a consideration, but I
15 literally have no recollection of this memorandum or of that
16 suggestion or of our having made and failed to get that. My
17 only recollection is of the linkage between troop withdrawal
18 and the Vietnamese -- the linkage between the signature of
19 the agreement and the supplying of the list.

20 Q. Well, let me ask you another question, then, about
21 the release. Some have suggested that rather than having a
22 phased release of prisoners over time, as we had, it would
23 have been preferable to have had a single release of
24 prisoners at a time when our leverage was greater because we
25 had more troops still in South Vietnam.

1 Was a single prisoner release something that was
2 argued for and then conceded, or not an issue?

3 A. No. You know, this document covers the release of
4 all prisoners of war, so we're talking about thousands and
5 thousands of North Vietnamese prisoners, thousands and
6 thousands of South Vietnamese prisoners held in various
7 parts of the country.

8 So I can't imagine that anybody seriously -- I
9 don't know who your friend was who suggested this, but it's
10 somebody who obviously knew nothing about the situation on
11 the ground. A simultaneous release was just not a practical
12 matter. And if this is just some Monday morning quarterback
13 sitting back from a long ways away, I don't think anybody --
14 the whole logistics of getting the North Vietnamese and the
15 South Vietnamese and the POWs was just a matter that could
16 not be accomplished.

17 Q. But certainly we knew they didn't have thousands
18 and thousands of our prisoners.

19 A. But you can't do one without the other. It was a
20 reciprocal agreement. We didn't win this war.

21 Q. I think ultimately that may be what we are getting
22 at.

23 A. Just without again getting too involved, who the
24 hell had made this suggestion -- somebody now?

25 Q. That was actually in Mr. Sieverts' paper, that a

1 single release would be preferable over a phased release.

2 A. Oh, sure, it would be preferable for our people.
3 But we couldn't get specially categorized, discriminatory
4 treatment in favor of our people. I don't think that was
5 ever -- anybody concerned with the situation on the ground,
6 nobody would have seriously considered that proposal.

7 Q. Was there ever an attempt, as far as you were
8 aware, on our behalf to get the North Vietnamese to agree to
9 allow neutral inspection of prisoner of war camps before the
10 ceasefires?

11 A. I think there was.

12 Q. In other words, to see how many people were in
13 there?

14 A. I think there was, but I cannot categorically
15 state that. We permitted and the South Vietnamese
16 reluctantly permitted such inspections of the camps in the
17 south, and we did that specifically to try to put some onus
18 upon the North to permit such inspections.

19 And I think -- well, I'd better not say this, but
20 I thought there was some effort, other effort, that we did
21 make to get some neutral Swedish or Scandinavian -- is there
22 anything that you know of in the record on that?

23 Q. I know there were attempts over the years.

24 A. We tried to get the Quakers in. We tried to get
25 - in fact, the Quaker we were dealing with on this was a

1 fellow named John Sullivan. He went to Hanoi to deliver
2 humanitarian stuff, and I tried to get him to get into the
3 camps.

4 The answer is that my impression is, my
5 recollection is yes, we tried to do this sort of thing, but
6 I cannot stipulate. We did, I am quite sure, permit neutral
7 people into southern camps, and we specifically permitted
8 Red Cross.

9 Q. What is your recollection of the course of the PCW
10 protocol negotiations?

11 A. It was a limited negotiation. As I said, they
12 wanted to add some language, which we accepted.

13 Q. That was in Article 8(c)? Was that in the
14 protocol?

15 A. In the protocol. I'm in the agreement still.

16 MR. ERICKSON: 112.

17 THE WITNESS: No, I wasn't in the agreement.

18 [Pause.]

19 THE WITNESS: Here it is. The two South
20 Vietnamese parties will do so in a spirit of national
21 reconciliation and concord with a view -- that's straight
22 out of their propaganda language. George and I would never
23 write anything like this.

24 BY MR. KRAVITZ:

25 Q. Could you state for the record what you are

1 reading?

2 A. Oh, I'm sorry. Article VII(b): The two South
3 Vietnamese parties will do so in a spirit of national
4 reconciliation and concord with a view toward ending hatred
5 and enmity, in order to ease suffering and reunite families.
6 The two South Vietnamese parties will do their utmost to
7 resolve this question within 90 days after the ceasefire
8 comes into effect.

9 That was language that came out of the
10 negotiation. What did you say, John, Article 8(2)? This is
11 George Aldrich's language.

12 In other words, this was not a big-deal
13 negotiation. This one went through without really much
14 haggling.

15 Q. So Mr. Aldrich prepared a proposal and the
16 proposal was sent to the North Vietnamese, was presented to
17 the North Vietnamese?

18 A. My recollection, and George should be able to, we
19 had some working groups, and one group was headed by George
20 and on the other side was Vong Hin, a man who later was
21 Minister of Justice. And I think George and Vong Hin sort
22 of went over this thing on the first go-round. Vong Hin
23 made some reservations, and then we brought it into a
24 negotiating session where Vong Hin was present, and George
25 was present with me and Thach.

Phan Hien
?

1 As a matter of just practice in the negotiations,
2 the practice set by Henry and Le Duc Tho, nobody spoke on
3 either side of the table except the principals, so when we
4 got into Thach and my negotiations, he and I basically
5 negotiated, but George and Vong Hin had done some
6 preliminary work.

7 Now my recollection is we reconciled the small
8 bracketed portion more or less in the course of one morning
9 or something like that. We had lots of haggles over the
10 ICCS ones and they took far longer. I think we even had
11 haggles over the minesweeping. They wanted us to get all
12 our mines out before the ceasefire, as I recall, or
13 something like that.

14 Q. Do you recall the subjects of any of these
15 haggles?

16 A. On the POWs, no. I think it's my belief that 7(b)
17 was something we incorporated from their preference.

18 Q. But basically it's your recollection that the
19 remainder of the POW protocol was what Mr. Aldrich had
20 written and presented to the North Vietnamese?

21 A. Yes. Did you ask George this?

22 Q. Yes. But I want to learn what your recollection
23 is.

24 A. That's my recollection. George wrote this. I
25 approved it. I got -- I guess I got Henry's approval; I'm

1 not sure. And then George fed it to the Vietnamese first
2 through Vong Hin and then we had a session on it. That's my
3 recollection of it.

4 Q. And your recollection is that the only problem the
5 North Vietnamese had with the draft was --

6 A. No, I can't say that. There may have been other
7 problems, but I can't recall them.

8 Q. You just don't remember them. With the exception
9 of the addition in part 7 that you just read into the
10 record, you don't remember any other changes?

11 A. No, but there may be some others that were in
12 there, but they were not big deals, and I prefer to have
13 this -- I mean, that's my statement on the record now, but
14 just for accuracy I'd prefer to have that corroborated by
15 what George said. Did George say more or less the same
16 thing?

17 Q. I can't tell you. I don't mean to be mysterious.

18 A. Let me leave it on the record that whatever George
19 said is the accurate one. Mine is only from my fuzzy
20 recollection.

21 MR. HERGEN: Why don't we just incorporate
22 George's deposition by reference?

23 THE WITNESS: Quite honestly, because George is a
24 more meticulous recordkeeper than I am, and he probably,
25 since he was the person intrinsically involved in the

1 drafting of this, I'm sure he has a far more accurate record
2 than I.

3 Let me explain to you that at that stage of things
4 -- and he was also engaged -- we were doing one paragraph on
5 one thing and one on one protocol. At 10:00 we were doing
6 something from the ICCS, at 11:00 we were doing something on
7 minesweeping, and so forth. So it was not a nice, tidy set
8 of discussions.

9 BY MR. KRAVITZ:

10 Q. Let me just say for the record I don't mean to
11 imply that you've said anything inconsistent with what Mr.
12 Aldrich said in his deposition. The only reason I don't
13 want to tell you what he said is, first of all, I don't want
14 to misstate it, but, second of all, I want you to testify
15 from your recollection rather than to be affected by Mr.
16 Aldrich's recollection.

17 A. I give him my power of attorney.

18 MR. HERGEN: Just for the record, I would tell you
19 what George said if I knew what he said. I just don't
20 remember, and that's only yesterday or last week.

21 BY MR. KRAVITZ:

22 Q. You said a couple of minutes ago something to the
23 effect of you are sure that you ran Mr. Aldrich's proposed
24 protocol on POWs past Dr. Kissinger.

25 A. I'm not sure I said I'm sure. I presume I did.

1 Q. What was the arrangement at that point? How
2 involved was Dr. Kissinger in now what was really the detail
3 work?

4 A. On the protocols, not very deeply involved.

5 Q. Did he view his work as essentially being
6 completed with the general agreement?

7 A. I don't want to speak for him, but I think that
8 was the impression I drew, that the protocols and so forth
9 were something that I should work out, so long as I did no
10 harm to the fundamental text of the basic agreement.

11 Q. What was your understanding as to the course of
12 negotiations that had resulted in Article 8 in the main
13 agreement?

14 A. I'm not sure I ever inquired. I think I just
15 accepted it. These are not snatched out of thin air. We
16 had some proposed drafts that had been developed in my
17 group, and with the overt negotiating team, so I wouldn't be
18 surprised if Article 8 reflects very closely what was in the
19 draft that Habib and company were using in their
20 negotiations.

21 They never got, of course, to the point of being
22 able to put drafts on the table in that so-called overt
23 negotiation, but they had had that in their portfolio.

24 [Recess.]

25 BY MR. KRAVITZ:

1 Q. Just a couple more questions on the protocols, and
2 then I want to move on to the secret understandings. After
3 the POW protocols were agreed upon between our side, meaning
4 you and Mr. Aldrich, and the North Vietnamese, were they
5 approved by Dr. Kissinger or was that final when the basic
6 agreement was reached between the negotiating teams?

7 A. I guess there were pro forma approvals of all
8 these things by the principals -- by Le Duc Tho and Dr.
9 Kissinger -- but there were no alterations.

10 Q. Do you recall what the date was that the POW
11 protocols were agreed upon?

12 A. No, I don't, because, as I said, it was all done
13 piecemeal. We did not do these things symmetrically, one
14 protocol at a time. We actually worked with disputed
15 paragraphs from each one and resolved those, and then back
16 to the drawing board on other portions of it. So I can't
17 say that there was a specific date when the papers -- all
18 the papers as a whole were completed only a couple of days
19 before we actually signed the damn thing or initialed it,
20 excuse me.

21 Wait a minute now. Initially -- and let's get
22 this straight because we did an initialing well before
23 Secretary Rogers came over and whatnot and had the
24 signature.

25 Q. The initialing was on January 23 and the signature

1 ceremony was held on the 27th.

2 A. There was only four days? Somehow it seemed --
3 longer. That's when I was arguing with Waldheim and company
4 about where they would sit at the wretched table.

5 Q. When the POW protocol was concluded, were you
6 satisfied that it provided the necessary mechanisms for
7 implementing Article 8 that you had deemed to be necessary
8 when you first reviewed Article 8 back in the fall of 1972?

9 A. Yes.

10 Q. In your opinion at the time, was there anything
11 missing or lacking in the POW protocols?

12 A. No. As I said, the document was essentially of
13 our creation and it was essentially accepted by them. There
14 was no reason for any dissatisfaction.

15 [Discussion off the record.]

16 MR. KRAVITZ: We're back on the record now. I've
17 just marked an exhibit as Sullivan Number 6, and I'm going
18 to let Mr. Hergen identify it and where it came from.

19 [The document referred to was
20 marked Sullivan Exhibit No. 6
21 for identification.]

22 MR. HERGEN: By way of background with respect to
23 Sullivan Exhibit Number 6, dated 7/20/92, during last week's
24 deposition of Mr. George Aldrich Mr. Aldrich referred to
25 certain Understandings or agreements that were side to the

1 basic Paris Accord and protocols. Mr. Aldrich at that time
2 indicated that a copy of these Understandings might be
3 available in his office files.

4 Upon return to my office I was able to retrieve a
5 file marked Aldrich, Vietnam Era, and the top document in
6 that file was DATA

7 ; and it is captioned Vietnam Agreement Understandings
8 as Agreed January 1973. There is no indicia of authenticity
9 or officiality about this document other than as described,
10 and at the top right-hand corner of the second page is the
11 handwritten notation saying "final," but there is no copy of
12 this document in the official Treaty files of the Department
13 of State.

14 THE WITNESS: This is a document I have not seen.
15 Do I want to see it?

16 BY MR. KRAVITZ:

17 Q. I don't know whether you want to. I'm going to
18 show you it at some point. I think you probably are going
19 to want to see it:

20 But before I refer specifically to the document,
21 why were there what have been described to us as side
22 agreements and also secret agreements? Why did these exist
23 in addition to the public agreements that were set forth in
24 the Paris Peace Accords and its protocols?

25 A. Where were they referred to as secret agreements?

1 Q. Well, for example, the agreement -- one of these
2 documents includes an agreement for the DRV to arrange for
3 the release of U.S. prisoners held within Laos within 60
4 days of the signing of the Paris Peace Accords. That has
5 been referred, alternately to me has been referred to as a
6 side agreement and also as a secret agreement.

7 I suppose it was secret in the sense that it
8 wasn't part of the published documents.

9 A. Well, part of the sophistry of this whole
10 negotiating process, which perforce had to be accepted
11 because, as I said, we didn't have a clear-cut victory in
12 this war, was the North Vietnamese pretention that they were
13 not involved militarily in Laos or Cambodia.

14 Beyond that part of the sophistry was what I
15 described to you earlier, that they considered their
16 involvement with the Pathet Lao movement to be an integral
17 and internal part of the Lao Dong party and not anything
18 that affected or was directed by the government of North
19 Vietnam Peoples Republic, I guess they called it, Democratic
20 Republic, Peoples Republic. They have a new name for it
21 now.

22 Anyway, so the Vietnamese were not only reluctant
23 but adamantly opposed to having anything in the public
24 record which in effect ratified or demonstrated that they
25 were indeed calling the shots in Laos. Consequently, they

Lao Dong Party

1 resisted the incorporation of any language or agreements
2 with respect to prisoners in Laos in the public document.

3 I'm not sure, however, that the absence of the
4 statement in the document means that it was secret because
5 certainly in the discussions of the four-party ICCS
6 afterwards our delegates referred to it in order to get
7 releases of the prisoners from Laos. And that was in a
8 quasi-public forum.

9 Q. So at least as regards that agreement you think
10 it's more accurate to term it a side agreement than to term
11 it a secret agreement?

12 A. Yes.

13 Q. Were there secret agreements?

14 A. Not that I know of.

15 MR. HERGEN: Just for clarification, I'd like to
16 add a clarifying note on this document that you have now
17 marked as Exhibit 6. Although it is captioned with a
18 classification, I'd like to make two points following on the
19 Ambassador's comment.

20 One is that it is not at all uncommon to mark such
21 documents at an early preliminary stage with that as a
22 provisional caption. I have no idea what the final end
23 result was.

24 MR. KRAVITZ: You're referring to the

25 OATA

1 MR. HERGEN: The mere fact that that appears on a
2 working copy or a copy in George Aldrich's work file does
3 not mean that that is the true or ever was the true final
4 classification of the document. It's improperly marked.
5 You will notice the other documents that are attached are
6 not marked. So normal classification rules have not been
7 applied to this document as far as that shown on the face of
8 it.

9 Secondly, it's important to understand this.
10 There is a syntactical semantic problem here with the term
11 "agreement" that we discussed with Mr. Aldrich during his
12 deposition. He was consistent, as I recall, in referring to
13 these agreements as Understandings or interpretive
14 understandings, in many cases oral and then subsequently
15 recorded.

16 So I'm not referring to this document in the
17 international treaty sense of the word for Case Act purposes
18 based on the face of what appears in this document.
19 Consistent with what the Ambassador said, there's no reason
20 to assume from this document as it stands on its own that
21 this constituted a valid international agreement in the
22 treaty sense or anything else like that.

23 It merely is labeled an understanding. For
24 present purposes, it may simply be that and nothing more.
25 Thank you.

1 BY MR. KRAVITZ:

2 Q. Ambassador, you've told us one reason why certain
3 agreements or understandings, certain types of agreements or
4 understandings would not be part of the primary documents,
5 and that's the North Vietnamese desire to keep up the
6 appearance that they were not involved militarily in Laos
7 and Cambodia.

8 Were there other interests that required or which
9 resulted in certain agreements being made on the side in
10 addition to that?

11 A. I don't have a list of what understandings there
12 were on the side.

13 [Pause.]

14 No, I can't think of any. I don't know of any
15 understandings. Phrase your question again -- any other
16 reasons for understandings?

17 Q. You've explained at least your understanding as to
18 why the understanding that U.S. prisoners in Laos would be
19 made on the side. There are obviously additional written
20 understandings that were made, and unwritten understandings.
21 In other words, what interests required that these
22 additional understandings not be included or incorporated in
23 the primary documents?

24 A. I can't offhand answer that question. I can think
25 of no other reasons except as a general rubric of

1 deniability on the part of the North Vietnamese.

2 Q. Were there any reasons why the United States would
3 have wanted certain agreements to be made on the side as
4 opposed to in the primary agreement?

5 A. Not that I can remember, not that I can recall.

6 Q. Exhibit Number 6 appears to include nine
7 understandings, and all of them are written. Are you aware
8 of any unwritten understandings that existed between the
9 United States and the North Vietnamese government?

10 A. Just because they are written in this document,
11 which I haven't examined, doesn't necessarily mean they were
12 all written. This may be George's written interpretation of
13 an oral understanding, so I don't really know.

14 Do you know from looking at it?

15 MR. HERGEN: No. But what you say comports with
16 the impression that George created -- that it was a
17 recording of certain oral understandings.

18 MR. KRAVITZ: Why don't we go off the record for a
19 second?

20 [Discussion off the record.]

21 BY MR. KRAVITZ:

22 Q. When an agreement was understood to be something
23 that was going to be a side agreement, how was it determined
24 whether that agreement remained oral or whether it would be
25 put to writing?

1 A. I think everything -- my recollection is that
2 everything was put in writing. Whether it was subsequently
3 initialled by somebody, I did not, I'm quite sure, in my
4 negotiations make any side understandings. To the best of
5 my knowledge, they were all made between Henry Kissinger and
6 Le Duc Tho, and they were all reduced to writing by the U.S.
7 representatives.

8 Whether Henry then got Le Duc Tho just to nod
9 agreement to that text or to initial it, I frankly don't
10 remember. This again is Peter Rodman's area and presumably
11 Henry's records.

12 Q. Unfortunately, Mr. Rodman is not helpful to us on
13 this subject because his recollection was that there was no
14 side understanding as to U.S. prisoners in Laos, which he
15 obviously just didn't remember, and we didn't have this.

16 A. Let me say Peter was not a substantive element of
17 this. Peter's a bright guy, but he was at that stage
18 Henry's slave. The poor bastard worked 20 hours a day doing
19 this stuff.

20 Q. He's actually a Fellow at the School of Advanced
21 International Studies.

22 A. But he kept meticulous records, but I'm not sure
23 that he was intellectually engaged in the substance of what
24 we were doing so much as just making damn sure that the
25 records were accurate.

1 Q. Were you actually present during any of the
2 negotiations of these side understandings between Kissinger
3 and Le Duc Tho?

4 A. This is a question I was discussing with somebody
5 -- I guess it was with Jim. I don't remember whether I was
6 present. I was certainly present when we attempted to get
7 one on Cambodia, because I remember the acrimonious debates
8 on it.

9 Whether I was present in the culmination of an
10 understanding on Laos or whether it was merely referred to
11 in the context of that discussion, I can't remember. It is
12 in my mind as only something I was aware of. Whether I was
13 aware of it because I was present when it was done or
14 whether I was aware of it because it was in existence when I
15 joined the operation, I cannot honestly say.

16 Again, I go back to George Aldrich's memory on
17 this. It's better than my own.

18 Q. In light of your statement that these side
19 agreements or side understandings were negotiated orally and
20 then were reduced to writing by a member of the U.S. team
21 and maybe or maybe not endorsed by Le Duc Tho --

22 A. I would say almost probably so, but I cannot
23 stipulate that.

24 Q. Our information is that these side understandings
25 were never signed.

1 A. Never signed. That's true. Whether they were
2 chopped or initialed or merely reviewed with a nod of the
3 head or something, I don't know.

4 I cannot, in view of the way in which we operated,
5 I would not believe that they were merely reduced
6 unilaterally by the United States to writing and kept as
7 unilateral U.S. documents.

8 Q. Was the language of these side understandings
9 negotiated in as tight a way as to each word as the
10 protocols or the main agreement were?

11 A. I can't remember, but I would assume so because
12 everything was tight in those negotiations. I'll tell you
13 another interesting anecdote.

14 We had agreed on some language one time, and I
15 remember we were out in one of the houses that belonged to
16 the French communist party. And my team -- and I think it
17 was John Negroponte, probably John and Dave Engels -- told
18 me that we negotiated in our own languages and then each one
19 exchanged text and we double-checked the text. So they had
20 English and were double-checking the text, and John and
21 David were the experts, and eventually another guy.

22 In checking the Vietnamese text, they had made a
23 mistake in the Vietnamese text in our favor, and before we
24 started the negotiation that morning I said to Thach, before
25 we get into this I want to tell you that your people made a

1 mistake in the recording, and he said in what language. I
2 said in Vietnamese, and I got a five-minute lecture about
3 how Vietnamese was the only language they knew and so forth
4 and so on.

5 And I said look, Thach, you don't understand. I
6 shifted to French and said you're not really understanding.
7 Let's take a five-minute break and I'll explain it to you.
8 So I explained it all to him, and he understood, and went
9 back with his delegation, came back to the table very
10 apologetic and said he was sorry for the things he said to
11 me, and so forth.

12 He agreed there was a mistake, and then he wanted
13 to know in effect what do you want for it. Had they caught
14 us in such a thing, they would have demanded some piece of
15 flesh, an ounce of blood or something. I said nothing.
16 We're just trying to keep the record straight. And he
17 became so taken aback by this, he said from now on we'll
18 accept the U.S. delegation's text as official. And we did.

19 So these things were very, very closely -- I can't
20 believe that we would have passed or had a piece of paper on
21 which we hadn't haggled over it.

22 Q. In your mind, what was the significance of the
23 signing, for example, of the Paris Accords and the
24 protocols? In light of the significance of the signing,
25 what would the significance be of the lack of signatures on

1 these side understandings?

2 A. I would leave that to my lawyers to determine. I
3 don't know what validity they would have in terms of
4 international law. But I would assume that they did have
5 validity, but their enforceability is something else.

6 But then the enforceability of the whole document
7 is a matter of speculation.

8 Q. What do you mean by that?

9 A. Well, obviously it was grossly violated later on,
10 and what sanctions we had to enforce it were very largely
11 military, and we were not at that stage in a position to use
12 military, for domestic political reasons in the United
13 States.

14 Q. But your understanding as a non-lawyer was that
15 the side agreements, side understandings, were intended to
16 be as enforceable as the text and protocols?

17 A. That was my understanding.

18 Q. As far as you're aware, was that also the
19 understanding of Dr. Kissinger and President Nixon?

20 A. Yes. I can't speak for the President, but it
21 certainly was Henry's understanding.

22 Q. Was it your understanding, then --

23 A. Is this a lawyer's trick that you keep shuffling
24 them so you never know when you're coming to the end of
25 this? Or is this just your own personal --

1 Q. I don't want to say, but it sounds like you fit
2 right into the Nixon Administration. Dr. Kissinger chose
3 well.

4 [Laughter.]

5 A. Remember, I had been with Lyndon Johnson.

6 Q. Was it your understanding, then, that the side
7 understandings would be enforced, if at all, through
8 military options?

9 A. Statements on the record by the President
10 certainly suggested that. Statements or inferences that
11 were made to the North Vietnamese by Dr. Kissinger certainly
12 suggested that. And I think they were left with the
13 distinct impression that violations of the agreements would
14 produce retaliations.

15 And I think you can find that in the public record
16 somewhere.

17 Q. Was it clear from the statements of the North
18 Vietnamese negotiators that the North Vietnamese had the
19 same understanding of these side understandings that you had
20 in terms of how they would be enforced?

21 A. Well, this goes back to the question -- how they
22 would be enforced? Oh. I can't speak for them on that.

23 Q. What were you going to say?

24 A. It goes back to the original question of whether
25 or not the language was unilaterally sequestered or whether

1 we had indeed reached some understanding with them about the
2 language of the understandings. The understandings are the
3 understandings.

4 Q. What did you think would happen in the event that
5 one of these side understandings was violated by the North
6 Vietnamese? I mean, it seems to me there were two options.
7 One would be to make the side understanding public and then
8 to do something about it.

9 A. You are neglecting the whole process of the ICCSs.
10 There was a whole system set up for how you handle these
11 things -- how you appeal them, how they put them to vote and
12 so forth and so on. So that was the framework within which
13 the enforceability of almost every aspect of the agreements
14 and the understandings were to be executed.

15 I think if you read these protocols, and have you
16 had access to the history of the four-party U.S. delegation
17 to the four-party team? There's a book written by a Colonel
18 -- I can't remember -- who came from the War College down in
19 Carlyle.

20 MR. ERICKSON: "60 Days to Peace?"

21 THE WITNESS: Exactly. Custerson?

22 MR. ERICKSON: No, Dillard.

23 THE WITNESS: Pretty close. Anyway, there was a
24 mechanism for doing that. So you're talking two different
25 dimensions. One is the legalistic dimension; the other is

Stenographic Transcript of
HEARINGS
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

CONTINUED DEPOSITION OF WILLIAM SULLIVAN

Tuesday, July 21, 1992

Washington, D.C.

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1 CONTINUED DEPOSITION OF WILLIAM SULLIVAN
23 Tuesday, July 21, 1992
45 U.S. Senate,
6 Select Committee on POW/MIA
7 Affairs,
8 Washington, D.C.
910 Continued deposition of Hon. William Sullivan,
11 a witness, called for examination by counsel for the
12 Senate Select Committee on POW/MIA Affairs, on Tuesday,
13 July 21, 1992, at 1:43 p.m., in the Office of Senate
14 Security, Room S-407, The Capitol, Washington, D.C.,
15 the witness having been previously duly sworn by
16 Michal Ann Schafer, a Notary Public in and for the
17 District of Columbia, and the proceedings being taken
18 down by Stenomask by Anne P. Horowitz and transcribed
19 by her.
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22
23
24
25

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P R O C E E D I N G S

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2 WHEREUPON,

3 HON. WILLIAM SULLIVAN,

4 a witness herein, called for examination by counsel for
5 the Senate Select Committee on POW/MIA Affairs, having
6 been previously duly sworn by the Notary Public, was
7 further examined and testified as follows:

8 EXAMINATION BY COUNSEL FOR

9 THE SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

10 BY MR. KRAVITZ:

11 Q. Ambassador Sullivan, thank you for coming back
12 for a second day.

13 As we were discussing off the record, we have a
14 little under three hours to go through a lot of subjects.
15 I will try to focus my questions as well as I can, and we
16 ask that you try to answer somewhat more concisely,
17 although we will all miss the interesting stories that
18 we heard yesterday.

19 But, unfortunately, there probably won't be time.

20 I want to just say one word about Exhibit No.
21 6, which was marked at the end of the day yesterday
22 and is the set of documents entitled "Vietnam Agreement-
23 Understandings, as Agreed January, 1973."

24 Again, this document was carried over to the
25 Senate yesterday by Mr. Hergen. It was located in Ambassad

1 Aldrich's personal files over in the Legal Department
2 at the State Department. And, as of yet, this document
3 has not been identified as being anything in particular,
4 although we all may be speculating as to what it is.

5 But did you want to add something to that?

6 A. No. My only point is that although I have
7 every reason to believe that that is the document that
8 Mr. Aldrich, Judge Aldrich, described as being the
9 understandings at the Paris Peace Accords, and while I
10 believe it will ultimately prove to be exactly that,
11 at the current time, it has not been authenticated and
12 is not part of any official State Department file
13 relating to the accords, and, therefore, it is not at
14 this point to be considered as an authenticated version
15 of the agreements until someone who has personal knowledge
16 says that it is.

17 Q. Okay.

18 Ambassador, Sullivan --

19 THE REPORTER: Would you wait for a minute,
20 please. May we go off the record.

21 (Discussion off the record.)

22 BY MR. KRAVITZ:

23 Q. Ambassador Sullivan, you mentioned while we
24 were off the record that you would like to add something
25 to one or more of your answers from yesterday.

1 A. One thing I wasn't sure that I made clear
2 was the very sharp distinction between military operations
3 in the northern part of Laos and military operations
4 in the southern part of Laos; that is to say not only
5 North Vietnamese military operations in those areas, but
6 the nature of United States response to those North
7 Vietnamese military operations.

8 In the south, along the so-called Ho Chi Minh
9 Trail, there was an area which, by agree with Prime
10 Minister Souvanna Phouma, had become, in effect, a free
11 fire zone for United States forces under the command of
12 MACV in Saigon. And that meant that high speed jet
13 aircraft operated regularly along that route dropping
14 bombs, occasionally some firing of weapons, although
15 the planes were usually so fast that that was not
16 relevant, and occasionally napalm on trucks and
17 structures and what-not on the Ho Chi Minh Trail when
18 they were visible.

19 Those planes operated at a relatively low
20 level compared to the high speed aircraft, the jet
21 aircraft, that operated in North Vietnam and went
22 straight up on the so-called Rolling Thunder operations.
23 They were quite vulnerable.

24 I have no idea now how many were shot down
25 because, although I received reports on them, it was not

1 those reports on those aircraft and those casualties,
2 those pilots, were not within the area that I
3 considered my responsibility for SAR missions and so
4 forth.

5 In the north, where planes from Thailand
6 traversed Laos, high fliers, high speed aircraft,
7 going to North Vietnam, they usually traversed at
8 30,000/35,000 feet. They were well out of range of
9 most any aircraft. And very few of those were shot down.

10 There were occasionally those who might have
11 been hit in North Vietnam that attempted to return, and
12 they came down in Lao territory.

13 Most of the aircraft that operated in that area
14 were the propeller driven low speed and low altitude
15 planes that were much more capable of taking anti-aircraft
16 fire and surviving. And those were the areas where
17 either people in my mission or people who were responsive
18 to it, like the group at Nakhon Phanom, were
19 responsible for the SAR efforts. It was well out of
20 reach of helicopters from North Vietnam.

21 So that's the area that I know most about
22 and that's the area where I said yesterday that I thought
23 in Laos -- I was referring to that area -- that the
24 ratio of people saved was considerably higher than,
25 certainly higher than it was in North Vietnam, but

1 also probably higher than that along the Ho Chi Minh.

2 The Ho Chi Minh Trail was jungle, and triple
3 canopy jungle, usually, very, very heavy.

4 Now, we had an additional set of operations
5 which MACV ran, which were insertions of ground force
6 personnel, supposedly for intelligence purposes, but
7 almost inevitably they got into firefights, and a
8 great many of them didn't return. A lot of the people
9 on those missions were Vietnamese; but a lot were
10 Americans as well.

11 I am not sure how on the military records
12 those people were carried. But if they were missing
13 in Laos in that area, they probably perished in Laos
14 in that area because either they were in a firefight
15 or, if they did survive, the chances of getting out
16 of there alive were almost impossible.

17 So, when I used the word "Laos," in my own
18 mind I was thinking very largely about the northern
19 parts of Laos, rather than the Ho Chi Minh Trail area,
20 and that's the area where I suspect the concentration
21 of MIA's in Laos is greatest.

22 One other thing I wanted to say was something
23 that you reminded me of just then. But I can't, I've
24 lost my train of thought. So if it comes to me, I'll
25 go back to it.

1 Q. Okay. Just let me know if it comes back
2 to you. We can stop at any point.

3 I want to go back to the side understanding
4 which required the release of U.S. prisoners of war
5 held in Laos.

6 Exhibit No. 6, which, as Mr. Hergen stated
7 previously, we believe to be a set of the side
8 understandings, although we don't know for sure if this
9 is the actual set of understandings, indicates in the
10 three page section entitled "Regarding Laos and
11 Cambodia" that there was a discussion, or communication
12 through messages between the Prime Minister of the DRV
13 and President Nixon on October 20, 21, and 22, 1972,
14 in which it was agreed that U.S. POW's in Laos would
15 be released no later than December 30, 1972. And then
16 there was a later discussion on January 9, 1973,
17 during what's referred to as a "private meeting" in
18 which it was agreed, or at least in which it was
19 promised by the DRV that the U.S. POW's held in Laos
20 would be released within 60 days of the signing of the
21 Paris Peace Agreement.

22 Were you involved in either of those
23 negotiations or discussions, however one might
24 characterize them?

25 A. On the first set, in October, I'm almost

1 certain that I was not involved.

2 Q. Is that because you were not yet part of the
3 team or because you --

4 A. It could be. I don't remember the dates when
5 I became involved. But, in any event, I think I would
6 have had a recognition of the communications between the
7 two chiefs of government, and I don't.

8 The second one, on the ninth, I may have been
9 involved, because I'm not certain whether this was in a
10 one-on-one conversation between Henry Kissinger and Le Duc
11 Tho or whether it was in a larger group. The fact that
12 George uses the word "private" there would suggest it
13 was one-on-one.

14 Q. Yes. I wanted to ask you about that. I mean,
15 my sense is that all these meetings were in one sense
16 "private," in that they weren't open to the public. But
17 you would, you think that his use of the word "private" --

18 A. I think so. We were not at a table.

19 Now, we did occasionally -- you know, this is
20 not really anecdotal. But you remember yesterday --

21 Q. This is not a good start.

22 (General laughter)

23 A. Henry said George was recording things on the
24 golf course. George doesn't play golf, so that puzzled
25 me a bit.

1 What it was was that we occasionally, we used
2 all sorts of houses all around Paris, and one house we
3 used belonged to an American on a golf course outside.
4 So that was a meeting in that house. And I'm sure that's
5 what he meant by "on the golf course."

6 So, to answer your question, we met in all
7 these strange places. And sometimes we would have lunch
8 there, horse meat served by the French Communist Party.
9 And when we had those lunches, sometimes I would be in a
10 corner with Thach and something would be agreed on,
11 or Henry would be in a corner with Le Duc Tho, or we'd
12 be four of us together. So that's probably the context
13 of a private meeting.

14 Q. And so, is it very likely, then, that there
15 would be no transcript of such a conversation between
16 Kissinger and Le Duc Tho if that is how this agreement
17 was reached?

18 A. It's possible, but I can't answer the question.

19 Q. Do you have any knowledge of what the course of
20 negotiations or discussions was which led up to this
21 side agreement?

22 A. The one in January?

23 Q. Right. Why don't we start with that one.
24 The one in January was in the context of how the
25 implementation of the understanding with respect to Laos

1 was going to be accomplished, where the people were going
2 to be handed over, who was going to do it, et cetera,
3 et cetera.

4 Q. Do you mean, then, that it had already been
5 agreed back in October --

6 A. Right.

7 Q. -- that the U.S. POW's held in Laos --

8 A. In principle, how it was going to be done.
9 We had, by this time, completed the, January 9, we were
10 well into the Protocol on POW's. Whether we had agreed
11 on it or not, I don't know. But one of the problems
12 was how did we incorporate that aspect of the POW element
13 into the protocol.

14 They resisted any incorporation in the text.
15 So this was seeking clarification since it was still
16 under the rubric of Article 8, which required a 60 day
17 limitation.

18 Q. Do you specifically recall trying to get the
19 DRV to agree to include in the written protocols
20 themselves a requirement that U.S. POW's, held in Laos
21 be released?

22 A. I don't recall that. No.

23 Q. Okay. But you said just a moment ago that the
24 DRV resisted --

25 A. Yes.

1 Q. -- having that put in the protocols.

2 Why did you say that?

3 A. Because that was their general stance. They
4 resisted any reference to Laos in any of the documents.
5 I don't recall, but my assumption is we tried to get it
6 in there. Again -- well, you've deposed George. But if
7 you have another shot at George, you can ask him.

8 Q. Let me ask you for your opinion. In your
9 opinion, how important to the U.S. Government's overall
10 position relating to the Paris Peace Agreement was the
11 promise or assurance made by the DRV that U.S. prisoners
12 of war held in Laos would be released?

13 Was it a major portion of our position or,
14 really, a minor detail?

15 A. I wouldn't say that it was a minor detail.
16 On the other hand, it was an essential part of our
17 position. We wanted all POW's. We also tried to get
18 a similar commitment with respect to Cambodia and had
19 a long hassle on that.

20 The intention was to get all U.S. POW's back,
21 and in our perspective of these things, whether they
22 were down in or whether they were captured in Laos or
23 Vietnam, they were still captured by Vietnamese forces.

24 So we felt they had the obligation to it.

25 Q. Okay. But my question was how important was

1 A. On a scale of what?

2 Q. Well, I mean if -- I guess it's hard to ...
3 define a scale. I mean, would you say that the repatriation
4 of U.S. prisoners believed to be held in Laos was
5 as important to the negotiators as the repatriation of
6 the U.S. prisoners of war believed to be held in
7 Vietnam?

8 A. I think I previously said that the primary
9 objective that we held in these negotiations was return
10 of all prisoners, and it didn't matter to us where
11 they were held. We felt that they were all held by
12 Vietnamese forces, and I think accurately so.

13 Q. In your opinion, would the United States have
14 signed the Paris Peace Agreement on January 27, 1973,
15 if there was not this side agreement requiring the
16 release of prisoners from Laos?

17 A. Not unless there had been a separate
18 agreement with somebody in Laos who pretended the
19 responsibility for the Pathet Lao, or something of
20 that sort.

21 Q. Before we signed the Paris Agreements on
22 January 27, 1973, to your knowledge, did any members
23 of the negotiating team or any other related U.S.
24 Government officials make any efforts to check with
25 Pathet Lao officials to make sure that they would

1 go along with the DRV's promise to arrange the release of
2 prisoners from Laos?

3 A. The only contact we had with the Pathet Lao
4 was with Soth Petrasyl. And, as I said yesterday, he was a
5 cipher. He knew nothing. He was not in communication with
6 his own people, or at least substantively. And so, any
7 effort to talk, to try to raise substantive matters with
8 Soth Petrasyl would have been a waste of time.

9 Q. At right around this time that we're talking
10 about, January of 1973, as well as for several months
11 beforehand, Soth Petrasyl was on record making public
12 statements to the effect of if the U.S. wants its prisoners
13 who are held in Laos to be released, it will have to
14 negotiate directly with us, that is, the Pathet Lao.

15 How were those statements viewed during the time
16 of these discussions with the DRV?

17 A. Soth Petrasyl had a record of 12 or so years of
18 making what I guess you could call frivolous statements,
19 statements that pretended to an eminence and a valence and
20 a responsibility that was clearly not in his hands.

21 So nobody paid much attention to anything Soth
22 Petrasyl, nobody official paid any much attention to anything
23 Soth Petrasyl said. He was not what the French would call
24 "interlocutor valable." He was a cipher, again.

25 Q. Is it accurate to say that Soth Petrasyl's

1 statements, the ones I was just describing, were simply
2 discounted by you and other top negotiators for the U.S.
3 side?

4 A. I think it's, in fact, I'm not sure I was even
5 aware of them.

6 Q. It sounds as if you would have discounted them
7 had you --

8 A. Had I been aware, I would have discounted them.
9 And had anybody then, in Vientiane, assuming he made them
10 in Vientiane, regarded them as significant, I'm sure the
11 text of them would have been cabled to us, and I doubt that
12 I received anything. I don't have any recollection.

13 Q. George Aldrich's memo interpreting the Paris
14 Agreements states, and I'm paraphrasing, but states that
15 the DRV assured the U.S. that it had made arrangements
16 with the Pathet Lao regarding the release of U.S. POW's
17 in Laos; in other words, that arrangements had already
18 been made.

19 Are you aware of what arrangements the DRV claimed
20 to have made?

21 A. What is the date of George's statement?

22 Q. That (indicating). It's not going to answer
23 that question.

24 MR. KRAVITZ: Is that an extra copy that we
25 can have marked?

1 MR. ERICKSON: No. I can have a copy made.
2 Why don't I do that.

3 MR. KRAVITZ: Why don't we mark this, and then
4 we can have a copy made later. Starting on page --
5 well, let's get it marked as an exhibit, and then we
6 can refer to it as such.

7 (The document referred to
8 was marked Sullivan Exhibit
9 No. 7, for identification.)

10 THE WITNESS: This is the paper that George wrote

11 BY MR. KRAVITZ:

12 Q. Right.

13 A. Well, he wrote that shortly after the negotiatio
14 * concluded. So he would not have been, he would not have
15 been yet privy to discussions that took place in the
16 Four Party Talks.

17 Q. I think that that is correct. I think you're
18 right.

19 A. Then, what you're falling back on, is the
20 January 9 understanding.

21 Q. Exactly.

22 If you would hand that to me, I can read to you
23 exactly the part that I'm referring to.

24 A. Okay. The main thing is to know when George
25 wrote it.

1 Q. Yes. It's my understanding -- I'm sure I asked
2 him this last week, I can't recall his response. But I
3 think it was --

4 A. I think I had him write that right after, right
5 after we came back from, from Paris, because I remember
6 he and I gave a briefing to Secretary Rogers.

7 Q. Before the initialing, before the signing?

8 A. No. I don't think I came back between the
9 initialing -- did I come back between the initialing and
10 the signing? I think I stayed in Paris.

11 Well, hell. Let's see. There was the initialing,
12 there was the signing, and then there was this big
13 circus in which we had Waldheim and all those guys. When
14 did they come over?

15 Was that the next day after the signing?

16 Q. Was that the International Conference on Vietnam?

17 A. The International Conference. We had a Polish
18 and a Canadian.

19 Q. I think Aldrich said that was actually in
20 February sometime. But, in any event --

21 A. I think there was an international meeting.
22 But I can't remember. I only remember because I can
23 remember that Bill Casey was then Under Secretary of State,
24 and the last I'd seen of Bill, he'd been over in the Ex-Import
25 bank and I guess I'd been so out of touch in Paris I

1 hadn't realized that Bill had come to State. Because I
2 remember coming in and briefing, and Bill was sitting in
3 the front row. I couldn't quite figure what the hell he
4 was doing there until I was later informed that he was
5 Under Secretary.

6 But we gave a briefing, and I think George
7 probably distributed this paper at that time. I asked
8 him to put one together on this.

9 He had done, I think I'm correct in saying he
10 had done a similar thing for me on the Laos conference.

11 Q. Okay.

12 I have marked as Exhibit No. 7 a printed copy of
13 a document entitled "Interpretation of the Agreement on
14 Ending the War and Restoring Peace in Vietnam."

15 This document has been identified in a previous
16 deposition as being authored by George Aldrich.

17 On page 156, Chapter 11 of this document, Mr.
18 Aldrich writes as follows: "All U.S. prisoners in Laos
19 are to be released within 60 days. The DRV has assured us
20 that, although not covered by the agreement, 'all U.S.
21 military and civilian prisoners detained in Laos shall
22 be released no later than 60 days following the signature
23 of the agreement.'" And this is the sentence that I want
24 to ask you about more specifically. "The DRV has also
25 assured us that it would be responsible for making the

1 necessary arrangements with the Pathet Lao."

2 Okay. I may actually have misspoken earlier.

3 I guess my question is --

4 A. What does the understanding of January 9 say?
5 Roughly the same thing?

6 Q. Well, the understanding -- now reading again
7 from Exhibit No. 6, in total, on January 9 says: "In the
8 private meeting of January 9, 1973, it was furthermore
9 agreed that all U.S. military and civilian prisoners
10 detained in Laos shall be released no later than 60 days
11 following the signature of the agreement."

12 A. Nothing about arrangements.

13 Q. Nothing about arrangements.

14 What I wanted to ask you was whether you were
15 aware of what arrangements the DRV had assured us it
16 would made and it would be responsible for making.

17 A. I may have known at the time, but I certainly
18 don't recall now. I do know, and I think you do, that
19 subsequently there was a big hassle about these
20 arrangements in the Four Party. I believe once they
21 eventually showed up in Gia Lam Airport, and I think
22 there was also some hassle in which we received them
23 directly from some Pathet Lao official who came along,
24 who they dug out to come along with them.

25 Q. If you can, I recognize that this question to

1 a certain extent is speculative, because you've already
2 told us you don't recall what arrangements the DRV
3 assured us it had, that it was planning to make with
4 regard to the U.S. prisoners in Laos.

5 But if you can put yourself back in that time
6 and in your position as one of the lead negotiators
7 back in January, 1973, what would you want the North
8 Vietnamese to have assured us of that it would do?

9 A. I assume whatever they assured us and that
10 we're satisfied this was what we wanted.

11 Q. But can you answer my question?

12 A. No. I mean, I really can't reconstruct the pact
13 of that time nor what we were looking for.

14 Q. But just as a diplomat, I mean, what kind of
15 assurances would they have to make? I mean, that they would
16 go talk to the DRV, or that they --

17 A. That who would talk to the DRV?

18 Q. I'm sorry, that they would go talk to the
19 Pathet Lao, or that they would assure us that they
20 controlled the Pathet Lao?

21 A. Well, I mean, nobody was operating under any
22 illusions. The Pathet Lao was a branch of the Lao Dong
23 Party, and whatever they were instructed to do, they
24 would do. So we didn't, I can't imagine that we needed
25 to go into detail as to how they would do it. They'd

*Lao Dong
Party*

1 been doing it, they'd been controlling this party since
2 1926. So it's not a matter of asking them how they were
3 going to suck this particular egg.

4 I don't conceive that we, that it would have
5 been necessary to postulate detailed discussions of it,
6 and I don't know what George's sentence refers to.

7 Q. As you understood this side agreement at the
8 time, was it a, was the side agreement likely to be
9 self-enforcing? I mean, in a sense, was it dependent on
10 anything else happening, such as a peace agreement or
11 ceasefire being reached in Laos? Or would it be something
12 that could be, something that could be accomplished
13 even absent a ceasefire in Laos?

14 A. Well, the basic premise of all the documents
15 was that all prisoners of war, live prisoners of war, would
16 be released within 60 days and coincident with the
17 withdrawal of U.S. forces from Laos. That was the only
18 condition.

19 That condition obtained with respect to
20 prisoners whether they were in Laos, North Vietnam,
21 South Vietnam, or Cambodia. And some of them were held
22 in South Vietnam, as you well know.

23 So it was not a matter of geographical
24 distinction. POW's were POW's, wherever they were. And
25 the withdrawal of U.S. forces was correlative to and

1 contingent upon release of POW's, which is why the
2 assurance of 60 days was sought with respect to the
3 Laotian ones.

4 Q. Can you help us to understand the fact that
5 several members of Dr. Kissinger's team, including some
6 of the people closest to Dr. Kissinger, since as John
7 Negroponete, Peter Rodman, Richard Kennedy, John Holdridge,
8 claimed not to have known anything about this side
9 agreement?

10 I mean, it's obviously possible that these
11 are just memory problems. But --

12 A. Well, Dick Kennedy wasn't there. He was
13 always back in the office in Washington. John Holdridge
14 was never there. The only person of those you named
15 that would have been involved or would have been present
16 was John Negroponete. And I think John was back over in
17 January. But you're saying that they didn't know anything
18 about the side understanding back in October?

19 Q. No.

20 In their depositions, they have all said that
21 they didn't know anything, that they don't know anything
22 about it.

23 A. About what?

24 Q. About the side understanding.

25 A. Of October or of January?

1 Q. Well, I have to say that at the time of those
2 depositions, I didn't, I had never yet seen Exhibit
3 No. 6. And so, the question wasn't that specific. I
4 think the questions were more along the lines of --

5 A. This is a, you know, the only one among them
6 whom I would have expected to know of the understanding
7 was John Negroponte. The others -- John Holdridge,
8 Dick Kennedy, and I've forgotten who else -- oh, Peter.
9 Peter. I think Peter wrote down some things without,
10 he was, frankly, so focused on just getting down words
11 that he was not necessarily following substance on
12 all these things.

13 I don't mean to suggest by that that Peter
14 was inattentive, or stupid, or anything else. But he just
15 had a hell of a job of keeping up with it. He didn't
16 have the benefit of something like this.

17 Q. But, as far as you were aware, there was, this
18 side agreement was not something that for some reason
19 was particularly closely held information?

20 A. Certainly I was aware of it, and George was
21 aware of it.

22 Have you asked Winston Lord? Al Haiq?

23 Q. Mr. Lord told us that he was aware of it.

24 A. Yes. I would think all of us who were pretty
25 much integral to the negotiations had to be aware of it.

1 But you named a number of people who were on Henry's
2 staff but not directly involved.

3 As I stressed before, this was a very tightly
4 held group. They were paranoid about leaks and about
5 bringing in people that they didn't want involved in
6 this exercise.

7 Q. It seems to me that the side agreement --

8 A. I think we prefer to call it "understanding."

9 Q. Okay.

10 I think it would be accurate to describe the
11 side understanding we've been talking about really as
12 an extension of the agreement in Article 8(a), to
13 require the return of U.S. POW's held in Laos.

14 A. Give me 8(a). I think, I mean, I'm not sure
15 what, what do you mean by that? Do you mean held
16 in Laos? Do you mean extension of -- I don't believe
17 we had any geographical description in 8(a). Did we?

18 Q. It says "prisoners of the parties."

19 A. But, I mean, we didn't say in what
20 territory they were held.

21 Q. Right. Okay.

22 I don't want to get bogged down.

23 MR. HERGEN: I don't want to interrupt, but
24 I would, just for the record, this is an important
25 point. It gets into this whole issue of what the,

1 what the legal significance of the undertaking is. And
2 it really calls for a legal conclusion on the part of the
3 witness, and I just don't think he's competent. No
4 disrespect.

5 THE WITNESS: I'm totally incompetent.

6 (General laughter)

7 THE WITNESS: I'm getting moreso with each
8 passing year.

9 (General laughter)

10 MR. HERGEN: It's a serious point because if you
11 characterize the understandings, which, basically, are
12 an expression of intent and the purpose of them clearly is
13 to avoid a disagreement over the scope of the agreement
14 later in the event of a dispute, as integral parts of the
15 agreement, I think that's not correct. It's a fine
16 legal point, but it's important for the historical record,
17 that they are not an integral part of the agreement.

18 So that, to me, is a legal question, not a
19 factual question.

20 MR. KRAVITZ: It was not really meant to be
21 a question.

22 (General laughter)

23 MR. HERGEN: Then I apologize.

24 MR. KRAVITZ: It was the wind-up. It was a
25 statement before the next question.

1 THE WITNESS: John has a point.

2 MR. ERICKSON: No. But I think it was important
3 that the Ambassador pointed out that, while they were
4 negotiating, this was not a geographical thing, and the
5 use of the word "all parties" was meant that since it
6 was your conclusion or the conclusion of the negotiators
7 that the North Vietnamese were responsible for these
8 prisoners, regardless where they were, and that may shed
9 some light on why the words "all parties" was used.

10 I think your point is --

11 THE WITNESS: Well, hypothetically now, if Boris
12 Yeltsin had proved correct or if the stories and rumors
13 had proved correct, and U.S. prisoners had been transported
14 to China or to Russia, they, the Vietnamese, the DRV,
15 was, nevertheless, responsible for returning them to us.

16 So, I think we were careful not to stipulate
17 anything about geography in Article 8(a).

18 I thought I had a text of this somebody gave
19 me yesterday.

20 BY MR. KRAVITZ:

21 Q. We had it yesterday and it was marked as an
22 exhibit. But I think yesterday's court reporter may have
23 absconded with it, and I thought it was going to be back.

24 A. It must be a profitable business.

25 Q. Yes, because that copy is going to be worth

1 millions some day.

2 (General laughter)

3 Q. I really don't want to quibble about the legal
4 significance of this. That wasn't the point of what my
5 question was going to be. But I think we can all agree
6 that, at a minimum, this side understanding that we've
7 been talking about was, at a minimum, an effort to make
8 it clear that the DRV was obligated to release U.S.
9 prisoners even if they were held in Laos.

10 A. Okay. I accept that.

11 Q. My question to you is was there a similar attempt
12 by the U.S. negotiators to make clear in an understanding,
13 in a side understanding, that the DRV's obligation to
14 assist in the accounting for our personnel who were missing
15 in action extended also to personnel who are MIA in
16 Laos?

17 A. Well, I really don't, can't say. I can't
18 recall whether we did stipulate that in our negotiations.

19 I believe the Four Party team and the, what I
20 for short-hand reasons call the Graves Registration Team
21 that we designed to be left behind there, that they made
22 clear that their geographical province was, included Laos.

23 That, presumably, would be in this record if
24 there is any reference to it.

25 MR. HERGEN: Let the record reflect that the

1 witness was pointing to a book called "Sixty Days to
2 Peace," a manuscript by Walter Scott Dillard -- D-I-L-L-
3 A-R-D.

4 BY MR. KRAVITZ:

5 Q. Let me see if I can refresh your memory, and it
6 may or may not work. But I'm going to read from the
7 same portion of George Aldrich's memorandum, which, again,
8 is Exhibit No. 7. Again, I'm reading from Chapter 11.

9 "Article 8(b) of the agreement concerning the acco
10 for missing in action and the location of graves does not
11 apply to Laos."

12 A. Oh?

13 Q. "Similarly, the functions of the Four Party
14 Joint Military Commission with regard to dead and missing
15 persons under Article 10(a) of the Protocol on the Return
16 of Prisoners do not extend to Laos. Therefore, it will be
17 necessary to conclude further arrangements for tracing
18 the missing and finding graves in Laos. This has been done
19 in Laos by Article 5 of the ceasefire agreement, but
20 further agreements may be necessary between the U.S.
21 and the Government of Laos if U.S. personnel are to be
22 involved directly in the accounting operations."

23 Does that refresh your memory as to whether
24 there were any negotiations between the U.S. and the DRV?

25 A. Well, I have no memory one way or the other on it.

1 But this certainly suggests to me that we didn't have
2 any such thing, and I assume George, writing so close to
3 the time, will have constructed that from the circumstances
4 that existed.

5 Q. Okay. I just want to be clear. I mean, this
6 does not --

7 A. This does not contradict anything in my memory
8 because, as you saw, I had no memory of it.

9 Q. Okay. But I just want to ask you, does the
10 mere fact that Mr. Aldrich's memo says that there is no
11 agreement relating to MIA's in Laos make you conclude
12 that there, therefore, was no negotiations on the subject,
13 or could it be that there were negotiations that simply
14 were not successful?

15 A. I think the former.

16 Q. And why do you say that?

17 A. Because our concern, and the immediate concern,
18 and the concern that was relevant to the withdrawal of our
19 forces was on live POW's, on getting them back. The
20 other aspects of accounting could be handled in a more
21 orderly, timely fashion later. And, I mean, the United
22 States over the years has had a great deal of experience
23 with the whole question of graves registration and
24 missing in action accounting that prepared us for, prepared
25 our people for a very long haul.

1 Let me put in something here which also may be
2 a useful clarification.

3 The United States military services, very
4 correctly, I think, but very jealously preserved and
5 insisted upon their own responsibility for their own
6 service personnel, and not only in the listing of them
7 and the classifications of them, all the details concerning
8 the event in which the person either became missing
9 or was captured. And, as you know, these were coordinated
10 in a central office in the Pentagon. But the ultimate
11 responsibility lay with the services which very much
12 wished to enforce it.

13 One of the reasons that we in the protocol
14 translated, in effect, the responsibility to the military,
15 to the U.S. element on the military ICC group was that
16 they wanted to be responsible for it. They didn't want
17 some State Department type or some other type kicking
18 around with their people. And this is understandable.

19 And we accepted that and constructed it so that
20 they would continue to have that responsibility.

21 Now, in the question of accounting, of course,
22 it was all disrupted in 1975. I am not aware--because
23 I left for other responsibilities -- I guess I went
24 off to the Philippines -- when the discussions began in
25 Laos as to how they would implement the question of

1 accounting and identification and so forth.

2 So I really think this is something on which
3 the services know a hell of a lot more than I did or
4 any of those of us who negotiated anything on this.

5 Q. Okay.

6 A. And I would regard them as the ultimate repository
7 of information on it.

8 Q. Okay. Let me just, just to summarize then,
9 you don't recall any negotiations with the DRV back in
10 January of 1973 or any other time in which the U.S.
11 was seeking an analogous side understanding for MIA's
12 in Laos to the side understanding that we've been talking
13 about regarding U.S. POW's in Laos?

14 A. I don't recall any such thing.

15 Q. You mentioned a few minutes ago that there was,
16 there was a set of negotiations between the U.S. and
17 the DRV over whether there could be another side agreement
18 or side understanding requiring the release of U.S.
19 POW's held in Cambodia.

20 Could you tell us about that?

21 A. Yes.

22 We saw a similar understanding, which they
23 declined to give and we kept pressing for. And, finally,
24 again I believe it was in one of these what George calls
25 a private meeting that was away from the table, where

*but he had
had many troops
in Cambodia,
and how to
difficulties to
between
and the
& the
let*

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we had a very emotional discussion with Le Duc Tho. I know I was present in that. I sort of remember standing in a corner with Henry, and Le Duc Tho, and Thach, and the interpreter and myself, in which he got quite worked up about the fact that they had no military forces operating in Cambodia and had no responsibilities for the local communist elements in Cambodia.

The first one was not entirely true. But they didn't have the same kind of operations, clearly, that they had in Laos.

But the second one we later began to realize, when, of course, they came to a war with Cambodia, that they probably were telling us the truth, that the people that we thought were their satellites were actually Chinese satellites.

Q. Was this point, the attempt to obtain a side agreement, a side understanding for the release of U.S. POW's held in Cambodia, something that was pressed hard by our side?

A. Yes. I would think they spent several hours on it.

Q. And is it fair to assume that the reason our side pressed hard on this issue was, or one of the reasons was that Dr. Kissinger and others working with him believed that there were live U.S. POW's held in

1 Cambodia at the time?

2 A. We thought there could have been. We had some
3 people missing in action from both air action over
4 Cambodia and the Operation Duck Hook that was in the
5 fall of 1970 -- was it? Anyway, we had some people
6 missing from that.

7 But I'm not sure that any of us held any hope
8 that there were live POW's there. But we wanted to,
9 again, in the spirit that I originally talked about,
10 where we held the Vietnamese responsible for all Americans,
11 no matter where they were, we wanted to get them to
12 stipulate with respect to Cambodia what they had done
13 with respect to Laos.

14 Q. But in our discussion that we just had a
15 few minutes ago, when you were saying that you recall
16 no negotiations regarding the MIA issue in Laos, you told
17 us that, really, what we were interested in was live
18 POW's.

19 A. Live POW's.

20 Q. I guess I find it hard to believe that Dr.
21 Kissinger would have held several hours of talks on a
22 subject such as release of live POW's from Cambodia if he
23 didn't have, if he didn't believe that there were some
24 live POW's in Cambodia.

25 A. Well, hard as it may be for you to -- you

1 haven't yet met Henry, have you?

2 Q. (Nods negatively)

3 A. Okay. After your first three hours of
4 interrogation of Henry, you may be able to believe what
5 I just told you.

6 (General laughter)

7 Q. From all these giggles, it sounds like it
8 might not take three hours.

9 (General laughter)

10 Q. I want to move to another subject.

11 A. You know, Neal, I don't really recall the
12 details of this, whether we thought there were any. We
13 had lists from the Department of Defense, from the
14 services, and if there was the slightest chance that
15 there was a live MIA, then we went after him.

16 Let me make another obiter dictum here.

17 The services were generous in recording people
18 as MIA's even though objectively the circumstances
19 would suggest that there was damn little hope. This was
20 for two reasons, or three reasons.

21 One was just because they were not going to
22 write off someone without what they regarded as assurance
23 that the person was dead. Secondly and thirdly, they
24 had to deal with the families. The recording of someone
25 as KIA obliterated all hope that many of these families

1 found extremely important to hold alive. And thirdly
2 was a financial reason. A person who was still MIA,
3 the family still got his salary and separate maintenance
4 allowance benefits, and so forth and so on. Once
5 he was declared dead, they got a death settlement and
6 whatever.

7 To some of these families, that was an extremely
8 important differences. So the services bent over
9 backwards, in effect, in expanding the list of those
10 potentially alive, potentially missing in action.

11 I think in years subsequent, the category "MIA"
12 and "POW" have gotten all screwed up.

13 Q. Well, let me interrupt you. I mean, you're
14 not implying that Dr. Kissinger was unaware of the
15 services --

16 A. No.

17 Q. -- tendency.

18 A. But if we had any people that were carried
19 as MIA and there was the slightest possibility that
20 they were living POW's, he was also politically shrewd
21 enough to know that you don't write those off.

22 So if you ask me why he spent four hours
23 arguing on something that he personally didn't think
24 was true, it's just because some day, some little
25 interrogator like you would come along and ask him

1 about this.

2 Now I don't mean to be, to be, to minimize this.
3 But it was, we went after any possibilities that there
4 were people who were alive.

5 Q. On April 6, 1971, you testified in front of the
6 House of Representatives Committee on Foreign Affairs --

7 A. April 6, 1971? What was I doing at that time?

8 Q. I believe you were at the State Department.

9 A. Okay. Yes, sure. Okay.

10 Q. This was the Subcommittee on National Security
11 Policy and Scientific Developments, which was a subcommittee
12 of the Foreign Affairs Committee of the House of
13 Representatives.

14 A. Who chaired it?

15 Q. Mr. Zablocki.

16 A. Oh, Clem Zablocki. Okay. I was up looking for
17 money, obviously.

18 Q. I think you were actually talking about POW's.

19 A. Oh, really? Okay. Clem used to handle the
20 authorization bill in those days.

21 Q. As part of your opening statement, and I'm
22 referring to page 324 of the printed transcript of this
23 proceeding, you said the following: "It is clear that
24 Hanoi has hoped to use our prisoners to attain its
25 objectives in Indochina. In the '10-points' of May 8, 1969,

1 which is Hanoi's basic position, they linked prisoner
2 release negotiations to their overall aim of establishing
3 in South Vietnam a government which would be subservient
4 to Hanoi and to 'full responsibility for the losses and
5 devastations' in Vietnam -- in other words, reparations."

6 A. Was that a written statement?

7 Q. My understanding is --

8 A. Was that something I submitted for the record
9 or was that oral?

10 Q. Well, from the way it's printed, my interpretation
11 is that it was a written statement that you read out loud
12 and ultimately --

13 A. Submitted for the record.

14 Q. But I wasn't there, obviously, so I don't know.

15 My question is what, how was it that in the
16 negotiations, and presumably at this point you were
17 referring to the public negotiations, how did the, how was
18 it that the DRV linked or attempted to link the issue of
19 the release of U.S. prisoners of war with the issue of
20 U.S. payment of reparations?

21 A. From what you read me there, I was not referring
22 to their conduct in the negotiations, but, rather, to the
23 so-called ten point program.

24 Over the course of years, they put up ten point
25 program, seven point programs, four point programs, and

1 so forth. So the linkage that I was referring to was
2 expressly written into a ten point --

3 Q. Okay.

4 A. -- and you'd have to get the ten point statement
5 to find out exactly how they did it.

6 Q. Do you recall?

7 A. Not particularly.

8 Q. Even in a general way how they did it?

9 A. No, I don't.

10 But they, even afterwards, as you can see from
11 this book here, they attempted to link POW's to almost
12 everything in the way in which it was operated, and Woody
13 constantly had to call them back to the fact that it was
14 linked only to the withdrawal of U.S. forces.

15 Q. Was there a concern within the administration at
16 any point that you were involved in these negotiations
17 that the North Vietnamese would insist that the two issues,
18 the reparations issue and the U.S. prisoner issue, were
19 linked?

20 A. First of all, I reject the use of the word
21 "reparations."

22 Q. Okay. Let's call it "reconstruction."

23 A. Because I have seen statements recently --

24 Q. I was just using your word.

25 A. That's what they called it.

1 Q. Okay.

2 A. Not that I recall. By the time I think I
3 joined it, that tactic had been set aside. I don't
4 recall that Article 21, in their efforts to achieve that
5 or to implement it, was ever explicitly, whether they
6 made any effort explicitly to link it to POW's.

7 Q. Was there any concern within the administration
8 that you were ever aware of that, even though the DRV
9 stated or agreed that its obligation to release U.S.
10 prisoners was linked only to the withdrawal of U.S.
11 troops, that notwithstanding that agreement on the record,
12 the DRV would use U.S. POW's and the release of U.S. POW's
13 to gain other advantages, such as the enforcement of
14 reconstruction aid promises?

15 A. We always suspected the Vietnamese of any kind
16 of duplicity you can imagine, and, more than often we
17 were correct.

18 In other words, we had no trust whatsoever
19 in the Vietnamese willingness to play by or abide by the
20 normal rules of international intercourse. And so, for
21 that reason, since the POW issue was the prime point of
22 concern at our ultimate negotiation, the one major thing
23 we had left was the presence of our forces or the threat
24 to use our air and naval forces. And, therefore, those
25 threats were kept intact, not only up to the signing, but

1 then Henry Kissinger and I went to Hanoi in February,
2 I believe, and they were perhaps not explicitly but
3 implicitly restated in Hanoi, too. And they understood
4 because they released the first batch of prisoners at
5 the airport. While we were at the airport, we could see
6 them being released.

7 So, I think by the time the Christmas bombing
8 was over, the message was fairly clear. And they at that
9 stage we felt had accepted that that was the linkage.

10 Now that did not deter them in the Four Power
11 Talks from applying every kind of linkage, particularly
12 Colonel Loi, who had been with us in Paris for all the
13 negotiations, who then came back and was the, he was
14 the right hand man with General Hoa. Actually, I went out
15 to Saigon in that timeframe. I was far more impressed
16 by Tran Van Tra, the little guy who wore no insignia
17 but I think was a lieutenant general, partly because
18 he had been the guy that I'd been confronting in Laos
19 during most of my four and a half years there. So he
20 knew me pretty well and I knew him pretty well though
21 we'd never met. But he was far more impressive than
22 General Hoa, who seemed to be a, shudder the word,
23 judge advocate type.

24 (General laughter)

25 Q. Let me ask you a question about the trip to

1 Hanoi. This is the trip that Dr. Kissinger made in February
2 of 1973.

3
4 A. Yes.

5 Q. My understanding is that Dr. Kissinger brought
6 along with him on that trip to Hanoi a set of 80 files,
7 each file including information on a different man believed
8 by at least the services, if not the rest of the U.S.
9 Government, to have been a live prisoner of war at some
10 point, at least before the signing of the accords.

11 It's my understanding that these 80 cases were
12 really deemed to have been the strongest 80 cases,
13 discrepancy cases, if you will, in Vietnam.

14 A. I don't remember the figure, but we brought
15 along the strongest cases. Yes.

16 Q. My understanding further is that Dr. Kissinger
17 presented these 80 files to the North Vietnamese in Hanoi
18 in February of 1973, and essentially got nothing but
19 denials and really no information.

20 Were you part of those discussions?

21 A. Yes.

22 Q. Can you tell us what you remember about them?

23 A. What I remember is that we had these files.
24 I most specifically remember one in which Henry was able
25 to show a photograph of a major or lieutenant colonel,
something of that sort, who was, which was taken of him

1 in captivity, and we, his name was not on the list.

2 This was the sort of thing.

3 I don't know that I would characterize your
4 phraseing, you've got nothing, what was it you said,
5 nothing but denials? I don't think we got, I think
6 they were all, in that period they were in the mode of
7 oh, we'll look in to this. And so, they took all the
8 files and told us they'd be back in touch and so on.

9 That was a trip in which they had designed the
10 atmosphere to be one of maximum cooperation. So I doubt
11 we got into any categorical denials.

12 Who was with us?

13 Q. Winston Lord has told us about that trip.

14 A. Wait a minute. Yes. Okay.

15 Q. To the best you can remember, from your
16 discussions in preparation for these negotiations, your
17 discussions with Dr. Kissinger and others, what was the
18 prevailing sense among the people who were going to Hanoi
19 as to whether there really were live American POW's from
20 among these 80 who simply had been left off the lists,
21 the January 27, 1973 lists by the DRV?

22 A. Well, now you're getting into speculation. Well,
23 I might as well speculate since I've been asked to.

24 Q. Before you do that, I'm not asking you to
25 speculate. I'm asking you to recall what your opinion

1 was back them.

2 A. What our speculation was at that time.

3 First of all, we, we suspected that there were
4 a number of people who did not fall into the category of
5 prisoners of war, and, although they were carried as MIA,
6 they were more accurately people who had fallen afoul
7 of the U.S. Uniform Code of Military Justice, probably by
8 drug dealing, who had vanished into the villages, taken
9 Vietnamese wives, and so forth and so on, and, although
10 they were carried on our lists. This was mostly in
11 South Vietnam, mostly around the area of Saigon-Cholon.

12 Q. If I could just interrupt you for a moment,
13 Mr. Lord could be wrong. But he told us in his deposition
14 that his recollection was that all 80 of these files
15 related to men who had been lost in --

16 A. Absolutely.

17 Q. -- North Vietnam.

18 A. I haven't gotten to that yet.

19 Q. Okay.

20 A. I also assume, or my opinion was at that time,
21 that there were a number of people who had a clear shoot,
22 who had a beeper signal and who may even might have been
23 seen alive on the ground who were then either hacked to
24 death by the villagers where they landed, or were put in a
25 cage and tortured, or whatever, and died while in captivity.

1 I assume there also may have been prisoners who
2 were in the hands of some particularly brutal North Vietnamese
3 interrogators, who either wittingly or unwittingly did them
4 in. And I assume that many of the cases that we carried,
5 in which we had sightings on the ground, pictures --
6 there's one instance I recall, of a man who was clearly in
7 good health, appeared to be in good health, a POW and so
8 forth. But these were people who had been, who lost their
9 lives at the hands of and while in the custody of the
10 Vietnamese, and they were reluctant to explain it.

11 But the possibility of many of them -- I mean,
12 our feeling was when they were not on the, when people
13 were not on the list, the possibility of their still being
14 alive was nill.

15 We saw no reason why they would keep a live
16 prisoner.

17 Q. Okay. I just want to make sure who you sweep
18 into, who you include in the term "we."

19 Was that opinion something that was shared
20 by you and Dr. Kissinger?

21 A. I can't speak for Henry on that. I think the
22 people who worked most directly with me in the Department
23 of State on Vietnam, people who had spent between four and
24 five years involved in Vietnam and who had a feel for
25 Vietnam, Vietnamese passions and whatnot, all shared that

1 view with me.

2 Q. Is it your testimony, then, that you don't
3 know what Dr. Kissinger's view was as of his trip to
4 Hanoi in February, 1973?

5 A. I don't recall whether we ever discussed it.
6 But you'll have your chance at Henry.

7 Q. That doesn't mean that you shouldn't answer the
8 question if you recall his saying anything.

9 A. No. I don't recall his saying it.

10 Q. Would it be typical for you and Dr. Kissinger
11 to prepare for a joint negotiation session without
12 discussing, really, the underlying issues?

13 A. This was not a negotiation. This was, clearly
14 there was prima facie evidence that people had been
15 alive, and we were berating the Vietnamese with an
16 accounting of why these people were not on the list.
17 It's a very straight-forward proposition.

18 I think we had gotten the files from the DOD,
19 and they, in turn, I think they'd collected it from the
20 services.

21 Frank Sieverts may have been involved in putting
22 that, putting that list together for us. I'm not sure.

23 (Discussion off the record)

24 BY MR. KRAVITZ:

25 Q. Were you aware of the time, then, on February 1,

1 1973, Dr. Kissinger delivered in Paris to the Prime
2 Minister of the DRV a letter or a message from President
3 Nixon making certain specific promises relating to
4 reconstruction aid?

5 A. He delivered a letter. I'm not sure that I
6 would characterize it as making specific promises.

7 Q. What were you aware of at that time as to what
8 that promise was or what that letter included?

9 A. I think I probably wrote the letter, and we
10 phrased it very carefully to make it illustrative of what
11 we might be prepared to do in the fulfillment of Article
12 21, and stressing that this would be a part of -- do you
13 have the text of the letter?

14 Q. It's actually, if we need it, I can get it.
15 I think it's attached to one of our other depositions in
16 the next room.

17 A. All right. If you have the text, you don't
18 need to have it characterized in detail. But it was not
19 promises.

20 Q. Okay.

21 The letter indicates that the U.S. is promising
22 to pay \$3.25 billion over five years.

23 A. Not "promising."

24 Q. I think we should get the letter.

25 A. Better get the letter.

1 Q. I think we'd better get the letter.

2 MR. KRAVITZ: Why don't we go off the record
3 for one second.

4 (Discussion off the record)

5 MR. KRAVITZ: Why don't we go back on the
6 record.

7 BY MR. KRAVITZ:

8 Q. Ambassador, I'm going to show you what is
9 marked here as Exhibit No. 3 to the deposition of
10 Frank Sieverts. This is from May 1, 1992, and it's a
11 two page State Department document which reprints the
12 letter. It begins down on the right hand side, I
13 think about half-way down the page.

14 MR. ERICKSON: Do you want a copy of that in
15 the record?

16 MR. KRAVITZ: Why don't we do that afterwards
17 to save as much time as we can.

18 (Discussion off the record)

19 THE WITNESS: This looks like my drafting,
20 but I would not -- let me read the language.

21 You all are lawyers, but I'm sure I cleared
22 this with some lawyer before I, probably George.

23 Preliminary United States studies indicate
24 that the appropriate programs for the United States
25 contribution to post-war construction will fall in the

1 range of \$3.25 billions of grant aid, dollars of grant
2 aid, over five years.

3 Now that's not a promise.

4 No. This was very carefully construed and
5 contrived to direct itself to the implementation of
6 Article 21 without making any categoric promises. We
7 then went on to say they had developed, a function of the
8 commission would be to develop programs and so forth
9 and so on.

10 So what we did was set up this commission, I
11 guess, and we put an AID fellow in, in charge of it.
12 They never really, it went on for some time, but they
13 never really came to any definitive conclusions.

14 Q. Was this letter of February 1, 1973, a unilateral
15 action on the part of the U.S. or was it the result of
16 any negotiations between the U.S. and the DRV?

17 A. When we were off the record here, Jim said
18 that someone had characterized our posture as one of
19 having a carrot and a stick, and this was designed to be
20 a carrot. I think I talked about this earlier in my
21 deposition, a carrot which would induce them to feel
22 some interest in and some benefits to be derived from
23 actually implementing the other terms of the agreement.

24 Q. My question though is --

25 A. I don't know if there was any understanding

1 that we would have such a meeting. I think there probably
2 was, that we would have such a discussion later on.
3 And this was the way in which we defined what our meeting
4 was going to be.

5 Q. What about the portion of the letter in which
6 President Nixon announces that the amount of reconstructio
7 aid will be in the range of \$3.25 billion?

8 A. "Preliminary studies indicate that." That's
9 not an announcement.

10 Q. Okay. Part of the letter says, "Preliminary
11 U.S. studies indicate that the appropriate programs
12 for the U.S. contribution to post-war reconstruction will
13 fall in the range of \$3.25 billion of grant aid over
14 five years."

15 Was that figure something that was --

16 A. That --

17 Q. Let me finish the question -- stated unilaterall
18 by the United States in this letter, or was that
19 figure the result of negotiations between the U.S.
20 and the DRV?

21 A. It was as it says, the result of unilateral
22 studies by the United States. It was an effort to
23 preclude any fantastic figures of \$20 billion and so
24 forth and so on, which were being kicked around.

25 Q. Kicked around by whom?

1 A. By the North Vietnamese, maybe Soth Petrasz.

2 We also had, of course, some undertakings and
3 understandings with the South Vietnamese, because our
4 Article 21, if I remember the gist of it, talks about
5 reconstruction in Indochina, including North Vietnam.
6 Doesn't it -- something like that?

7 Q. I don't remember the exact language. I know
8 it refers to all of Indochina.

9 A. And throughout Indochina. Well, it's the other
10 way around. I thought it was Indochina, including
11 North -- it's reconstruction of the Democratic Republic
12 of Vietnam and throughout Indochina.

13 This was also designed as a carrot for the
14 South Vietnamese. And we did have some plans and
15 programs for -- these were in the days before we had a
16 budget deficit, or a major one.

17 Q. Why was President Nixon's February 1, 1973
18 letter to Phan Van Dong kept secret?

19 A. Was it kept secret?

20 Q. My understanding is that it was not made
21 public until 197--

22 A. What is that document, the one over there
23 (indicating)?

24 Q. This was published in 1976; actually, I'm sorry,
25 June 27, 1977. This is a Department of State Bulletin,

1 pages 674 and 675.

2 My understanding is that there was a
3 Congressional delegation in Hanoi in 1976, which was
4 informed by North Vietnamese officials that President
5 Nixon had made a reconstruction aid promise and that
6 a Congressional delegation said what are you talking about,
7 and the North Vietnamese officials took out the letter
8 and said well, here it is; and that it was after
9 that event it was made public in this country.

10 A. I don't know the answer to your question.

11 We had a regime operating almost every -- the
12 whole thing was a secret process, and everything that
13 is done in Hanoi and Vietnam is a secret process. And
14 I wouldn't be, I mean, I just assume that the culture
15 carried over to letters.

16 But the fact of our meetings with the
17 North Vietnamese in Paris and the presence of this
18 AID man, whose name I can't remember, and I think even
19 his position as head of this or the co-chairman of this
20 joint thing was all on the public record.

21 You could find out who he was. I just can't
22 remember now.

23 Q. As far as you could tell from their statements
24 and their actions, how important was the letter or was
25 receiving a letter such as the February 1, 1973 letter

1 from Mr. Nixon? How important was that to the North
2 Vietnamese in terms of their bargaining position during
3 the negotiations, the Paris negotiations, the overall
4 negotiations?

5 In other words, was such a letter something
6 that the North Vietnamese negotiators insisted on receiving
7 in order to sign the accords?

8 A. No, I don't think so. But I think that, that the
9 convening of the session and the effort to establish a
10 joint commission which would study all these things was
11 probably something that had been adumbrated to them,
12 that they were going to have this as part of the carrot
13 process.

14 My recollection, again, was to use the letter
15 to define sort of the limits of what we're going to be
16 interested in and the methodology of how we were going
17 to go about it.

18 So, I believe the letter served our purposes,
19 rather than was something that they demanded.

20 (Discussion off the record)

21 MR. KRAVITZ: Why don't we bring in the
22 NSC person and go off the record.

23 (Whereupon, at 3:07 p.m., the taking of the
24 instant deposition was recessed, to reconvene immediately
25 at the ~~DATA~~ -National Security Council document level.)

Stenographic Transcript of
HEARINGS
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

CONTINUED DEPOSITION OF WILLIAM SULLIVAN

Tuesday, July 21, 1992

ALDERSON REPORTING COMPANY
1111 14TH STREET, N.W.
WASHINGTON, D.C. 20005-5650
(202) 289-2260

1 CONTINUED DEPOSITION OF WILLIAM SULLIVAN

2

3

Tuesday, July 21, 1992

4

5

U.S. Senate

6

Select Committee on POW/MIA

7

Affairs

8

Washington, D. C.

9

Continued deposition of WILLIAM SULLIVAN, a
10 witness herein, pursuant to notice, called for examination
11 by counsel for the Senate Select Committee on POW/MIA
12 Affairs, on Tuesday, July 21, 1992, in Room S-407, The
13 Capitol, Washington, D. C., commencing at 3:10 p.m., the
14 witness having been previously duly sworn, and the
15 proceedings being taken down by Stenomask by ANNE P.
16 HOROWITZ, CVR, and transcribed by her.

1 APPEARANCES:

2 On behalf of the Senate Select Committee on POW/MIA
3 Affairs:

4 NEAL KRAVITZ, ESQ.

5 Investigative Counsel

6 JOHN ERICKSON, ESQ.

7 On behalf of the Department of State:

8 JAMES HERGEN, ESQ.,

9 Assistant Legal Adviser for East Asian and
10 Pacific Affairs,

11 Department of State,

12 Washington, D.C. 20520

13 (202) 647-3044

14 On behalf of the National Security Council:

15 John Langley,

16 Office of the NSC Secretariat

17 National Security Council

18 Old Executive Office Building,

19 Washington, D.C.

1 C O N T E N T S2 WITNESS EXAMINATION

3 William Sullivan, Continued

4 By Mr. Kravitz Page 4

5

6 E X H I B I T S

7	<u>SULLIVAN EXHIBIT NUMBER</u>	<u>FOR IDENTIFICATION</u>
8	8	11
9	9	31
10	10	35

11

12 NOTE: Exhibit Numbers 8 and 10 are being retained by the
13 National Security Council. Exhibit No. 9 is attached.

1 P R O C E E D I N G S

2 MR. KRAVITZ: We're back on the record.

3 Whereupon,

4 WILLIAM SULLIVAN,

5 the witness herein, called for examination by counsel on
6 behalf of the Senate Select Committee on POW/MIA Affairs
7 and having been previously duly sworn by the Notary Public,
8 was examined and testified as follows:

9 EXAMINATION ON BEHALF OF THE SELECT COMMITTEE - Resumed

10 BY MR. KRAVITZ:

11 Q. We are now going to start talking about a subject
12 that involves some documents in the National Security
13 Council. Just to put on the record, again, what we'll be
14 doing is marking the documents with exhibit stickers. They
15 will then go back with John Langley to the National
16 Security Council at the end of the deposition, as will the
17 audio tapes and notes of Ms. Horowitz relating to this part
18 of the deposition. There will be a separate transcript
19 prepared for this part of the deposition.

20 A. There will be an 18 1/2 minute gap in this.

21 Q. Well, we hope not.

22 (General laughter)

23 Q. I want to start by asking you a question about
24 something you said yesterday.

25 While we were talking about the time period

1 during which you were Ambassador to Laos, 1964 to 1969, I
2 asked you whether, I asked you what your belief was as of
3 the end of that time period as to whether there were live
4 POW's being held, live U.S. POW's being held in Laos. Your
5 testimony I believe was that you thought that most POW's,
6 most U.S. POW's who were captured in Laos were moved over
7 to North Vietnam.

8 Do you recall that testimony?

9 A. It was my, I recall my assumption that they were
10 successively moved up the chain of command until they got
11 to North Vietnam, but that I did not rule out the
12 possibility that there might be live POW's in Laos. We had
13 no confirming, had no evidence that would confirm that.
14 But we had lots of intelligence reports claiming sightings
15 around Xieng Khuoang and Sam Neua.

16 Q. Okay.

17 At a hearing before the House Committee on
18 Foreign Affairs, Subcommittee on National Security Policy
19 and Scientific Development, held on Wednesday, May 6, 1970,
20 you stated the following. Again, this is the subcommittee
21 chaired by Congressman Zablocki. I'm reading from page 100
22 of the official hearing transcript.

23 I'm going to read your entire answer to one of
24 Chairman Zablocki's I will call it a question but it's
25 really more of a statement.

1 Mr. Zablocki says, "Personally, I would be
2 surprised if there were only one prisoner of war captured
3 in Laos or South Vietnam who has been transferred to North
4 Vietnam." We're discussing the same subject.

5 A. Zablocki said this?

6 Q. Right.

7 Then Mr. Sullivan says, "To the best of our
8 knowledge, U.S. personnel, civilian as well as military,
9 captured in South Vietnam by communist forces are held in
10 various locations in South Vietnam or in adjacent areas in
11 Cambodia. There is no evidence that prisoners captured in
12 South Vietnam have been moved to North Vietnam.

13 "There have been occasional rumors to this
14 effect, but no evidence or reliable indications.

15 "No U.S. serviceman missing or captured in South
16 Vietnam has ever been reported as detained in North Vietnam
17 by North Vietnamese authorities, by released U.S. prisoners
18 or by other sources. There are indications that at least
19 one U.S. prisoner captured in Laos and possibly a few
20 others are detained in North Vietnam.

21 "Available evidence indicates that most Americans
22 captured by communist forces in Laos remain in Laos."

23 Does that change your recollection --

24 A. No.

25 Q. -- as to the frequency with which U.S. prisoners

1 held in Laos were being moved, as you say, up the chain to
2 North Vietnam?

3 Again, this is 1971?

4 A. I don't think this is inconsistent with what I
5 said. My first statement was that it was my assumption
6 that they would be moved up the chain toward more, toward
7 higher echelons of interrogation. But, at the same time, I
8 said there were lots of intelligence reports suggesting
9 they held them out.

10 I think that's more or less consistent with what
11 I'm saying there. I'm not quite sure the numbers that
12 would be involved.

13 What did I say? How many? One that was going to
14 the North?

15 Q. You said there was an indication that at least
16 one U.S. prisoner captured in Laos --

17 A. At least one.

18 Q. -- and possibly a few others are detained in
19 North Vietnam. But then you said, "Available evidence
20 indicates that most Americans captured by communist forces
21 in Laos remain in Laos.

22 A. Well, that was my opinion then and that doesn't
23 change what I said in my testimony.

24 I want to go back once again --

25 Q. Let me just ask one question before you go back.

1 Do you stand by this testimony? In other words,
2 is it your testimony today that, at least as of 1970,
3 available evidence indicated that most Americans who were
4 captured in Laos remained held in Laos?

5 A. That was presumably based on whatever
6 intelligence information I had at my disposal at that time.

7 Q. Is the answer yes?

8 A. But I want to go back once again to make this
9 distinction between northern Laos and the Ho Chi Minh Trail
10 area of Laos.

11 Now, my guess would be that very few people who
12 were captured down in the Ho Chi Minh Trail area of Laos
13 were moved up, back in. But I would think that, of those
14 who were captured, and there weren't all that many, in the
15 northern areas of Laos, that while there might have been
16 some of them held around Xieng Khuoang and some, that
17 others were moved back into North Vietnam.

18 I'm not prepared to make specific estimates of
19 numbers or anything of that sort.

20 Q. I'm not asking you to do that.

21 A. But, basically, that was my conclusion then and
22 my recollection of my conclusion now.

23 Q. Okay. I just wanted to clarify that. I may have
24 misunderstood what you said yesterday. But my
25 understanding of what you said yesterday was that it was

1 your sense that most of the people captured in Laos were
2 moved right up to North Vietnam and up the chain.

3 A. Yes.

4 Q. This seems to indicate that the evidence showed
5 otherwise.

6 A. Well, and I think the evidence after release
7 showed otherwise. In other words, those who were released
8 in Hanoi or from Hanoi were not people who had been moved
9 up the chain, as I indicated my belief was. There were,
10 the ones that were released at Gia Lam, I never have seen a
11 debriefing of them. So I don't remember whether they were
12 people who were shot down north and east of the Plaine des
13 Jars or what they were. There were nine of them. That's
14 all that I recall. And there was a Canadian. I don't know
15 where the hell he came from.

16 Was he a contract pilot or what?

17 Q. I don't know what he was.

18 MR. HERGEN: Just a brief point for the record.
19 I think the record will show that there is a semantic
20 problem here. Yesterday the Ambassador stated on the
21 record, after some discussion, that there was some
22 confusion and that when he was discussing prisoners and
23 Laos, he was referring to Laos, the area that was SAR
24 responsibility for the embassy and not the southeast
25 quadrant which was under MACV control.

1 I think the record will show that. So there is a
2 possible semantic problem.

3 MR. KRAVITZ: Well, the record will speak for
4 itself.

5 MR. HERGEN: Right.

6 MR. KRAVITZ: As does the record from the
7 Ambassador's testimony in 1970, which makes absolutely no
8 distinction between --

9 MR. HERGEN: I'm not doing an argument.

10 MR. KRAVITZ: I know. But I just, I mean, the
11 record from 1970 makes no distinction between the two
12 areas.

13 THE WITNESS: Was this on the, was this an open
14 hearing?

15 MR. KRAVITZ: I assume it was, but I don't know
16 the answer to that.

17 THE WITNESS: Then if so, I was probably still
18 enjoined against speaking of the fact that we were
19 operating in the Ho Chi Minh Trail area on the ground
20 because that was secret operations.

21 BY MR. KRAVITZ (Resuming):

22 Q. Okay. So you would have been referring then to
23 the people captured in --

24 A. I was just making a --

25 Q. But you would have been referring then to the

1 people captured in northern Laos?

2 A. I was referring to all of Laos.

3 Q. Okay.

4 A. I was not making the distinction publicly because
5 I was not at that time permitted to do so.

6 Q. But you were certainly including prisoners
7 captured in northern Laos in your statement that "available
8 evidence indicates that most Americans captured by
9 communist forces in Laos remained in Laos."

10 A. Yes. Right.

11 Look at the deletions. This looks like the FBI
12 transcript of my telephone tap.

13 (General laughter)

14 MR. KRAVITZ: The record should reflect that the

15 --

16 THE WITNESS: I got it by, I had to get it by
17 Freedom of Information, and when it came back it was all
18 that way.

19 MR. KRAVITZ: The record should reflect that the
20 Ambassador is referring to the NSC's handiwork that has
21 been perpetrated on this NSC document, the remains of which
22 I have just marked as Exhibit No. 8 to this deposition.

23 (The document referred to
24 was marked Sullivan
25 Exhibit No. 8, for

1 identification, and was
2 retained by the National
3 Security Council.)

4 BY MR. KRAVITZ (Resuming):

5 Q. Ambassador, what this is, Exhibit No. 8 and the
6 cover sheet is a memorandum to Dr. Kissinger dated February
7 1, 1973, informing him that attached to the top page are
8 the minutes of the WSAG meeting of January 29, 1973, at
9 which Vietnam planning was discussed. And then the
10 remainder of the --

11 A. Was I present?

12 Q. Yes.

13 A. Strange. I thought I was in Paris.

14 Q. Well, actually, I take that back. You were not
15 present. This is about the only one that you were not
16 present at.

17 Well, I'm going to show you or read to you from
18 the minutes some of the statements made by others, and I
19 understand now that you were not there. But I want to ask
20 you whether you knew what the basis of any of these
21 statements were.

22 MR. KRAVITZ: Jim, did you have a comment?

23 MR. HERGEN: No, no comment.

24 BY MR. KRAVITZ (Resuming):

25 Q. I'd invite you to --

1 A. It would be ruled out on appeal. The record will
2 speak for itself.

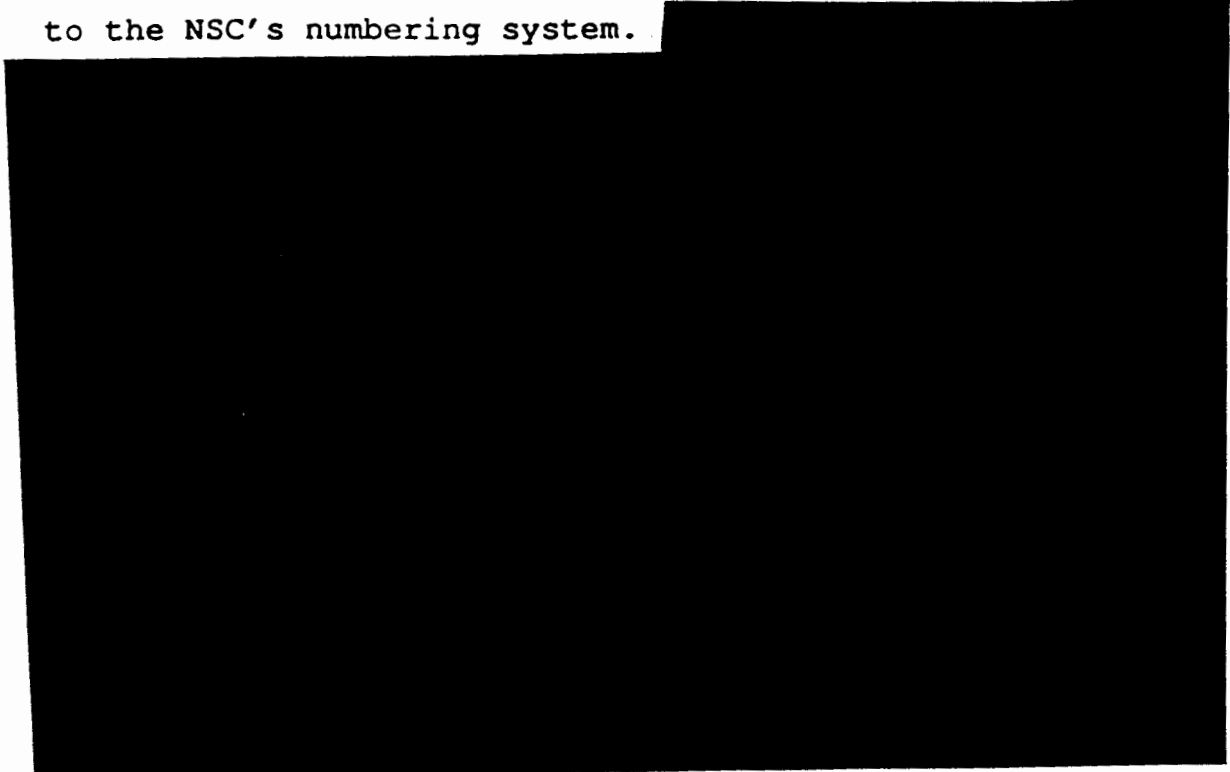
3 (General laughter)

4 MR. KRAVITZ: I would invite Mr. Hergen to try to
5 prepare for depositions with documents that he can't have.

6 (General laughter)

7 BY MR. KRAVITZ (Resuming):

8 Q. Just to place this meeting in context temporally,
9 as you recall, January 27 is the date the Accords were
10 signed and the DRV's lists are provided to us. It's not
11 until February 1 that the DRV provides the so-called Laos
12 list of ten prisoners.

13 I'm now reading starting on page 84 of, according
14 to the NSC's numbering system. 

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*Page
Del*

POLICY
DEUB

1 Mr. Kissinger, "[REDACTED]
2 [REDACTED] Were there any surprises in the
3 list of POW's in North Vietnam?"

4 A. In North Vietnam?

5 Q. Right.

6 [REDACTED] "It was pretty close to what we
7 expected. We're hoping for 40 more on the list of those in
8 Laos."

POLICY
DEUB

9 I'm going to keep reading.

10 *Dod* [REDACTED]
11 A. [REDACTED]

POLICY
DEUB

12 Q. -- who was from DOD.

13 A. CIA? CIA.

14 Q. He's listed here as being [REDACTED]
15 [REDACTED] from Defense.

POLICY
DEUB

16 A. Well, he later became Deputy Chief of CIA. So
17 maybe at that stage he was still in DOD.

18 Q. Okay.

19 In any event, he says, "The information they have
20 given us about prisoners in North Vietnam is quite
21 accurate. We don't know what we will get from Laos. We
22 have only six known prisoners in Laos, although we hope
23 there may be 40 or 41. We have known very little about the
24 caves where they keep the prisoners in Laos. We just got
25 the first photos of those caves recently and our impression

1 is that they are pretty big. We think they are holding a
2 lot more than six prisoners there."

3 Do you have, do you know what the basis of the
4 statements made by ^{JCS} [redacted] and ^{DOD} [redacted] were, *POLICY DELIB*
5 that there were, as [redacted] said, he said, "We are
6 hoping for 40 more on the list of those in Laos," and then
7 ^{DOD} [redacted] said, "We hope there may be 40 or 41." And
8 then he also says, "We think they are holding a lot more
9 than six prisoners there."

10 Do you know what type of information,
11 intelligence information, those statements, or
12 expectations, or hopes, however you might want to
13 characterize them, were based on?

14 A. No, I don't.

15 Did you ask ^{DOD} [redacted] or ^{JCS} [redacted]? *POLICY DELIB*

16 Q. We have not yet met with [redacted]. ^{DOD}

17 A. I would think you'd better direct the question to
18 them.

19 Q. Okay. Obviously we can direct the question to
20 them.

21 A. Oh, I have no idea. I was in Paris, as I said,
22 and I don't recall having any specific numbers that I was
23 anticipating to get from Laos.

24 Q. Do you recall --

25 A. Incidentally, on my staff, a man who followed this

1 and followed the numbers was Frank Sieverts. But Frank
2 never attended WSAG meetings. But he might have more
3 knowledge about whether we had some numbers that were
4 justified by intelligence that would add up to those
5 figures. I don't recall.

6 Q. Do you recall what your reaction was on February
7 1, 1973, when the DRV the so-called Laos List of 10 names?

8 A. Yes, and I remember that all of us were not only
9 disappointed but rather shocked that it was such a small
10 list. But I have no idea how, you know, how they came to
11 the figures of 40 and 41.

12 Q. Who was included in your term "all of us" as
13 people who were disappointed?

14 A. Well, basically, it was George Aldrich and I had
15 with me at that time I think General Woodward and Colonel
16 Miles. I think I had Colonel Dillard.

17 Was he there? I had another military man. I
18 don't know who he was.

19 Q. Where were you? In Paris?

20 A. Paris. Uh-huh.

21 Q. My understanding is that Dr. Kissinger was in
22 Paris on February 1 as well. That was the day he delivered
23 the letter from President Nixon.

24 Do you recall what Dr. Kissinger's reaction to
25 the Laos list was?

1 A. Well, if he was there, then I think all of us
2 shared in that. I didn't remember that Henry came back
3 that soon. February 1, what were we doing on February 1
4 aside from receiving the Lao list?

5 Was that when we had this meeting that you
6 referred to, where we delivered the letter from Nixon?

7 Q. Right. That's when the letter was delivered.

8 A. Okay. Then that's what we were doing then.

9 I was staying on. I don't think I went back at
10 that time because we were still tidying up. Well, I can't
11 remember when Woody went back to Vietnam.

12 Q. Well, my question was do you recall what Dr.
13 Kissinger's reaction was to the Laos List?

14 A. No, I don't. But I would include him in the
15 general sentiment that I recall at that time, which was
16 that we were disappointed and more than a little disturbed
17 that it was so few.

18 Q. Was the level of disappointment, or shock, or
19 being disturbed higher than the level of disappointment we
20 had had at the release of the list of U.S. prisoners in
21 Vietnam five days earlier?

22 A. Well, as you heard from this statement here, the
23 figures from Vietnam and the names tallied pretty closely
24 with what we anticipated and what our own services were
25 providing us, with the exception of that group that --

1 Q. The 80 files?

2 A. You say 80. I don't remember how many it was.
3 But we carried some files to Hanoi. When did we go to
4 Hanoi? It was shortly thereafter, in February.

5 Q. I think it was February 10.

6 A. I guess maybe I speak because of my own long
7 association with Laos, but my own expression of chagrin
8 being significant. I assume everybody else had about the
9 same level of chagrin. But certainly it was something that
10 was somewhat closer to my own experience than North Vietnam
11 was.

12 Q. The portion of the WSAG meeting minutes that I
13 read into the record a few minutes ago included a couple of
14 statements by various people indicating that the Laos list
15 was promised to us for January 30 because this meeting was
16 on January 29, and I think I read into the record a
17 statement by Admiral Moorer to the effect that the day
18 before that we had been promised that the list would come
19 in two days.

20 Do you have any recollection as to why the
21 delivery of that list was delayed from January 30 to
22 February 1?

23 A. No, I don't. But we often ran into confusion on
24 dates because of time zones. I can speak more specifically
25 to negotiations with Chinese where they were, because

1 Beijing gave them the date on things and it was always one
2 day out of phase. But they wouldn't dare touch it. And
3 so, it stayed on there even though it was a day earlier.

4 Q. Why wasn't the Laos list required to be turned
5 over on January 27, the same day as all the other lists?

6 A. Well, first of all, as you have gone through in
7 extenso here, the understanding was not part of the
8 agreement, and I think this was an effort on the part of
9 both the Vietnamese and their Pathet Lao to attempt to draw
10 the distinction that didn't really exist between the two
11 entities.

12 Q. Is it your testimony, then, that from the time
13 the side understanding was reached on January 9, 1973, it
14 was understood that the Laos List would be --

15 A. No.

16 Q. -- turned over at a different time?

17 A. No, just one of their pleasant little surprises
18 that they constantly had for us.

19 Q. Well, did you expect that the Laos List would be
20 turned over?

21 A. Sure. We all expected to receive a consolidated
22 list or a list on which there would be two components. But
23 their method of making the distinction obviously involved
24 time as well as space.

25 Q. Is there anything more than a mere coincidence

1 between, a mere coincidence that the Laos list and the
2 Nixon letter were both delivered on or exchanged,
3 essentially exchanged on February 1, 1973?

4 A. You've been with this committee too long.

5 (General laughter)

6 A. No, there's no conspiracy involved in that. I'm
7 quite sure.

8 Q. I didn't ask you if there was a conspiracy. I
9 asked you whether that was a mere coincidence.

10 A. I think it was a mere coincidence. But I have no
11 way of stipulating why they chose that date.

12 It may have been, indeed, that Le Duc Tho came
13 back at that stage with the Lao List in his pocket and
14 Henry came back at that same date. But I don't know. I'm
15 not even sure I was meeting with the Vietnamese on the
16 30th. Somebody from my staff probably was in touch with
17 them.

18 Q. Okay. But you recall no connection between those
19 two events?

20 A. No.

21 (Discussion off the record.)

22 BY MR. KRAVITZ (Resuming):

23 Q. Ambassador, we have been told --

24 A. Go ahead.

25 Q. -- that shortly after the receipt on February 1,

1 1973, of the so-called Laos List officials in the U.S.
2 Government determined that every American on the list, all
3 nine of the Americans on the list, were people who had been
4 captured by North Vietnamese forces, NVA forces, in Laos
5 and had been held in Hanoi, and that, in fact, none of the
6 nine had been held in Laos by the Pathet Lao or by the NVA.

7 A. You say you have been told. Have you been able
8 to document that?

9 Q. We do have documents.

10 A. I mean the POW's themselves said that they were
11 in Hanoi?

12 Q. We don't have documents, I don't have documents
13 saying that because the Defense Department won't let us
14 look at the debriefing. But I can show you --

15 A. Well, people like John McCain would remember.

16 Q. Except he was a North Vietnamese prisoner.

17 A. Sure. But you just told me that they were held
18 in North Vietnam.

19 Q. Yes. But he was someone who was, he was shot
20 down in North Vietnam.

21 A. I understand. But John would know who was in
22 prison with him.

23 Q. Okay. Let me show you --

24 A. Now this is something which should not be a
25 matter of speculation. If you do your homework properly,

1 you could find out that one way or another yes or no. I'm
2 not about to engage in a speculation on it.

3 Q. Okay. I'm satisfied that we have done our
4 homework plenty well.

5 My question is whether and if so when you became
6 aware that that was the case?

7 A. One minute ago, when you told me.

8 Q. I'm going to show you --

9 A. However, this would seem to confirm what I had
10 speculated earlier, that they were passed further up the
11 line.

12 Q. Or at least some were.

13 A. Some were.

14 Q. Which doesn't mean they all were.

15 I'm going to show you --

16 A. Let me just ask, to be clear, this is an
17 operating assumption that you have, but not authenticated,
18 not qualified by anybody's official staff?

19 Q. I'm going to show you some official documents
20 which --

21 A. Say yes or no on this question.

22 Q. -- which say it certainly was the belief of the
23 Defense Intelligence Agency as of March 21, 1973, that that
24 was the case. My understanding is that the debriefs of the
25 returning POW's confirmed this information.

1 A. Okay.

2 Q. I don't have to show you today a document that
3 says I debriefed the nine returning POW's.

4 A. No. But I want to know whether it's the
5 operating assumption of the question.

6 Q. It is the operating assumption of the committee
7 that the nine prisoners, U.S. prisoners on the Laos List
8 were people who were captured in Laos but who were, in
9 fact, prisoners of and held by the North Vietnamese in
10 Hanoi, rather than in Laos.

11 I'm going to show you and I'm going to mark this
12 as an exhibit because this is permanently in the Senate
13 Security files here --

14 A. Can I ask you another piece of information? Were
15 any POW's ever returned who had been captured in the Ho Chi
16 Minh Trail area in the south?

17 Q. I don't know the answer to that.

18 MR. ERICKSON: Off the record.

19 (Discussion off the record.)

20 MR. KRAVITZ: We're back on the record.

21 BY MR. KRAVITZ (Resuming):

22 Q. What I'm about to show the Ambassador is a
23 document which begins at page 779 of the Joint Chiefs of
24 Staff files here in the Office of Senate Security. It's a
25 March 21, 1973 memo from the Acting Director of the Defense

1 Intelligence Agency, General John R. Deane, Jr -- that's D-
2 E-A-N-E -- to the Chairman of the Joint Chiefs of Staff,
3 Admiral Moorer. Subject is Information Pertaining to
4 POW/MIA situation in Laos.

5 What I'd like you to do is just take a couple of
6 minutes to read pages 779 through 782. 779 is the cover
7 sheet and indicates that this memo, this March 21 memo, is
8 an update of a February 6 memo that was prepared in
9 response to a request from Dr. Roger Shields for
10 transmittal to Dr. Kissinger. The time certainly is
11 consistent with a preparation memo for a trip to Hanoi,
12 although I don't know for a fact that that was what it was
13 prepared for.

14 A. March 21?

15 Q. No. The March 21 is an update of a February 6
16 memo.

17 A. Oh, I see.

18 What was the date of the actual release of the
19 POW's in Laos, the Gia Lam release?

20 Q. They were released on March 28.

21 A. The 28th. So this was before the release?

22 Q. That's right. It addresses the question whether
23 the so-called Laos List is a complete list or not.

24 If you could, just take a few moments to read
25 that and then tell me when you're done.

1 (Pause)

2 A. I'm through. Is this part of it?

3 Q. Those are some attachments.

4 I think as long as you read the first four pages
5 that you're probably fine.

6 A. Where is enclosure 2?

7 (Pause)

8 A. Were these the so-called File of 80?

9 Q. No.

10 Just for the record, the Ambassador is looking at
11 pages 789 through 790-something, which are one page reports
12 on various missing persons in Laos. Those are, my
13 understanding is that those are summaries of the loss
14 information known about people who were believed to be
15 prisoners in Laos but who were not on the so-called Laos
16 List of 10.

17 A. Certainly the Debruin and Hrdlicka names are,
18 ring a bell with me. Am I --

19 Q. No. If you could, stop.

20 A. I never did find enclosure 2, which I guess is
21 not there, which was the original memo presumably prepared
22 for us to take down.

23 Q. We've never seen that.

24 A. Oh, I see. I thought it was in there.

25 Q. That was a memo that was never located by the

1 Defense Department in response to our request. So the only
2 thing we know about the February 6 memo is that on March
3 21, General Deane says that this new memo is an update of
4 the earlier version.

5 A. Let me just understand. This is, you had to get
6 this from NSC rather than from Defense?

7 Q. No. This is something we have from Defense
8 Department.

9 A. Oh.

10 Q. We're just going back and forth between the two
11 sets of documents, and I figured it was better just to have
12 Mr. Langley stay in the room so that we don't have to
13 switch too many times.

14 A. All right. Okay.

15 Q. But this is a Defense Department document.

16 Assuming that this document is accurate when it
17 says that a memo was sent on February 6 in 1973 to Dr.
18 Shields for transmittal to Dr. Kissinger, is that the type
19 of document that you would have seen in light of the fact
20 that you were preparing to go to Hanoi with Dr. Kissinger
21 at that time?

22 A. Probably. I mean, I don't suggest that it went
23 through me to Kissinger. But if it was part of the stuff
24 that Henry was carrying to Hanoi, I'm sure he would have
25 shared it with me.

1 Q. Do you recall having seen either this March 21,
2 1973 memo from the DIA's Acting Director or the predecessor
3 memo from February 6, 1973?

4 A. No, I don't recall.

5 Q. Do you recall being aware of the concerns and the
6 reasons for those concerns stated in this March 21 memo
7 regarding the perceived incompleteness of the so-called
8 Laos List?

9 A. Well, we in the embassy in Vientiane were
10 concerned every time a prisoner fell into the hands of
11 local tribal people in communist controlled areas of
12 northern Laos because we didn't think they would survive.
13 They would either not survive because they would be killed
14 or because they would be maltreated during their
15 incarceration.

16 Q. Okay. If I can interrupt, right now, I don't
17 want to ask you right now what your opinion was as to
18 whether people could have survived and as to whether there
19 really were people left behind. My question was were you
20 aware, as of February and March, 1973, that there were
21 concerns being voiced or expressed by certain high level
22 U.S. Government officials as to the perceived
23 incompleteness of the so-called Laos List, regardless of
24 whether the list was, in fact, complete or incomplete.

25 Were you aware that there were high level

1 government officials who apparently believed that the Laos
2 List was incomplete?

3 A. I suppose so, but I can't confirm that.

4 There was a general sense of dismay with the fact
5 that the Lao List was so short. But I don't recall having
6 seen this memo and I don't recall having seen that dismay
7 phrased in exactly the terms that you have there.

8 Q. I mean, for example, on page 781, in the summary
9 section, General Deane states the "PLF list" provided on 1
10 February, 1973, does not represent U.S. POW's captured by
11 the Pathet Lao. There is evidence that the Pathet Lao have
12 information on captured/missing U.S. personnel and should
13 be able to provide a list of alive U.S. POW's in addition
14 to information on the fate of many others.

15 A. I would say that misrepresents, that represents a
16 misunderstanding of what the PL, what the Pathet Lao was.

17 As I said earlier, in my judgment, there may have
18 been as few as 500 Pathet Lao in all, in all Laos. I was
19 never aware of a military engagement between a force that
20 could be, a friendly force on our side and one that could
21 be definitively identified as Pathet Lao in that part of
22 the country. There were some down in the Bolovens Plateau
23 and elsewhere. But almost every military engagement in my
24 memory that took place between our friendly forces in the
25 north took place against North Vietnamese regular forces.

1 So the suggestion that somehow or other there was
2 a large, organized force of Pathet Lao indicates that
3 General Deane or some of his subordinates didn't really
4 understand the situation on the ground.

5 Q. At pages 780 and 781, there are also, as you've
6 just read, several references to --

7 A. Soth Petrassy.

8 Q. -- boasting type statements made by Soth Petrassy
9 that, I think it's fair to say, are given substantial
10 weight by General Deane in this memo.

11 Is it your opinion, based on your knowledge of
12 Soth Petrassy, that the weight that General Deane appears
13 to give those statements is misplaced?

14 A. Well, I don't know how much weight he or his
15 drafting people subjectively gave to him. But the way it's
16 stated, I certainly would say it's totally misplaced. Soth
17 Petrassy was not in a position to know or to have any
18 knowledge of what was going on in the arrangements with
19 respect to North Vietnamese negotiations with us.-

20 Q. You've told us that more than likely at least the
21 February 6, 1973 memo would have come to you in --

22 A. No, not come to me. But I probably in the course
23 of flying out from wherever we flew from to Hanoi, we took
24 usually Air Force 2, and Henry and I had the only two bunks
25 on the plane. So we usually shared all our documents at

1 that stage. And I assume he would have shown me that. But
2 I don't recall ever seeing it.

3 Q. Was the issue of the size of the Laos List
4 discussed during your February, 1973 trip to Hanoi? And
5 when I say "discussed," I mean discussed with the DRV?

6 A. Yes, I was trying to think of that. I can't
7 categorically state that it was, but I feel it must have
8 been. I can't believe we would have gone in and out
9 without having discussed it.

10 Q. And you say that because of what?

11 A. Because of the general reaction that prevailed
12 when we got the list, contrasting to the rather accurate or
13 rather detailed coincidence between the North Vietnamese
14 list and our own services' estimates of people who were in
15 North Vietnamese hands.

16 Our own services' estimates, for reasons that may
17 be based on inaccurate understandings of the situation,
18 appeared to be higher.

19 Now, I don't, I didn't have all that detailed
20 information. But I certainly had the impression from the
21 services that they were carrying a higher level than Laos.

22 I don't know the source, for instance, for Tom
23 Moorer's statement of 40 to 41. This statement talks in
24 terms of significant higher numbers than that.

25 So there's a gap here somewhere in what you have

1 in the way of information.

2 We all, however, at that stage were considerably
3 let down by the Laos List. It was not what we'd hoped for.

4 But as I started to say earlier, many of us felt
5 that the possibilities of people shot down in the hands of
6 or falling into the hands of unfriendly tribal units up in
7 the northern regions of Laos had very little chance of
8 survival.

9 Q. I'm going to show you a cable dated March 22,
10 1973, from your successor in Vientiane, Ambassador Godley,
11 to the Secretary of State. This document -- actually, I'm
12 going to put an exhibit sticker on it.

13 MR. KRAVITZ: We're going to mark it as Exhibit
14 No. 9. It appears at pages 8 through 11 of a file numbered
15 OSS-92-3110.

16 (The document referred to
17 was marked Sullivan
18 Exhibit No. 9, for
19 identification.)

20 BY MR. KRAVITZ (Resuming):

21 Q. You're certainly free to read the whole thing if
22 you like.

23 A. This is the text of the agreement?

24 Q. No. This is, it's a message from Ambassador
25 Godley to the Secretary of State copied to the White House

1 and some other addressees. The subject is U.S. PW's in
2 Laos.

3 In essence, what the cable states, and I'm going
4 to read, I'm going to quote from it in a moment, but in
5 essence what the cable states is that we believe that there
6 are more live U.S. POW's held in Laos than the nine who
7 appear on the so-called Laos list. However, our sense is
8 that the Pathet Lao have turned so recently to the issue of
9 really organizing their accounting for U.S. POW's that
10 they're just not going to be able to get it together by the
11 end of the 60 day period, which is rapidly approaching, in
12 order to get all of the U.S. POW's released in time. And
13 it recommends that the U.S. simply insist on the return of
14 the nine from the Laos List by the end of the 60 day
15 period, which is the end of March and then continue working
16 in the future to obtain the release of the additional live
17 prisoners.

18 Specifically, on page 9, Ambassador Godley
19 writes, "We believe the LPF holds, throughout Laos, more
20 prisoners than found on the DRV list, but we believe that,
21 for the time being, we should concentrate our efforts on
22 getting these nine listed men repatriated as soon as
23 possible. The release of the nine PW's already
24 acknowledged seems possible within the timeframe of the
25 Vietnam agreement. However, we do not believe it is

1 reasonable to expect the LPF to be able to produce an
2 accurate total PW list by March 28. The LPF just has not
3 focused on the PW repatriation and accounting problem until
4 very recently and probably cannot collect, in the next few
5 days, the information we require. Therefore, we believe we
6 should continue to press for the release of the nine
7 acknowledged U.S. PW's within the time limit of the Vietnam
8 Agreement, but deal with the questions of accounting for
9 our MIA's and determining whether there are additional PW's
10 to be repatriated, within the framework and time limits of
11 the Laos ceasefire and military protocol."

12 If you'd like to take a look at the entire cable,
13 you're certainly welcome to. I was reading --

14 A. What's your question?

15 Q. My question is, first of all, is that a cable
16 that you would have received as Deputy Assistant Secretary
17 of State in Washington?

18 A. March 20. Oh, lord. I don't know when I was
19 first nominated to be Ambassador in the Philippines. Do
20 you?

21 Q. No.

22 Q. My guess is by this time I would have detached
23 myself from responsibilities involving the agreements in
24 Vietnam and Laos and so forth and would have been in the
25 Philippine area preparing for hearings in the right

1 honorable Senate.

2 What happened was I came up for hearings. I had
3 my hearings, and then the 60 day, the accords, the
4 agreements, particularly between the two Vietnamese bodies,
5 started to fall apart. So I went first out to Saigon and
6 then I went back to Paris, and I spent another couple of
7 months trying to patch that all together.

8 But I don't recall this and I'm not sure that I
9 would have been in, any longer in the chain regarding this.
10 I would have thought that by that time I was probably
11 getting prepared for the Philippines, even though I had to
12 interrupt that by going back over to Paris.

13 So my answer is I don't know. But I think it
14 probably was after my watch.

15 As far as I can see, it doesn't give any
16 rationale for his feeling or the embassy's, for their
17 feeling about why there were more live POW's in Laos. Does
18 he?

19 Q. I don't recall him giving any.

20 A. No, not in that message. But I just wonder if
21 anything else.

22 Did you depose him on this subject?

23 Q. Yes. But I can't tell you what he said.

24 A. Okay.

25 Q. Much as I'd like to.

1 Let me see if, first of all, looking at this
2 document refreshes your recollection as to your whereabouts
3 at that time. It certainly, it may give you some
4 indication. I can already tell you it's not going to
5 answer your question completely.

6 This is a -- well, you were apparently present on
7 March 13, 1973 at a WSAG meeting. I don't know whether
8 that helps you put in time where you would have been ten
9 days later.

10 A. No, only that I know that in the timeframe
11 somewhere along there the President nominated me for the
12 Philippines.

13 MR. KRAVITZ: I have now just marked as Exhibit
14 10 a set of documents relating to a WSAG meeting on March
15 13, 1973, and the top page, again, is a memorandum for Mr.
16 Kissinger dated March 16, 1973, from Jeanne Davis,
17 informing him that the minutes from the March 13 meeting
18 are attached.

19 (The document referred to
20 was marked Sullivan
21 Exhibit No. 10, for
22 identification, and was
23 retained by the National
24 Security Council.)

25 BY MR. KRAVITZ (Resuming):

1 Q. At this meeting, the discussion centers around
2 what to do in response to the many violations of the
3 agreement that had already been identified. And, in
4 addition, there's, one of the violations or possible
5 violations that are discussed has to do with, again,
6 concerns over the completeness of the so-called Laos List.

7 I'm now reading from page 114. This is when you
8 actually chimed in with a comment that made it in here.

9 A. All my careful efforts to leave no tracks may
10 have been violated by having said something.

11 (General laughter)

12 Q. Well, it probably was someone else who said it
13 just under your name. But your name does appear here.

14 (General laughter)

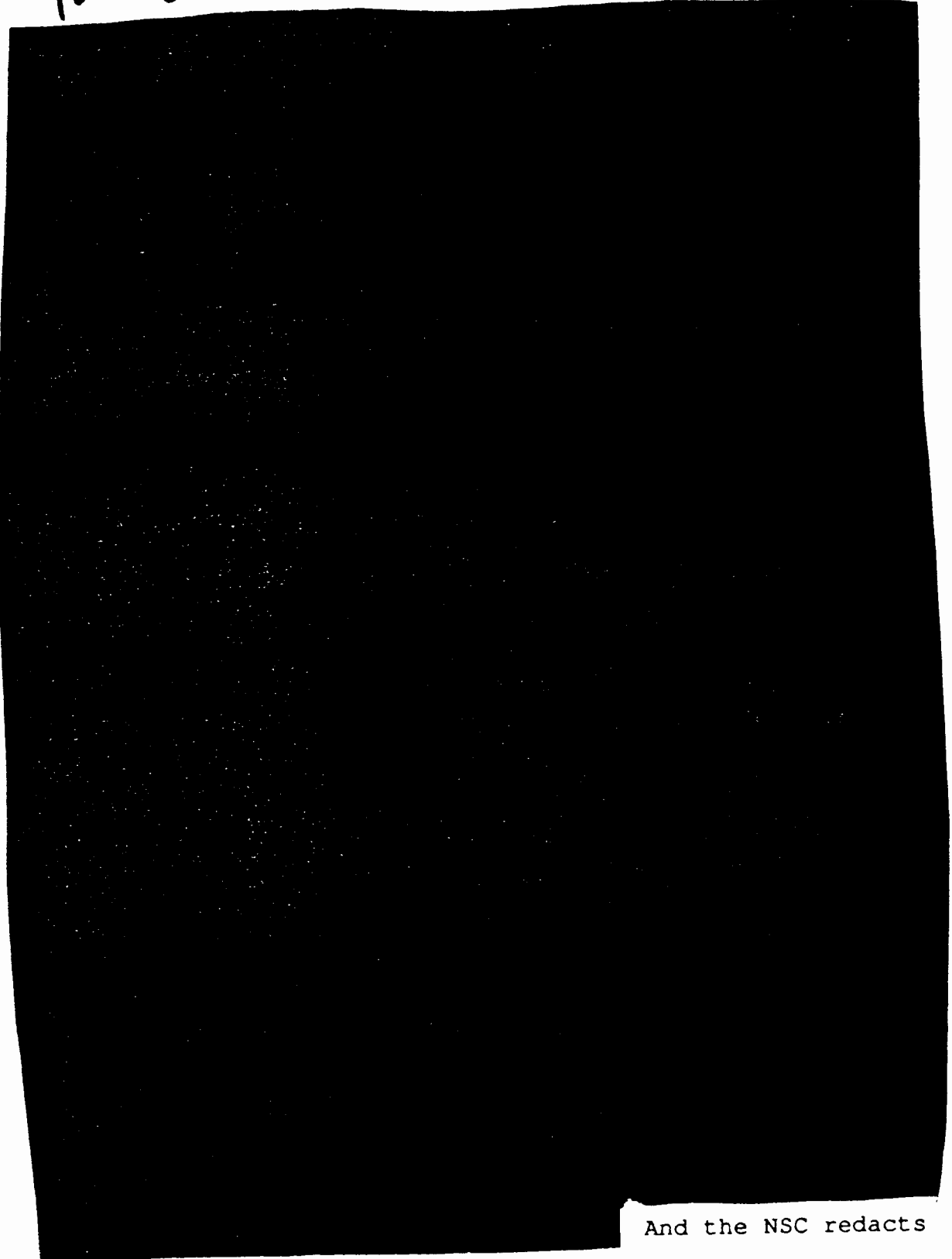
15 Q. There's a discussion going on as to whether we
16 will withdraw our troops before or after the release of the
17 POW's listed on the so-called Laos List.

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And the NSC redacts

1 the rest.

2 The NSC has redacted the rest of the document.
3 So that's what we have.

4 Do you recall, does that refresh your memory as
5 to any discussion on this subject at a WSAG meeting?

6 A. No. I mean, obviously Jeanne Davis took it to be
7 accurate. But I don't recall. I don't recall that, and I
8 don't recall conversations that they had -- I assume the
9 conversations were taking place in Vientiane between
10 Godley's people and some Pathet Lao. Is that right?

11 Q. You're the one who made the statements. I don't
12 know the answer to that question.

13 I guess my question to you is --

14 A. No. My answer is I don't recall any of this.

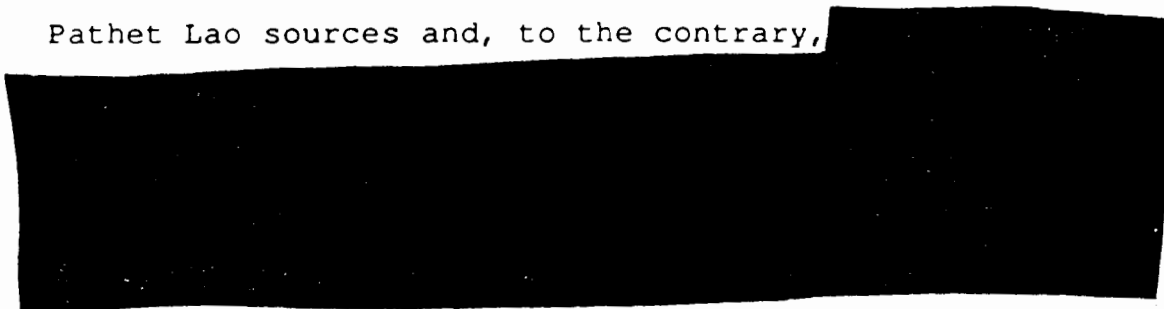
15 Q. You don't know who you were referring to on march
16 13, 1973, when you were saying that the Pathet Lao had told
17 us on several occasions that they held more than the number
18 on the Laos List?

19 A. No. But I assume that it was in the context of
20 discussions that Mac or members of his embassy were having
21 in Vientiane with people like Soth Petrassy and others. I
22 don't believe there were any more senior Pathet Lao in
23 Vientiane at that time. So they might have been dealing
24 with that same fallible source.

25 Q. I don't see any mention in your comments at the

1 meeting as to your low opinion of the credibility of the
2 Pathet Lao sources and, to the contrary,

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7 Isn't that inconsistent with what you've told us
8 your opinion as to the credibility of the Pathet Lao
9 spokesman was?

10 A. I don't find it so. No. I find that an effort
11 to -- wait a minute. I assume what it was was an effort to
12 get Henry to get the North Vietnamese to put some steam on
13 the Pathet Lao either to shape up and tell us what they did
14 know or else to be more forthcoming and say that they don't
15 have any more information.

16 Q. Well, why bother with that if you just
17 disbelieved everything that the Pathet Lao said?

18 A. Because it was static that was gumming up the
19 atmosphere. It still is, to this day.

20 Now let me say I have no knowledge and I don't
21 believe anybody in Washington or any U.S., any of the U.S.
22 establishment, has any knowledge of what may have been the
23 facts in this case. But I would be prepared to believe
24 that Soth Petrassy didn't know what the facts were.

25 If there were POW --

1 Q. Do you mean by that that Soth Petrassy, your
2 opinion was that Soth Petrassy did not know whether there
3 were additional U.S. prisoners --

4 A. That's right.

5 Q. -- of war in Laos or not.

6 A. Right. He was so far cut off from the actual
7 locus where these things were taking place.

8 Q. Who would have known the answer to that question?

9 A. Souphanouvong would have known. But he was in
10 Hanoi.

11 Q. Anybody else?

12 A. General Singkapo probably.

13 Q. Where was he?

14 A. Hanoi. Sometimes in Sam Neua. But I think we
15 have to realize that the Pathet Lao was, at least never in
16 my time in Laos, conceived as being an organized military
17 force. They had a few elements for display so that they
18 could claim some independent existence. But the military
19 operations were run by them, regular forces of the
20 Vietnamese.

21 Now, there were hostile villages, that is to say
22 hostile to Americans, because we had bombed the bejesus out
23 of them several times -- Black Thai, Hmong, people up in
24 that Xieng Khuoang, Phong Saly, Sam Neua area -- who I
25 suppose nominally could be considered under a Pathet Lao

1 umbrella, who would probably have reacted in a hostile way
2 to any American falling into their hands. And I think a
3 number of them did fall into their hands.

4 So whether any of them survived and were alive is
5 something that we never knew at the time, and if we didn't
6 know it, Soth Petrassy didn't know it.

7 Q. Do you know what Mr. Clements, the Deputy
8 Secretary of Defense, was referring to at the end of the
9 conversation I just read to you when he asked Mr. Kissinger
10 --

11 A. Your channel?

12 Q. -- "Will you handle this through your channel?"

13 A. No. Le Duc Tho.

14 Q. Okay. So the channel was simply a channel of
15 communication between Kissinger and Le Duc Tho?

16 A. Right.

17 Q. Do you recall any --

18 A. What was the date of this meeting?

19 Q. March 13, 1973.

20 A. Oh. We'd still be in touch with Le Duc Tho.

21 Q. Do you recall any follow-up on that issue from
22 any, any word back from Dr. Kissinger as to what, if
23 anything, he had learned from his communications with Le
24 Duc Tho?

25 A. When did, in your 60 days to peace, when did

1 Woody, Woodward, get the word from his opposite numbers
2 that these people would be released at Gia Lam on the --

3 MR. ERICKSON: The 27th.

4 THE WITNESS: He got it on the 27th. It could
5 have been a follow-up.

6 BY MR. KRAVITZ (Resuming):

7 Q. But that, of course, all of those discussions and
8 negotiations were addressed to the release of the 10 people
9 who were on the list.

10 A. Right.

11 Q. And what was being discussed at the WSAG meeting
12 on March 13, 1973, was the --

13 A. Was the completeness of the list.

14 Q. -- was the possibility that there were people in
15 addition to the 10 on the Laos List.

16 A. Right.

17 Q. So it's really a different issue.

18 A. Well, it's two sides of the same issue. Yes.

19 But I don't recall this conversation that you've
20 just read to me now.

21 Q. Okay.

22 Elsewhere in this, in what's left of these
23 minutes that I've marked as Exhibit No. 10, there's a
24 discussion as to five what are called response levels, five
25 different options of responses to --

1 A. That we might take.

2 Q. Right, that we might take to the perceived
3 violations of the accords, not only the concerns about the
4 completeness of prisoner lists --

5 A. Right.

6 Q. -- but all the other violations that were being
7 discussed.

8 And, according to the summary of conclusions
9 which begins on page 104 and is part of the minutes, it was
10 agreed that "the best military option appears to be a
11 resumption of bombing the trails in Laos as soon as
12 possible after the third tranche of POW's is released,
13 possibly followed later by bombing of the DMZ and the area
14 between the DMZ and the South Vietnamese lines, if
15 necessary. The final decision will be made by the
16 President."

17 I don't recall where in the list of five this
18 chosen option fell. But it was somewhere in the middle of
19 the five. I think it was somewhat closer to the more
20 aggressive response levels than the less aggressive
21 response levels that were being discussed.

22 A. When you say the "chosen" one, the one the
23 President decided on?

24 Q. Well, no. The one that was agreed upon by the
25 WSAG group.

1 A. Recommended to the President.

2 Q. Recommended to the President.

3 Well, let me just ask you: when the minutes
4 indicate that it was agreed by the WSAG that a certain
5 option should be recommended, does that mean that it was a
6 unanimous agreement among the participants in that WSAG
7 meeting or that it was merely a consensus, or something
8 else?

9 A. It was more like a consensus. We didn't take
10 votes, and if there was a vigorous objection by somebody,
11 then it was usually resolved outside the WSAG.

12 Q. This document indicates that Dr. Kissinger was
13 present at the meeting. Does the fact that the minutes say
14 that it was agreed that this option should be recommended
15 to the President indicate one way or the other to you
16 whether Dr. Kissinger would have agreed with this
17 recommendation?

18 A. If he disagreed, I don't think it would have been
19 agreed.

20 Q. Okay. And so, and so, it goes without saying,
21 then, that Dr. Kissinger agreed with this recommendation?

22 A. It was a consensus among those present and,
23 therefore, one assumes that Kissinger agreed, and it would
24 then be his responsibility to take it to the President.

25 Q. Was this a recommendation that you agreed with?

1 A. I don't know what it was.

2 Q. Okay. I just read to you. It was the best
3 military option appears to be a resumption of bombing the
4 trails in Laos as soon as possible after the third tranche
5 out of four of POW's is released, possibly followed later
6 by bombing of the DMZ and the area between the DMZ and the
7 South Vietnamese lines, if necessary.

8 A. That was to composite -- I presume, if I was
9 present and didn't object, I agreed to it.

10 Who, was [redacted] there? Who else was there from
11 State?

12 Q. Participants from State were [redacted]
13 [redacted]

14 A. Oh. I see. [redacted]
15 [redacted]

16 Q. The meeting was chaired by Dr. Kissinger. From
17 Defense Department was [redacted]
18 [redacted]
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Q. That's how he's listed, although I don't know why he's listed like that.

A. A highly suspect paper.

(General laughter)

MR. HERGEN: Just for clarification, Neal, I'm not quite clear. There were several options. Were these recommended options. Were these actually decided options, or was there a conclusion on this? Or was this mere discussion? I'm sorry.

MR. KRAVITZ: It's hard to tell from what is left of this document. But there is a discussion of five different response levels. And, according to this document, it was agreed on at the meeting that the response level --

THE WITNESS: Should be the one you read.

MR. KRAVITZ: -- the response level that the WSAG wanted to recommend to the President was the one that I read.

THE WITNESS: We're closing in on time.

MR. KRAVITZ: I know that, and you're probably going to be impressed at how well organized I am because we're almost done.

1 THE WITNESS: Really. Okay.

2 MR. HERGEN: Go ahead. I'll just read this as
3 you go along.

4 BY MR. KRAVITZ (Resuming):

5 Q. Do you have any recollection of this meeting and
6 this discussion and this recommendation?

7 A. I went to a hundred WSAG meetings. I can't
8 remember that I'm in this -- I don't have any recollection
9 of this particular meeting or this particular discussion
10 and certainly the recommendation doesn't ring any bells.
11 It's nothing we followed up on, obviously.

12 Q. Do you recall discussions, either at this WSAG
13 meeting or at other times, regarding how the U.S. should
14 respond --

15 A. Oh, yes.

16 Q. -- to these perceived violations of the
17 agreement?

18 A. We had lots of them. Yes.

19 Q. And what is your understanding -- well, -am I
20 correct in believing that there was no such military
21 response ordered in March of 1973 or any time near that
22 time?

23 A. I don't recall any military response after the,
24 well, any military action after the ceasefire was signed or
25 was implemented in --

1 Q. January of 1973.

2 A. -- January 28, January of 1973.

3 Q. What is your understanding --

4 A. There was a what you might call by omission some
5 military action, which I referred to yesterday, in that we
6 temporized on mine sweeping and mine destruction as a
7 measure. And this, again, is only epigrammatic in my mind.
8 I can't really recall. My only real recommendation is that
9 Tom Moorer used to telephone me about it. But what we
10 would, what it was in respect to, I don't remember. But it
11 was presumably in this whole question of their
12 implementation of things.

13 Q. What is your understanding as to why the
14 President chose not to respond with any kind of military
15 action to the perceived major violations of the accords,
16 even in the wake of recommendations from the WSAG that he
17 take military action?

18 A. Watergate.

19 Q. I expected that would be your answer. But can
20 you give, can you give us a sense of what effect Watergate
21 was having on the President at that time and, really, to
22 what extent?

23 A. It was a cumulative, I sum it all up in the word
24 "Watergate," but it was a cumulative deterioration of his
25 own domestic political position: what we could sustain

1 vis-a-vis the Congress, what he could sustain with respect
2 to world opinion, what he could sustain with respect to
3 probable explosion on college campuses and in the streets
4 of major cities and so forth.

5 At the time the agreement was being negotiated,
6 at the time it was signed, I think he honestly had a
7 determination that he would use force if there were this
8 measure of violation.

9 Q. Let me just interrupt you for one moment.

10 Do you consider the magnitude of the violations
11 that we were, we had become aware of by mid-March, 1973, to
12 be of the same magnitude of violations that, as of January
13 27, 1973, Mr. Nixon, the expectation would have been that
14 he would have acted militarily in response to that?

15 A. Well, they were deliberately very careful in
16 making these incremental, in making these small, in making
17 these just one little feather at a time being added to it
18 until, obviously later in 1975, when they came across the
19 three divisional force strength at Kon Tum. But he, I
20 think his, not only his resolve, not only his attention,
21 not only his estimate of his personal and political
22 capability of responding had eroded to that, at that time,
23 that whether these would have been in his own mind
24 significant enough in January, they certainly weren't in
25 March.

1 Q. Okay.

2 And so, your sense, then, is that President
3 Nixon's or the circumstances in which President Nixon was
4 making decisions in this area certainly had changed between
5 the signing of the accords on January 27 and the middle of
6 March, 1973?

7 A. Uh-huh. Yes.

8 Q. Had they changed substantially, in your opinion?

9 A. In my opinion they had changed substantially.

10 I must say, the only occasions on which I saw the
11 President in that timeframe he gave no indication of such
12 distraction. He always had the same sort of jaunty
13 attitude. But just an objective analysis of his
14 circumstances led me to believe that he would not be able
15 to do the things that he might have contemplated earlier.

16 Q. I have two more questions for you.

17 A. We might make it.

18 Q. We have five minutes.

19 MR. HERGEN: You are good. I am impressed.

20 MR. KRAVITZ: Erickson gets all the credit.

21 (General laughter)

22 BY MR. KRAVITZ (Resuming):

23 Q. As you remember, when I was showing you the cable
24 from March 22, 1973, from Ambassador Godley to the
25 Secretary of State --

1 A. Yes. What was the date again?

2 Q. March 22. Again, you were not sure whether you
3 were still in Washington at that point or not.

4 A. Well, I was probably in Washington, but I'm not
5 sure I was in the orbit of --

6 Q. Okay. You don't need to have seen the cable to
7 answer this question.

8 As you recall, the cable states the opinion that
9 we should just simply defer our efforts to get these
10 additional live POW's back if they exist.

11 A. I think that's putting the wrong emphasis on what
12 Mac wrote. The emphasis should be that we should
13 concentrate our effort on getting the nine back.

14 Q. I think that's right, although he also states
15 that we believe there are additional live prisoners --

16 A. Right.

17 Q. -- in addition to the nine on the list.

18 Are you aware of whether there were any
19 subsequent efforts made in Laos consistent with Ambassador
20 Godley's recommendations in that March 22 cable?

21 A. No. I can't say that I recall any such. But
22 that doesn't mean that there weren't any.

23 Q. Do you believe that it was realistic or would
24 have been realistic for the United States Government to
25 expect that any such subsequent efforts could be successful

1 once the U.S. troop withdrawal was completed?

2 A. Well, this depends upon an interpretation of
3 Vietnamese perspectives of us.

4 I think that certainly in the January timeframe
5 they were prepared to believe that there was a real threat
6 of a military retaliation in the form of what they feared
7 most, B-52 bombing. My guess is that, as they analyzed
8 situations in Washington and -- you know, they had all
9 sorts of interpreters coming to Hanoi to tell them about
10 these things -- Jane Fonda perhaps was not the most acute
11 of them, but there were a lot of others. And they were
12 getting guidance from the Soviets, and getting guidance
13 from other people interpreting, I think as time wore on,
14 they felt less threatened, less menaced, and it emboldened
15 them in some of their, some of their violations and some of
16 their insouciance.

17 So by March, who knows?

18 Q. Is your answer that you don't know whether --

19 A. I don't know.

20 Q. -- it would have been reasonable for us to expect
21 anything good to come out by March?

22 A. If that's what you wanted, I could have said no.

23 Q. Okay.

24 We've talked about some of the, I've shown you
25 some of the documents which were moving around at top

1 levels of the U.S. Government toward, in February/March,
2 1973, expressing concerns as to the completeness of the
3 Laos List, and you certainly were involved personally in
4 the presentation of the, what I promise you really was 80
5 files in Hanoi in February of 1973.

6 A. And how many of those were Lao?

7 Q. Those were all North Vietnam.

8 A. They were all short down in North Vietnam?

9 Q. That was my understanding. That's what Mr. Lord
10 told us.

11 Notwithstanding these concerns and the apparent
12 documentary evidence indicating that, at least at some
13 point before January 27, 1973, there was a substantial
14 number of U.S. prisoners alive, U.S. servicemen alive on
15 the ground, most likely prisoners, who did not appear on
16 any of the lists --

17 A. Wait a minute now. I'm lost. Are we talking
18 Laos now?

19 Q. We're talking Indochina.

20 A. Indochina. Okay.

21 Q. Notwithstanding the fact that there were these
22 concerns among --

23 A. Right.

24 Q. -- the top government officials backed up by a
25 substantial amount of documentation, on March 29, 1973,

1 President Nixon announced to the nation as part of a
2 speech, "All of our prisoners of war are on their way
3 home."

4 This statement was followed up approximately two
5 weeks later, on April 12, 1973, when Roger Shields of the
6 Defense Department, the POW specialist at the Defense
7 Department, stated at a press conference at the Pentagon,
8 "We have no indication that any live Americans remain
9 anywhere in Indochina."

10 A. No indications?

11 Q. No indications that any live Americans remain
12 anywhere in Indochina. I've heard the tape of that press
13 conference with my own ears.

14 Can you explain how these two statements could
15 possibly have been made at that time, in light of the
16 information that was available to the government?

17 A. No. I'm sure I must have been out of the loop by
18 that time because I became aware of Roger Shields'
19 statement, frankly, only by reading in the press about his
20 appearance before your committee.

21 So I don't know on what they were based. I would
22 think that the choice of word, "indication," is not, had he
23 a lawyer -- he's not a lawyer, is he, Jim?

24 MR. HERGEN: No.

25 THE WITNESS: Had he had a lawyer alongside him,

1 I think someone should have guided him to use "no
2 convincing evidence" or something of that sort, because
3 there were plenty of what I would call "indications." But
4 how much credence to put in them, I don't know.

5 And let me go back, once again, and say that, by
6 and large, the whole question of what we knew and what we
7 recorded about prisoners of war was usually the
8 responsibility of the service itself, with intelligence
9 from DIA. But they all had their own intelligence sources
10 and so on.

11 Shields was, you know, was in an office that was
12 dealing largely with families and policy problems. But I
13 don't know on what he based that sort of statement.

14 BY MR. KRAVITZ (Resuming):

15 Q. Ambassador, thank you very much. I apologize for
16 the fact that it's 4:32 instead of 4:30.

17 But before we go off the record, let me just give
18 you a final opportunity if there's anything you want to say
19 in summary or in addition to anything you've said, to any
20 of your previous answers.

21 A. Well, perhaps just in summary, what I'd like to
22 say is that if there is prevalent here on this Hill, in
23 this committee, in this Senate, any suggestion that there
24 was a conspiracy or some sort of defalcation on the part of
25 the people who were engaged in the process of negotiating

1 these arrangements or trying to assure the return of the
2 prisoners of war.

3 I think the Senate should be informed that, if
4 you want to put it as a personal message from me, that I
5 find that irresponsible and I personally find it insulting.

6 I personally was engaged for 12 years on and off
7 in Vietnam, and the suggestion that someone like myself, or
8 Henry Kissinger, or Tom Moorer, or anybody else of us who
9 were engaged, would knowingly have abandoned prisoners of
10 war in Indochina I think should be swept from the minds of
11 any Senator on the committee who is so inclined to believe.
12 And I'd be happy to confront any Senator who wishes to make
13 that allegation to me.

14 MR. KRAVITZ: Thank you very much.

15 (Discussion off the record.)

16 MR. HERGEN: Real quick, this may be a minor
17 point, but in the interest of completeness on the Godley
18 cable, my recollection is from Dick Rand's deposition about
19 12 days later there was a subsequent cable that basically
20 said we've concluded that there is no concern anymore.

21 MR. KRAVITZ: That's true. I believe that the
22 date on that cable was April 5, 1973.

23 THE WITNESS: Excuse me. I didn't understand.

24 MR. HERGEN: That there was a subsequent cable
25 that basically said upon receipt of further information we

1 have now looked at this again and we are satisfied that
2 we've got, basically there's no more to pursue here, or
3 something along those lines.

4 MR. KRAVITZ: Basically, in essence, what it says
5 is we've talked to Soth Petrassy again and now he says they
6 don't have any additional prisoners.

7 MR. HERGEN: Okay. Thank you. That's a good
8 characterization.

9 THE WITNESS: Then it sounds as though Henry's
10 message got through to him from Le Duc Tho.

11 MR. HERGEN: And while we're still on the record,
12 I want to also, I think it's important that we, there was
13 some friendly joshing earlier. But I want to thank again
14 Mr. Kravitz and Mr. Erickson for their consideration and
15 their courtesy throughout the deposition, and their
16 professionalism throughout the deposition.

17 MR. KRAVITZ: Thank you.

18 (Whereupon, at 4:36 p.m., the taking of the
19 instant deposition was suspended.)

20 _____
21 Signature of witness.

22 SUBSCRIBED and SWORN to before me this __ day of _____
23 _____, 19____.

24 _____
25 Notary Public